

2006 Zoning Ordinance of the City of Baldwin Georgia  
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**THE 2006 ZONING ORDINANCE  
OF  
BALDWIN, GEORGIA**

**TITLE**

An Ordinance of the City of Baldwin, Georgia, regulating the location, height, number of stories and size of buildings and other structures; the density of population; the size of yards and other open spaces; the uses of land, buildings and structures for industry, commerce, agriculture, conservation, recreation, residence, public activities and other purposes; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, amendment and enforcement and for the imposition of penalties for violation; providing for a Zoning Board of Appeals and defining its powers and duties; and repealing conflicting Ordinance; and other matters.

**ARTICLE I – PREAMBLE AND ENACTMENT CLAUSE**

Pursuant to the authority conferred by Article IX, Section II, Paragraph IV, 1983 Constitution of Georgia and for the purposes of promoting the health, safety, morals, convenience, order, prosperity or the general welfare of the present and future inhabitants of the City of Baldwin; of lessening congestion in the streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land, avoiding both undue concentration of population and urban sprawl; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; protecting property against blight and depreciation; encouraging the most appropriate use of land, buildings and other structures throughout the City; securing economy in government expenditures; and for other purposes, all in accordance with a comprehensive plan for the development of the City, the Mayor and Council of the City of Baldwin do hereby ordain and enact into law the following Articles and Sections of the Zoning Ordinance of Baldwin, Georgia

## ARTICLE II – SHORT TITLE, PURPOSE AND AUTHORITY

### **Section 200. Title**

This Ordinance shall be known as "The 2006 Zoning Ordinance of Baldwin, Georgia" and may be referred to generally as "the Zoning Ordinance" or "this Ordinance".

### **Section 201. Authority**

The power of local governments, such as the City of Baldwin, Georgia, to enact an ordinance such as this is pursuant to the authority conferred by Article IX, Section II, Paragraph IV, 1983 Constitution of Georgia, and the Zoning Procedures Law codified in O.C.G.A. § 36-66-1 et. Seq. The City of Baldwin also enacts said ordinance pursuant to the "home rule provisions" of the Georgia Constitution and the laws of the State of Georgia.

### **Section 202. Jurisdiction**

This Ordinance shall apply to all lands within the municipal boundaries of the City of Baldwin, Georgia.

### **Section 203. Purposes**

This Ordinance is adopted for the purposes of promoting the health, safety, morals, convenience, order, prosperity or the general welfare of the present and future inhabitants of City of Baldwin; of lessening congestion in the streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land, avoiding both undue concentration of population and urban sprawl; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; protecting property against blight and depreciation; encouraging the most appropriate use of land, buildings and other structures throughout the county; securing economy in government expenditures; and for other purposes, all in accordance with a comprehensive plan for the development of the county, the Mayor and Council of City of Baldwin do hereby ordain and enact into law the following articles and sections of the Zoning Ordinance of City of Baldwin, Georgia.

### **Section 204. Contents**

In order to carry out the purposes stated in Section 203, the City of Baldwin Zoning Ordinance provides for the following:

- a) Definitions of terms used in the Ordinance;
- b) Establishes certain land uses, districts and boundaries;
- c) Provides procedures for administering, enforcement, appealing and amending this Ordinance.
- d) Classifies, regulates, and restricts the location of land uses and the location of buildings designed for industrial, business, residential, and other uses;
- e) Establishes, regulates, and limits building or setback lines within said Districts;

- f) Regulates and limits the density of the use of land, and the area of open space surrounding buildings;
- g) Prohibits uses, buildings, or structures incompatible with the character of such Districts;
- h) Prohibits additions to and alterations or remodeling of existing buildings or structures, which violate the restrictions and limitations lawfully imposed by this Ordinance.
- i) Defines the powers and duties of principal parties, including, but not limited to, the Mayor and Council of City of Baldwin, Georgia and the City of Baldwin Zoning Administrator.



## ARTICLE III - INTERPRETATIONS AND DEFINITIONS

### **Section 300. Interpretation of Terms**

When used in this Ordinance, the following words and phrases have the meaning as defined in this Article. Words and terms not defined here have the same meaning as found in most dictionaries, where consistent to the context.

- When appropriate to the context, words used in the singular shall include the plural, and the plural the singular; words used in the present tense shall include the future tense, and vice versa.
- Words in the masculine gender shall include the feminine gender.
- The words, "must", "will" or "shall" are mandatory in nature, indicating that an action has to be done.
- The word "may" is permissive and allows discretion regarding an action.
- The word "person" includes a firm, association, organization, trust, company, or corporation as well as an individual.
- The word "lot" includes the words "plot" or "parcel".
- The word "constructed" includes the word "erected", "built", "altered", "rebuilt", "repaired", and "maintained".
- The word "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- The word "building" includes the term "structure" (\*all buildings are structures but not all structures are buildings).
- The word "Map" or "Zoning Map" refers to the "Official Zoning Map of City of Baldwin, Georgia".

### **Section 301. Definitions**

Except as specifically defined herein, all words used in this Ordinance have their customary dictionary definition. Certain terms and words used herein are defined as follows:

**Accessory.** A use or structure customarily incidental and subordinate to the principal use or structure located on the same zoning lot. An accessory structure, which is attached to the main structure by a common wall or by a common roof line, shall be considered a part of the main structure.

**Agriculture.** The raising of soil, vine and tree crops, livestock, fish, fowl and/or timber in a customary manner on tracts of land at least one (1) acre in size and shall include all associated activities. Retail selling of products raised on the premises shall be considered a permissible activity provided that the space necessary for the parking of customers' vehicles shall be provided off of the public right-of-way.

**Airport.** A transportation terminal facility where aircraft take off, land and/or park.

Alley. A minor, private or public service way, which affords only a secondary means of access to the rear or the side of abutting property and is not intended for general traffic circulation.

Alteration. Any change in the supporting members of a building (such as any type of supporting structural members) except such a change as may be required for its safety; any modification, addition reduction or other change to a building; any change in use from that of one district classification to another; or of a building from one location to another.

Antenna. Any exterior apparatus designed for telephonic, radio, television or other communications through the sending and/or receiving of electromagnetic waves. This definition should be distinguished from a "Domestic Antenna" that is primarily used for residential purposes and/or amateur radio operators.

Architectural Treatment. Exterior design features, materials of construction and finishes which combine to produce an aesthetic structure in harmony with the architectural zone in which the building or structure is located. Such treatment may include brick, stone, stucco, glass, wood or other materials uniformly accepted in the related industries.

Automobile Service Station. A land use where gasoline, oils, greases, batteries, tires, and general automobile accessories may be provided, but where no part of the premises is used for the storage or dismantling of wrecked or junked vehicles.

Basement. A building story structured partially below the average level of the adjoining ground.

Block. A piece or parcel of land entirely surrounded by public highway or streets, other than alleys.

Boarding or Rooming House. Any dwelling in which three (3) or more persons, either individually or as families, are housed for payment with or without meals.

Buffer Area. A space developed or improved with evergreen trees or other plantings and/or a fence or wall, which may be required in certain locations to reduce the conflicting or adverse effects of different uses abutting each other.

Buildable Areas. The portion of a lot remaining after the required set-backs, yards and other required areas have been designated and/or delineated.

Building. Any structure which has a roof and/or walls and which is for the shelter, dwelling, support, or enclosure of humans, animals, or property of any kind.

Building Line. That line which represents the distance a building must be set back from a zoning lot boundary line, measured at the foundation of the building.

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.

Building Official/Inspector. One or more persons authorized by the City Council to assist with the administration and enforcement of this Ordinance.

Building, Main or Principal. The principal building on a lot or building site designed or used to accommodate the primary use to which the premises are devoted; where a permissible

use involves more than one structure designed or used for the primary purpose, as in the case of group home, each such permissible building on one lot as defined by this Ordinance shall be construed as compromising a main building.

Building Site. "Building Site" means; (a) the ground area of one (1) lot; or (b) the ground area of two (2) or more lots, when used in combination for a building or groups of buildings, together with all open spaces required by this Ordinance.

Business or Commerce. The purchase, sale or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management of office building, offices, recreational or amusement enterprises; or the maintenance and use of offices, structures and premises by professions and trade rendering services.

Cemetery. Land either already reserved for burial plots for the deceased, or which may, in the future, be so reserved.

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

Centerline of a Street. The centerline of a street is the line surveyed and monumented by the governing body as such, or if a centerline has not been surveyed and monumented, it shall be that line midway between the outside curbs or ditches of the street.

Clinic. An establishment intended for the outpatient examination and treatment of medical or dental patients normally not including examinations or treatments that last overnight.

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.

Commercial. Related to or connected with commerce and/or business.

Convenience Store. A retail store, typically smaller than a grocery or department store, that offers commonly needed goods and services including but not limited to food, staples, copies, gasoline, oil, and other similar goods and services.

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

Day Care Facility. A structure or portion of a structures wherein is provided care and supervisions of persons away from their place of residence for less than twenty-four (24) hours per day on a regular basis for compensation. For the purposes of this Ordinance, the term "day care" shall also include be not be limited to the terms "nursery school," "early learning center," "pre-school," "play school," "pre-kindergarten," "private kindergarten," "group day care home," "day care enter" and "family day care home."

- a) Day Care Center. A day care facility that enrolls for pay, supervision and non-medical care, 19 or more children or elderly adults with no overnight stays.

- b) Family Day Care Home. An accessory use within a private residence operated by the occupant of the dwelling that enrolls for pay, supervision and non-medical care, 5 or fewer children or elderly adults with no overnight stays, or no more than 6 children or elderly adults if the structure meets the requirements of the technical codes for institutional uses and in accordance with the ordinances of the City of Baldwin.
- c) Group Day Care Home. A day care facility that enrolls for pay, supervision and non-medical care, up to 18 children or elderly adults with no overnight stays.

Density. The number of families, individuals, dwelling units of housing structures per acre. Gross density includes all the land within the boundaries of the particular area, excluding nothing. Net density excludes 50 percent of any land identified as a flood hazard area or within any electricity or gas transmission easement.

Domesticated Animal. An animal that is accustomed to living in, with, or about the habitation of humans, including cats, dogs, rabbits and indoor birds and other indoor-related pets, but not including horses, ponies, donkeys and mules.

Easement. The right or privilege of using another's property for purposes such as constructing and maintaining sanitary sewers, water mains, electric lines, telephone lines, storm sewers, gas lines, bicycles paths, or other purposes.

Elevation, Front. The view of a building or group of buildings as seen from directly in front of the structure.

Family. One (1) or more individuals permanently occupying a dwelling unit (not necessarily related by blood or marriage), and living as a single household unit, as distinguished from persons occupying a boarding house, group home, or hotel, as defined in this Ordinance.

Farm. Any plot or tract of land consisting of at least one (1) acre and devoted to agricultural purposes (see definition of Agriculture).

Feedlot. Any parcel of land upon which the mechanical, hand or other feeding of livestock of a density of more than four (4) per acre is performed for a period exceeding fifteen (15) days.

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

Garage, Private. An accessory building or portion of a principal building used only for private storage or permitted motor vehicles.

Garage, Public. Any garage other than a private garage which is used for storage, minor repair, rental, servicing, washing, adjusting, or equipping of automobiles or other motor vehicles, but not including the storage of wrecked or junked vehicles.

Garage, Repair. A public garage intended to be used to make major commercial automobile or other motor vehicle repairs; provided, that all body work and painting shall be conducted within fully enclosed buildings, and further provided there is no open storage of junked, wrecked vehicles, dismantled parts, or supplies visible beyond the premises.

Home Occupation. Any activity carried out for profit by the resident and conducted as an accessory use in the resident's dwelling unit.

- a) Home Office A home occupation that is limited to an office use and does not involve visits or access by the public, suppliers or customers, and does not involve The receipt, maintenance, repair, storage or transfer of merchandise at the home.
- b) Home Business. A home occupation that is limited to the use of a practicing professional, an artist, homemaker production (such as sewing or baking), or instruction in the fine arts, and may involve very limited visits or access by clients or pupils, but does not involve the maintenance, repair, storage or transfer of merchandise received at the home.

Hospital. Any institution receiving inpatients, or a public institution receiving outpatients, 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.

Hospital, Small Animal. "Small Animal Hospital" means an establishment in which veterinary services, clipping, bathing, boarding and other services are rendered to dogs, cats and other small animals and domestic pets.

Hotel. A facility offering transient lodging on a daily rate to the general public and typically providing additional services, such as restaurants, meeting rooms, and recreational facilities. A hotel shall also meet all state licensing requirements in order to operate within the City of Baldwin. No cooking is allowed in any individual room or suites (except for coffee machines and microwaves).

Junk Yard. Any land or building, used for the abandonment, storage, keeping, collecting, or bailing of paper, rags, scrap metals, other scrap or discarded material, or for the abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in running condition, machinery, or parts thereof.

Kennel. A place where five (5) or more adult dogs or cats are kept, whether by owners of the dogs and cats or by persons providing facilities and care, whether or not for compensation. An adult dog or cat is an animal of either sex, altered or unaltered, that has reached the age of four (4) months.

Land Area Per Dwelling Unit. The amount of land in square feet required for each dwelling unit permitted on a zoning lot.

Landfill, Municipal Solid Waste. A disposal facility where any amount of municipal solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludges, or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon. Municipal solid waste means any solid waste derived from households, including garbage, trash and sanitary waste in septic tanks and means solid waste from single-family and multi-family residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings and commercial solid waste but does not include solid waste from mining, agriculture, or silvicultural operations or industrial processes or operations.

Landfill, Construction and Demolition Waste. A landfill in which construction/demolition

waste is disposed. Construction/demolition waste means waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures. Such waste include, but are not limited to, asbestos containing waste, wood, bricks, metal, concrete, wallboard, paper, cardboard, inert waste landfill material and other non-putrescible wastes which have a low potential for groundwater contamination

Loading Space. Space logically and conveniently located for pickup and delivery service, scaled to the vehicles expected to be used, and accessible to such vehicles at all times.

Lot. Land occupied, or to be occupied, by a building, group of buildings or uses, and accessory buildings, together with such yards and lot area as required by this Ordinance.

Lot, Corner. A lot having frontage on two (2) or more public streets at their intersection.

Lot Depth. The average horizontal length between the front and rear lot lines.

Lot of Record. A lot, which is recorded in the office of the Clerk of Superior Court, or a parcel described by metes and bounds, the description of which has been so recorded, prior to the adoption of the 1982 Zoning Ordinance, as amended, or prior to the adoption of this Ordinance.

Lot, Through. A lot other than a corner lot, having frontage on more than one (1) street.

Lot Width. The distance between the side lot lines, measured at the minimum required front yard setback line as established by this Ordinance.

Lot Width, Cul-de-Sac. For a lot having the majority of its frontage on a cul-de-sac, the lot width shall be the horizontal distance between the side lines of the lot, measured at the minimum required front yard (building setback) line or at a line parallel to said setback line which is no more than twice the minimum front yard setback distance from the street.

Lot, Zoning. A parcel of land in single ownership occupied or intended to be occupied by principal uses and accessory uses in accordance with the provisions of this Ordinance. A zoning lot must have frontage on a street or public way and have at least the minimum land area required by this Ordinance for the zoning district within which it is located. A Lot of Record may or may not be a zoning lot.

Motel. A permanent building or group of permanent buildings in which overnight sleeping accommodations are provided for transient travelers and having a parking space near or adjacent to the entrance of the room. Such use has ninety (90) percent of the rooms occupied by a different registered guest every five (5) days, provides patrons with daily maid service, twenty-four (24) hour desk/counter clerk service, and a telephone service to receive incoming and outgoing messages, and shall comply with any applicable requirements of the Banks and/or Habersham County Health Departments and O.C.G.A. Section 31-28-1 et. Seq., and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools and exercise facilities. No cooking in any individual room or suites (except coffee machines and microwaves).

Non-Conforming Use. Any lawful use existing at the time of enactment of this Ordinance, or existing at the time of the adoption of the 1982 Zoning Ordinance, that does not conform to the permitted use for the district in which it is located as specified in this Ordinance.

Nursing Home. Any facility authorized by Georgia Law, in which aged, chronically ill, or incurable persons are housed and furnished with meals and nursing care.

Nursery School. See definition of Day Care Facility

Parking Space. An area for off-street automobile parking.

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 the purpose of these Rules, Personal Care Homes shall be classified as: Family Care Personal Care Home, Group Personal Care Home, or Congregate Personal Care Home. This term does not include buildings which are devoted to independent living units which include kitchen facilities where residents have the option of preparing and serving some or all of their own meals or boarding facilities which do not provide personal care.

- a) Family Personal Care. A home for adults in a family type residence, noninstitutional in character, which offers care for two to six persons.
- b) Group Personal Care Home. A home for adult persons in a residence or other type building(s), noninstitutional in character, which offers care for seven to fifteen persons.
- c) Congregate Personal Care Home. A home for adults which offers care to or sixteen more persons.

Plat. A map, plan or layout of a county, city, town or subdivision indicating the location and boundaries of properties.

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.

Professional Office Building. A building constructed for or remodeled for use as office space for professions including, but not limited to, medical, dental, legal, forestry surveying, financial, architectural, engineering, real estate, or insurance.

Public Uses. Buildings and other uses of land to accommodate the functions of governmental entities, departments and services including, but not limited to, off-street parking, office, administrative, maintenance, educational and recreational facilities.

Restaurant, Custom Service. An establishment where food and drink are individually ordered and served at the table, and consumed primarily within the principal building or in established outdoor dining areas, as contrasted to a fast food restaurant.

Restaurant, Fast Food Any establishment, building or structure where food or drink are served for consumption either on or off the premises, by order from or service to persons either over an interior counter, outside the structure or from an outdoor service window or automobile service window, or by delivery. This definition shall not include otherwise permitted restaurants where outdoor table service is provided to customers in established outdoor dining areas or where drive-through or take-out service is provided incidental to a Custom Service Restaurant.

Retirement Community. An age-restricted residential development that offers significant services and facilities for the elderly, including social and recreational activities, personal care services, or health facilities limited to use by the development's residents. At least 80% of the units must be occupied by residents 62 years old or older, and the remaining units must be occupied by at least one resident 55 years old or older.

Rooming or Boarding House. A dwelling within which a resident family or manager offers lodging or lodging and meals to two or more persons not under the resident's parental or protective care in exchange for monetary compensation or other consideration.

Right-of-Way. A strip of land designated, reserved dedicated or purchased for the purpose of vehicular and/or pedestrian access, utility line installation or other uses.

Setback. The minimum required distance between the street right-of-way line and other property lines from the principal building or structure on a lot (see Yard, Front; Yard, Rear and Yard, Side).

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

Special Use. A use that would not be appropriate generally or without restriction in a Zoning District but which, if controlled as to number, area, location or relation to a neighborhood, would not be injurious to the public, health, safety, welfare, morals, order, comfort, convenience, appearance, or general welfare. Such uses may be permitted only in Zoning District where permitted if a Special Use Permit is granted by the Mayor and Council.

Story. That portion of a building, not including a basement, between the surface of any floor and the surface of the floor next above it, or if there is not floor above, then, the space between the floor and the ceiling next above it.

Street, Private. A vehicular access way similar to and having the same function as a public street, providing access to more than one (1) property, but held in private ownership (as distinct from a "driveway").

Street, Public. A right-of-way dedicated to and accepted to City of Baldwin for vehicular traffic or over which City of Baldwin may hold a prescriptive easement for public access, and including designated and numbered U.S. and State Highways. For the purposes of this Ordinance, the term "public street" shall be limited to those which afford or could afford a direct means of vehicular access to abutting property, and exclude limited access roadways which abut a property but from which direct access may not be allowed under any circumstances.

Structure. Anything constructed, or erected on, with a fixed location on or in the ground, or attached to something having a fixed location or in the ground. Among other things, structures include buildings, dwellings, manufactured homes, swimming pools, billboards, fall-out shelters, walls and fences.

- a) Process Structures. Any concrete, steel or wood structure that supports equipment for processing purposes; for air, noise, and water pollution control; and for access



structures for the operation and maintenance of such equipment.

**Structural Alterations.** Any change in the supporting members of a building such as foundations, bearing walls, columns, beams, floor or roof joints, girders, or rafters, or changes in roof or exterior lines.

**Subdivision.** The division of a lot of record at time of enactment of this Ordinance into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy, or building development, and includes all divisions of land involving a new street or a change in existing streets, and includes re-subdivision, and where appropriate to the context, relates to the process of subdividing or to the land or area subdivided.

**Tourist Home.** A dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

**Trailer Park, Travel.** Any portion or parcel of land designed to accommodate one (1) or more travel trailers or recreation vehicles to be used for living or sleeping purposes, including any land, building, structure, or facility used by the occupants of such units on such property on a temporary basis.

**Trailer, Residential.** See "Manufactured Home" definition.

**Trailer, Camping-Recreation Vehicle.** 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", "travel trailer", "recreation vehicle", or "motor home", and is not more than eight feet (8') in body width.

**Use.** The purpose for which land or buildings is arranged, designed or intended, or for which either is or may be occupied or maintained.

**Use By Right.** A use listed as permitted in a Zoning District which does not require special approval from the Mayor and Council if the property is zoned for such use.

**Utility Substations.** Facilities incorporating minor buildings or equipment relating to power transmission, natural gas, telephone or telecommunications, water, or sewer.

**Variance.** A relaxation of the terms of the Zoning Ordinance, not a change in a Zoning District, where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

**Yard.** An open space on a lot situated between the principal building or use on the lot and a lot line and unoccupied by any structure except as otherwise provided herein. A yard may also be referred to as a "setback" or "building setback".

**Yard, Front.** That area of a lot lying between any abutting street right-of-way line and the principal building, extending the full width of the lot and located between the street right-of-way line and the front line of the building projected to the sidelines of the lot.

**Yard, Rear.** That area on a lot with a principal building, unoccupied except by an accessory building or use, extending the full width of the lot and located between the rear line of the lot and the rear line of the building or use projected to the side lines of the lot.

Yard, Side. That area on a lot with a principal building or use, located between the building or use and the sideline of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Zoning Administrator. The person, officer, or official whom the City has designated as its agent for the administration of this Ordinance.

Zoning Map. The "Official Zoning Map of City of Baldwin, Georgia" incorporated into this Ordinance as part thereof by reference thereto.

### **Section 302. Housing Terms**

Apartment. A room or group of rooms providing complete living quarters for occupancy by one family and which is part of a residential building designed for occupancy by two or more families.

Apartment House. A building arranged, intended or designed to be occupied by three (3) or more families living independently of each other.

Bedroom. Any space in the heated area of a dwelling unit or accessory structure which is 70 square feet and greater in size and which is located along an exterior wall, but not including the following:; hall; bathroom; kitchen; living room; dining room; family room; laundry room; or closet/dressing room opening off of a bedroom

Cluster Dwelling. One (1) of a series of attached and/or detached dwelling unit developed under a single ownership.

Condominium Dwelling. An individually-owned dwelling unit in an attached, detached, or multi-family structure, combined with joint ownership of common areas of the buildings and grounds.

Conventional Construction. A dwelling unit constructed on the building site from basic materials delivered to the site, and which is constructed in accordance with the mandatory building codes adopted by the State of Georgia and enforced by the City of Baldwin, and any discretionary building codes adopted and enforced by the City of Baldwin.

DCA. Georgia Department of Community Affairs.

Dwelling. A building or portion thereof designed, arranged, or used principally for residential occupancy, not including motels, hotels, boarding houses, or rooming houses.

Dwelling, Single Family. A detached building used and either designed or constructed for one (1) dwelling unit.

Dwelling, Multi-Family. A building either designed, constructed, altered, or used for two (2) or more adjoining dwelling units, with each dwelling unit having a common wall or common floor connecting it to at least one (1) other dwelling unit in the building.

Dwelling Unit. One (1) or more rooms within a dwelling forming a separate, independent housekeeping establishment for use of one (1) family involving owner or rental occupancy, with provisions for cooking, eating and sleeping, and which is physically set apart from other rooms or dwelling units in the same building.

Factory Built Housing. An outdated term used to describe manufactured housing.

Garden Apartment Dwelling. A multi-family dwelling, one (1) or two (2) stories in height, with one (1) dwelling unit per story, a private entrance for each dwelling unit, and where the area immediately surrounding the dwelling is landscaped and may contain recreational facilities for the private use of dwelling occupants.

Guest House. Living quarters situated within an attached or detached accessory building located on the same premises and served by the same utility meters as the principal building. Such quarters shall be used only by bona fide non-paying guests of the owners or occupants of the principal building and shall not be rented or otherwise occupied as a separate dwelling (see Relative Residence).

HUD. U.S. Department of Housing and Urban Development.

Industrialized Home: A residential structure which is (either wholly or in substantial part) made, fabricated, formed or assembled in one or more factory built sections or panels in manufacturing facilities for assembly and installation on a building site. An industrialized home is manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to or destruction thereof and which, when completed, meets or exceeds the requirements of any and all development standards for conventionally constructed site built housing. Any industrialized home must be designed to be permanently connected to a site-built foundation. No industrialized home shall be constructed with a chassis, as defined in 24 C.F.R. § 3280.902(a). It is the intent of this definition to include structures or components which are included within O.C.G.A. § 8-2-111(3) and 7 C.F.R. § 3550.10 or which are approved pursuant to the Rules and Regulations of the Department of Community Affairs of the State of Georgia and which bear an insignia of approval issued by the Commissioner thereof. In addition, any industrialized home shall meet the following standards:

- a) The home has a minimum width in excess of twenty (20) feet.
- b) The pitch of the home's roof has a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run, and the roof is finished with a type of material that is commonly used in conventional residential construction, except that any such home for which a building permit was applied prior to the adoption of this Ordinance may be extended, enlarged or repaired as otherwise provided by this Ordinance with the same roof pitch as that allowed by the issued building permit.
- c) The exterior siding consists of wood, hardboard, vinyl, brick, masonry, or aluminum (vinyl-covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in conventional residential construction.
- d) The home, if constructed outside the boundaries of City of Baldwin, may not be brought into City of Baldwin and used as a dwelling if such home was constructed more than seven (7) years from the date on which the application is requested. An industrialized home which is constructed earlier than seven (7) years from the date of the application may be allowed into the City on the condition that the home was constructed or fabricated in accordance with the current technical code requirements

of the City of Baldwin.

- e) Any person desiring to locate or place an industrialized home within City of Baldwin shall comply with the requirements for permitting said structures.
- f) For purposes of this definition, no manufactured home (as defined in this Section) may be attached to any industrialized home by means of breezeway, corridor or hallway.

Manufactured Home, Class A. A dwelling unit fabricated in an off-site facility for installation or assembly at the building site, bearing a label certifying it is constructed in compliance with the Federal Manufactured Home and Standards Act 42 U.S.C. 5401-5445 (the "HUD Code," which became effective on June 15, 1976), and meeting the following development standards:

- a) Development Standards
  - 1) Minimum width in excess of sixteen (16) feet.
  - 2) The pitch of the home's roof has a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in conventional residential construction, except that any such home for which a building permit was applied prior to the adoption of this Ordinance may be extended, enlarged or repaired as otherwise provided by this Ordinance with the same roof pitch as that allowed by the aforesaid building permit.
  - 3) The exterior siding consists of wood, hardboard, vinyl, brick, masonry, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in conventional residential construction.
  - 4) A curtain wall, unpierced except for required ventilation and access and constructed of masonry, is installed so that it encloses the area located under the home to the ground level. Such a wall shall have a minimum thickness of four (4) inches.
  - 5) The tongue, axles, transporting lights, and towing apparatus are removed after placement on the lot and before occupancy.
  - 6) The home may not be brought into City of Baldwin and used as a dwelling if such home was constructed more than seven (7) years from date application is requested.
  - 7) For purposes of this definition, no manufactured home (as defined in this Section) may be attached to any other Manufactured Home, Class A by means of breezeway, corridor or hallway.
- b) All manufactured homes must be installed in accordance with 8-2-160, et. seq. of the Official Code of Georgia Annotated.
- c) Landings of the requisite composition and size as per the adopted technical codes of the City of Baldwin, with said provisions being expressly incorporated by reference

herein as part of this requirement.

- d) Manufactured homes are *not* permitted to be used as storage buildings.

Manufactured Home, Class B. A dwelling unit fabricated in an off-site facility for installation or assembly at the building site, bearing a label certifying it is constructed in compliance with Federal Manufactured Home Construction and Safety Standards Act 42 U.S.C. 5401-5445 (the HUD Code, which became effective on June 15, 1976), but does not satisfy the criteria necessary to qualify the unit as a Class A manufactured home. All manufactured homes must be installed in accordance with 8-2-160, et. seq. of the Official Code of Georgia Annotated. Manufactured homes are *not* permitted to be used as storage buildings.

- a) The home may not be brought into City of Baldwin and used as a dwelling if such home was constructed more than seven (7) years from date application is requested.

Manufactured Home, Class C. Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home (*not* constructed to the HUD Code). All manufactured homes must be installed in accordance with 8-2-160, et. seq. of the Official Code of Georgia Annotated. Class C manufactured homes must meet the construction standards specified in ANSI A119.1. Compliance with ANSI A119.1 may be determined by any of the following procedures:

- a) For Class C manufactured homes, which are proposed to be located within City of Baldwin for the first time or which are proposed to be relocated within City of Baldwin, the City of Baldwin Zoning Administrator must inspect the unit and determine what (if anything) is needed to bring the unit up to the standards of ANSI 119.1. Upon determining that the unit meets ANSI 119.1 standards and that the provisions of all other applicable City of Baldwin Ordinances are met by the proposed placement of the manufactured home, the Building Inspector will issue the permit for placement of the manufactured home.
- b) The home may not be brought into City of Baldwin and used a dwelling if such home was constructed more than 5 years from date application is requested.
- c) Manufactured homes are *not* permitted to be used as storage buildings.

Manufactured Home Community. A lot used or intended for use as a residential area occupied by manufactured homes with appropriate and adequate community services, recreation facilities, utilities, streets and sidewalks provided by the developers; where the resident owns or rents the manufactured home and rents the manufactured home space; and, where the homes are on permanent foundations.

Manufactured Home Space. An area of land within a manufactured home community designed to accommodate one (1) manufactured home.

Manufactured Housing. A general term used to describe a type of housing which is produced, either completely or partially, in a factory, including manufactured homes, modular homes, and residential industrialized buildings. In the context of this Ordinance, this term has no specific meaning.

Manufactured Housing Condominium. An area of land used or intended for use as a residential land; where homes are privately owned; arranged to occupy separate lots of

land; where the residents own their individual dwelling unit and collectively own an undivided interest in common areas; and, where homes are on permanent foundations.

Manufactured Housing Subdivisions. An area of land used or intended for use as a residential land, developed by selling individual lots either before or after dwelling unit is established on the lot; where the County provides services; where land owners follow local Ordinances; and, where homes are on permanent foundations.

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

Modular Home. A factory fabricated transportable dwelling unit building in one (1) or more sections; constructed in accordance with the International Building Code and shall meet all technical codes adopted by the City of Baldwin; showing proof of State certification; designed to be incorporated on a permanent foundation; and, with wheels, axles, transporting lights, and tongue and/or towing apparatus removed; and, which bears an insignia of the State certifying Agency.

Multi-Family Dwelling. A building designed, constructed, altered or used for three (3) or more adjoining dwelling units, with each dwelling unit having a party wall or walls and/or a party floor ceiling connecting it with at least one (1) other dwelling unit located on one (1) lot of land. A multi-family dwelling may be apartments or condominiums.

National Manufactured Home Construction and Safety Standards. The National Building code for all manufactured homes built since June 15, 1976, written and administered by the U.S. Department of Housing and Urban Development (also know as the "HUD Code"). The full title is of the code is "The National Manufactured Housing Construction and Safety Standards Act of 1974, Title VI, Public Law 93-383 (42 U.S.C. 5401)".

One-Family Attached Dwelling. A building containing two (2) or more one-family attached dwelling units joined at one (1) or more points by one (1) or more party walls or other common facilities, (not including the walls of an enclosed courtyard or similar area), and with property lines separating each dwelling unit, thus permitting zero-lot-lines.

One-Family Detached Dwelling. A single residential detached building designed for or containing one (1) dwelling unit.

Patio Dwelling. A one-family dwelling in which all or a portion of the area required for side and rear yards may be consolidated into one (1) or more garden court spaces within the walls of the dwelling unit.

Relative Residence. A lodging unit either contained within a single-family dwelling or in a separate building, which may contain independent kitchen facilities, for the exclusive use of relatives of the real property owner. The relative residence shall be served by the same utility meters that serve the principal residence.

Residential Apartment Dwelling. A dwelling unit located on the same lot as a one-family

detached dwelling unit, usually in the form of a garage apartment or basement apartment.

Residential Industrialized Building (RIB). Any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof; which bears an insignia of approval issued by the Commission of The Georgia Department of Community Affairs; and which is used or intended to be used as a dwelling unit.

Site-Built Home. See definition of Conventional Construction.

Stick-Built Home. See definition of Conventional Construction.

Townhouse Dwelling. One (1) of a series of three (3) or more attached dwelling units on separated lots which are separated from each other by fire walls extending at least from the lowest floor level to the roof.

Two-Family Dwelling. A detached dwelling designed, constructed, altered or used for two (2) adjoining dwelling units, with each dwelling unit having a party wall connecting it with the other dwelling unit, located on one (1) lot (also known as a "duplex").

Zero-Line-Lot Dwelling. An attached or detached one-family dwelling set against one (1) or two (2) lot lines rather than in the middle of the lot.

## **ARTICLE IV - ESTABLISHMENT OF DISTRICT; PROVISION FOR THE OFFICIAL ZONING MAP**

### **Section 400. Division Into Districts**

For the purposes of this Ordinance, the unincorporated area of City of Baldwin, Georgia is divided into Zoning Districts designated as follows:

A	Agricultural Residential District
R-1	Residential Single-Family District
R-2	Residential Single-Family District
R-3	Residential Multi-Family District
MHD	Manufactured Home Development District
PDD	Planned Development District (which includes PCD, PID, PRD districts)
NC	Neighborhood Commercial District
HB	Highway Business District
I-1	Light Industrial District
I-2	Heavy Industrial District
AOD	Airport Overlay District
COD	SR 365 Corridor Overlay District
SCOD	US Hwy. 441 Scenic Corridor Overlay District
DROD	Downtown Redevelopment Overlay District

### **Section 401. District Boundaries.**

The location and boundaries of the above-listed districts are hereby established as shown on a map entitled Official Zoning Map of the City of Baldwin, Georgia. Said map, together with all explanatory matter thereon is hereby adopted by reference and declared to be a part of, this ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, the date of adoption of the Map and bear the seal of the City. The Official Zoning Map shall be kept by the City Clerk and shall be made available for public inspection.

In order to preserve the information contained on the Official Zoning Map, the City shall make, or cause to have made, duplicate copies of the Official Zoning Map, signed, attested and sealed, and shall keep these copies separate from the copy available for public inspection. Duplicative copies will be updated on the same basis as the map available for public inspection.



No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person, or persons shall be considered a violation of this Ordinance.

#### **Section 402. Interpretation of Zoning District Boundaries**

When uncertainty exists with respect to the location of the boundaries of any Zoning District as shown on the "Official Zoning Map," the following rules shall apply:

- a) Where Zoning District boundaries are depicted as approximately following the centerlines of streets or highways, centerlines of streams or drainage ways, street lines, or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be said boundaries.
- b) Where Zoning District boundaries are so depicted that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- c) Where Zoning District boundaries are so depicted that they are approximately parallel to the centerlines of streets, highways, or railroads, or rights-of-way of same, such District boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- d) Where a Zoning District boundary line on the Official Zoning Map divides a lot, the location of the line shall be the scaled distance from the lot lines. In this situation, the requirements of the zoning district in which the greater portion of the lot lies shall apply to the balance of the lot, except that such extension shall not include any part of a lot that lies more than 35 feet beyond the zoning district boundary line.

#### **Section 403. Replacement of Official Zoning Map.**

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

The City Clerk shall keep accurate records of all amendments to the Official Zoning map and shall cause to have the Map updated on a regular basis to record these amendments and new parcels added to the City of Baldwin. Upon the completion and verification of the accuracy of the updated Zoning Map, the City shall follow the procedures outlined within this Ordinance to adopt this map as the new Official Zoning Map.

The new Official Zoning Map shall be "identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City or a Notary Public under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced)."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, all original prior maps or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

## **ARTICLE V – APPLICATION OF REGULATIONS**

### **Section 500. Use of Land or Building**

No building, structure, 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 provisions of this Ordinance.

### **Section 501. Height and Density.**

No building or structure shall hereafter be erected, constructed, reconstructed or altered to:

1. Exceed the height limits.
2. House a greater number of families per acre or occupy a smaller lot area per family than are herein required.
3. Have narrower or smaller front, rear or side yards than are herein required.

### **Section 502. Every Use Must Be Upon a Lot**

No building or structure may be erected or a use established unless upon a zoning lot as defined by this Ordinance except as otherwise provided herein. Lots recorded prior to the adoption of the 1982 Zoning Ordinance or the 2006 Zoning Ordinance may be built upon provided they meet the requirements of Section 507 of this Ordinance. In all cases, the principal building on a zoning lot shall be located within the buildable area formed by the building lines unless a variance is obtained through the procedures outlined in Section 1805 of this Ordinance.. Lanes associated with a drive-through window shall be considered part of the principal building when determining building location.

### **Section 503. Only One Principal Building Per Lot**

There shall be no more than one (1) principal building upon any lot in the R-1 and R-2 Zoning District.

### **Section 504. Reduction of Yards or Lot Area**

Except as provided herein, 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 Zoning District in which it is located unless said reduction or division is necessary to provide land that is needed and accepted for public use.

### **Section 505. Street Frontage Requirement.**

No lot shall be created that does not abut for at least forty (40) feet, except as provided in Section 800, upon an open street which shall be either a public street, a publicly approved street or a publicly maintained street.

**Section 506. Classification of Streets.**

For the purpose of this Ordinance, all of the streets, roads and highways in the City of Baldwin are classified as local streets, collector streets, minor arterial or major arterial streets. These same streets and roads will also be known as, U.S. or State routes, county roads and local streets or roads. The classification of each street in the City of Baldwin is shown in the Community Facilities Element of the Comprehensive Plan which is on file in the office of the City Clerk.

**Section 507. Encroachment on Public Rights-of-Way**

No building, structure, service areas, or required off-street parking and loading facilities, except driveway curb cuts, shall be permitted to encroach on public rights-of-way.

**Section 508. Yards and Other Spaces.**

No part of a yard or the off-street parking or loading spaces that are required in connection with any building or use for the purpose of complying with the regulations of this Ordinance shall be included as part of the yard or off-street parking or loading spaces required for another building, except as specifically provided herein.

## ARTICLE VI – GENERAL PROVISIONS

### **Section 600. Street Access**

If a lot of record at the time of the adoption of this amended Zoning Ordinance is already located on a private road, private access or private driveway, then said lot may be considered a lawful non-conforming lot. However, no permits for the building of any structure shall be granted on the property unless the applicant or owner provides a copy of an access agreement, easement or other document evidencing legal authority for access to the subject property that has been duly recorded in the Office of the Clerk of Superior Court, Banks and/or Habersham Counties Georgia.

### **Section 601. 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 spaced, 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 construed not to be encroachments of yards.

### **Section 602. 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 for or 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 herein.

### **Section 603. Health Department Lot Sizes**

The lot sizes in all developments shall be subject to the minimum lot area requirements of the Health department, of this ordinance, whichever is greater.

### **Section 604. Buffer Area Required**

Wherever a buffer is required by this Ordinance, it shall be in conformance with the standards provided in this Ordinance.

### **Section 605. Intersection Visibility and Corner Setback**

In all Zoning Districts, except on corners where a traffic light or a 4-way stop is existing and operating 24 hours daily, no solid construction, hedge, bushes, or other obstruction to a clear view which extends over three feet (3') in height shall be permitted at any corner of intersecting streets where either or both of the streets are less than sixty feet (60') in width. Exceptions shall be made for utility poles, lighting standards, traffic and street signs and trees, the branches of which are kept trimmed to a height of eight feet (8') above the street level. Non-conforming buildings shall be exempted from this provision.

### **Section 606. City Approvals Required**

All City Approvals that are required for the use of land, buildings, and structures and for the location and operation of businesses and industries shall be obtained by the applicant and transmitted by him with his request for a building permit and certificate of occupancy, a zoning amendment, a Special Use Permit or a Variance. Except as otherwise required by state law, no local action shall be taken and no public hearing shall be held until the above-required approvals have been obtained by the applicant.

### **Section 607. Approvals for Business and Industrial Developments on State Highways.**

For all developments fronting on a State Highway, no building permit shall be issued until the approval of the Georgia Department of Transportation has been obtained by the applicant on entrances and exits, curb radii, drainage and other matters that are the appropriate concern of the Department.

### **Section 608. Location of Accessory Buildings and Structures**

Accessory structures shall be permitted only in the side or rear yards, except as otherwise provided in this Ordinance. In an R (residential) district, accessory uses customarily located within front or side yards of residences may include but shall not be limited to the following: walls and fences as permitted in Section 1000., mailboxes, driveways, walkways, lamp posts, landscaping, vegetable gardens provided they do not exceed 30 percent of the front yard, and basketball goals adjacent to driveways. No accessory uses or structures, except driveways, mailboxes or landscaping shall be located within a public right-of-way.

Accessory uses customarily located within side or rear yards of residences may include but shall not be limited to the following: storage buildings, patios, swimming pools, dog runs, dog pens and houses, detached garages, tennis courts, playground equipment, fences and walls as permitted in Section 1000.

No accessory structure shall be erected on a lot prior to the time of construction of the principal building to which it is accessory a) on the same lot, or b) on an adjoining lot in joint or common ownership.

### **Section 609. Accessory Building and Structure Setbacks**

Accessory building, structures and uses shall be setback at least five feet (5') from any lot line, except where abutting a public street and unless specifically exempted in this Ordinance. Where a lot abuts a public street, an accessory building, structure or use shall observe the required front yard setback from all public streets as specified in each Zoning District, unless specifically exempted in this Ordinance.

### **Section 610. Accessory Building Subordination**

Accessory buildings, structures and uses shall be customarily incidental and subordinate to the principal building, structure or use, and shall not be established on a lot prior to, or at least concurrently with, the construction of the principal building.

## **Section 611. Requirements for Home Occupations.**

In addition to the limitations imposed on "Home Occupations" under "Article III, Definitions", the following requirements shall be met:

- a) The home occupation shall be carried on only by a member or members of the family residing in the residence.
- b) To the extent that there is any sale of any item or service related to the home occupation, no sale of that item or service may occur on or adjacent to the premises unless this use has been granted a Special Use Permit by the City Council and following a public hearing.
- c) The home occupation shall not involve group instruction or group assembly of people on the premises.
- d) There shall be no exterior evidence of the conduct of a home occupation. The home occupation shall be conducted only within the enclosed living area of the home (including basement, if any). There shall be no display or storage of products, materials, or machinery where they may be visible from the exterior of the residence.
- e) The conduct of the home occupation shall neither increase the normal flow of traffic nor shall it increase either on street or off-street parking.
- f) No equipment may be utilized or stored in the conduct of the home occupation except that which is normally used for purely domestic or household purposes. Said items may only be those produced on the premises or incidental supplies necessary for and consumed in the conduct of the home occupation. Samples, however, may be kept on the premises but neither sold nor distributed from the residence.
- g) No more than 25 percent of the dwelling unit may be used for conducting the home occupation.
- h) One business vehicle used exclusively by the resident is permissible. This vehicle must be parked in a carport, garage, side yard, or rear yard. This vehicle shall be no larger in size than a pick-up truck, panel truck, or van not having a carrying capacity of more than one and one-half tons.

## **Section 612. Space Requirements for Residential Dwellings**

### **612.1 Generally.**

All residential districts and residential dwellings units shall be subject to the additional requirements of this division.

No person shall occupy or let to be occupied any dwelling or dwelling unit for living therein unless there is compliance with the requirements of this Ordinance.

### **612.2 Kitchen and eating area.**

- a) Every dwelling unit shall have a room or portion of a room in which food may be

prepared or cooked, which shall be equipped with the following:

- 1) Kitchen sink. A kitchen sink in good working condition and properly connected to a water supply system as authorized under the appropriate provisions of the technical building codes of the City of Baldwin, and which provides at all times an adequate amount of heated and unheated running water under pressure.
  - 2) Cabinets and shelves. Cabinets and shelves for the storage of eating, drinking and cooking equipment and utensils and of food that, under ordinary conditions, does not require refrigeration for safekeeping, and a counter or table for food preparation.
  - 3) Stove and refrigerator. A stove or similar device for cooking food, and a refrigerator or similar device for the safe storage of food at temperatures below 50 degrees Fahrenheit but more than 32 degrees Fahrenheit under ordinary conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation.
- b) Every dwelling unit shall have a room or portion of a room intended for the consumption of food, which shall be equipped with a table and at least two chairs.

#### 612.3 Bathroom, lavatory and tub or shower.

- a) Within every dwelling unit there shall be at least one bathroom.
- b) Within every dwelling unit there shall be a lavatory sink. The lavatory sink may be in the bathroom, or if located in another room, the lavatory sink shall be located within ten feet to a door leading directly into a room in which a toilet is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which is approved by the town and which provides an adequate amount of heated and unheated running water under pressure.
- c) Within every dwelling unit there shall be a room which affords privacy to persons occupying the room and which is equipped with a bathtub or shower in good working condition. The tub or shower may be in the same room as the bathroom or in another room and shall be in good working condition and properly connected to a water supply system which is approved by the town and which provides an adequate amount of heated and unheated running water under pressure.

#### 612.4 Bedrooms.

- a) The ceiling height of any bedroom shall be at least seven feet or nine feet on the first floor; except that for a bedroom under a sloping ceiling, at least one-half of the floor area shall have a ceiling height of at least seven feet, and the floor area of that part of such a room where the ceiling is less than five feet shall not be considered as part of the floor area in computing the total floor space of the room for the purpose of



determining the maximum permissible occupancy.

- b) No space located totally or partially below grade shall be used as a bedroom of a dwelling unit unless:
1. The floor and those portions of the walls are of waterproof and damp-proof construction.
  2. The total openable window area for allowing the entrance of outside light in each such bedroom is equal to at least four square feet.
  3. There are no pipes, ducts or other obstructions less than six feet eight inches from the floor level which interfere with the normal use of the room or area.

**612.5 Bathroom, sleeping room or water closet used for passageway.**

No dwelling or dwelling unit containing two or more bedrooms shall have such arrangements that access to a bathroom, lavatory sink, tub or shower intended for use by occupants of more than one bedroom can be had only by going through another bedroom; nor shall room arrangements be such that access to a bedroom can be had only by going through another bedroom. A bathroom or a room containing a lavatory sink, tub or shower shall not serve as the only passageway from a bedroom to any habitable room, hall, basement or cellar or to the exterior of the dwelling unit.

**612.6 Maximum occupancy.**

- a) In every dwelling unit consisting of two or more rooms, every bedroom shall contain at least 70 square feet of floor space for the first two occupants, and at least 50 square feet of floor space for each additional occupant thereof; provided that no bedroom shall be used to sleep more than four occupants.
- b) In every dwelling unit consisting of more than two bedrooms, there shall be at least one bathroom for every additional two bedrooms in excess of the first two bedrooms, in accordance with the following schedule:

Number of Bedrooms	Minimum Number of Bathrooms
1—3	1
4--5	2
6--7	3
8--9	4

612.7 Closet space.

Every dwelling unit shall have at least four square feet of floor to ceiling heated space for the personal effects of each permissible occupant; if such space is lacking such closet part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy.

612.8 Automobile parking restrictions.

In residential districts between the hours of 11:00 p.m. and 7:00 a.m., no more than two vehicles per dwelling unit plus one additional vehicle for each bedroom after the first bedroom in the dwelling unit may remain parked outside the dwelling unit for two or more consecutive nights. The following schedule illustrates vehicles allowed per number of bedrooms:

Bedrooms	Number of Vehicles
1	2
2	4
3	5
4	6
5	7

But in no event shall the number of vehicles so parked exceed eight vehicles per dwelling unit.

## ARTICLE VII - USE REQUIREMENTS BY DISTRICT

### Section 700. (A) Agriculture District

#### 700.1 Purpose

Purpose: It is the interest of this Section to facilitate the orderly and economically efficient development of Baldwin from existing built-up areas outward to the City's perimeter by establishing and preserving areas for low intensity uses such as agricultural, low density residential, and outdoor recreational uses in outlying areas without permitting an intensity of development which would require provision of additional public facilities and services in those areas until the land preserved for non-agricultural uses has been developed to the extent that agricultural land is needed for expansion of urban uses.

#### 700.2 Uses Permitted By Right:

- a) Any agricultural or horticultural use, including livestock and poultry, provided:
  - 1) No building or enclosure for the maintenance or shelter of animals shall be located within 300 feet any residence, other than that of the owner;
  - 2) No building or enclosure for the maintenance or shelter of animals shall be located within 300 feet any public building;
  - 3) No building or enclosure for the maintenance or shelter of animals shall be located within 150 feet any property line;
  - 4) Shelters or enclosures for three (3) or less household pets may be located within the 300 foot requirement, provided they meet the provisions of the Sanitary Rules of Habersham and Banks County and/or the health regulations of the State of Georgia. The definition of household pets shall be determined by the appropriate health official.

Note: Pastures are not considered enclosures under this subsection
- b) Cemetery.
- c) Churches or other places of worship, provided:
  - 1) The lot is at least two (2) acres in size.
  - 2) All buildings are located at least fifty (50') feet from all property lines.
  - 3) A planted buffer strip at least ten (10') feet wide is provided along the side and rear property lines.
- d) Clubs or Lodges, Private.
- e) Dwellings, Single Family, on a separate lot or on the same lot or parcel as a farming, agricultural or horticultural operation. Dwellings on a separate lot must have a minimum lot size of one (1) acre.
- f) Industrialized Homes on a separate lot or on the same lot or parcel as a farming, agricultural or horticultural operation. Industrialized dwellings on a separate lot

must have a minimum lot size of one (1) acre.

- g) Manufactured Homes, Class A on a separate lot or on the same lot or parcel as a farming, agricultural or horticultural operation. Manufactured homes on a separate lot must have a minimum lot size of one (1) acre .
- h) Parks and Playgrounds.
- i) Golf Courses and Driving Ranges.
- j) Public Buildings and Uses.
- k) Public Utility Structures and Substations, Unmanned.
- l) Riding Stables and Academies, provided:
  - 1) The lot is at least three (3) acres in size.
  - 2) Barns are located 150 feet from any property line.
- m) Telecommunications facilities in accordance with Section 904.

#### 700.3 Accessory Uses

- a) Accessory Buildings or Structures.
- b) Caretakers Quarters, for persons employed on the premises.
- c) Home Occupations.
- d) Mobile Office, Temporary, in conjunction with the construction of a building or development on a lot where construction is taking place. Such temporary office must be removed upon completion of construction.
- e) Relative Residence.
- f) Satellite Dish Antenna.
- g) Swimming Pools and Tennis Courts, Private.

#### 700.4 Uses Permitted by Special Use Permit (SUP)

- a) Country Clubs, with or without golf courses.
- b) Kennels, provided all structures are located 200 feet from any property line.
- c) Pet Cemeteries.
- d) New Telecommunications Towers in accordance with Section 904.
- e) Such other uses as the City Council determines are consistent with the uses stated in Section 700.2 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 700.1 of this Ordinance

#### 700.5 District Development Regulations

- a) Minimum Lot Area: One (1) acre.
- b) Minimum Lot Width: 125 feet.

- c) Minimum Road Frontage: 60 feet.
- d) Minimum Building Setbacks (for residences and other non-agricultural buildings. See Section 700.2 for setbacks for structures to house animals):
  - 1) Front: 40 feet (from right-of-way line of a State Highway).
  - 2) Front : 35 feet (from rights-of-way of all other streets)
  - 3) Side: 15 feet.
  - 4) Rear: 15 feet.
- e) Maximum Height: 35 feet.

### **Section 701. (R-1) Residential Single Family District**

#### **701.1 Purpose**

The purpose of this district is to provide for low-density single-family residential areas with minimum lot sizes based on site conditions, 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.

#### **701.2 Uses Permitted By Right**

- a) Churches, or other places of worship, provided:
  - 1) The lot is at least two (2) acres in size.
  - 2) All buildings are located at least fifty feet (50') from any property line.
  - 3) A planted buffer strip at least ten feet (10') wide is provided along all side and rear property lines.
- b) Dwellings, Single Family.
- c) Industrialized Homes.
- d) Parks and Playgrounds.
- e) Public Buildings and Uses.
- f) Public Utility Structures and Substations, Unmanned.
- g) Telecommunications facilities in accordance with Section 904.

#### **701.3 Accessory Uses**

- a) Accessory Buildings or Structures.
- b) Home Occupations.
- c) Mobile Office, Temporary, in conjunction with the construction of a building or development on a lot where construction is taking place. Such temporary office must be removed upon completion of construction.

- d) Guest House and/or Relative Residence.
- e) Satellite Dish Antenna.
- f) Non commercial livestock and poultry, provided:
  - 1) No building or enclosure for the maintenance or shelter of animals shall be located within 300 feet any residence, other than that of the owner;
  - 2) No building or enclosure for the maintenance or shelter of animals shall be located within 300 feet any public building;
  - 3) No building or enclosure for the maintenance or shelter of animals shall be located within 150 feet any property line;
  - 4) Shelters or enclosures for three (3) or less household pets may be located within the 300 foot requirement, provided they meet the provisions of the Sanitary Rules of Habersham and Banks County and/or the health regulations of the State of Georgia. The definition of household pets shall be determined by the appropriate health official.

Note: Pastures are not considered enclosures under this subsection

- g) Swimming Pools and Tennis Courts, Private.

#### 701.4 Uses Permitted by Special Use Permit (SUP)

- a) Manufactured Homes, Class A.
- b) New telecommunications concealed support structures in accordance with Section 904.
- c) Day Care Facilities, provided:
  - 1) At least 100 square feet of outdoor play area is provided for each child; and
  - 2) The entire play area is enclosed by a fence having a minimum height of at least five feet (5') and constructed in such a manner that maximum safety to the children is ensured.
- d) Family Personal Care Homes.
- e) Such other uses as the City Council determines are consistent with the uses stated in Section 701.2 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 701.1 of this Ordinance

#### 701.5 District Development Regulations

- a) Minimum Lot Area for lots on slopes of 10% or less on public sewer: 15,000 square feet. Lots on individual septic systems shall comply with the Health Department minimum lot requirements.
- b) Minimum Lot Area for lots on slopes of **more than 10%**: See **Table 8.3**.
- c) Minimum Lot Width for lots on slopes of 10% or less: 100 feet.

- d) Minimum Lot Width for lots on slopes of **more** than 10%: See **Table 8.3**.
- e) Minimum Road Frontage: 40 feet.
- f) Maximum Density: 3.0 dwelling units/acre
- g) Minimum Building Setbacks:
  - 1) Front: 40 feet (from right-of-way line of State Highways).
  - 2) Front: 35 feet (from rights-of-way of all other streets)
  - 3) Side: 15 feet.
  - 4) Rear: 15 feet.
- h) Maximum Height: 35 feet.

**Section 702. (R-2) Residential Single Family District**

**702.1 Purpose**

The intent of this Zoning District is to allow and provide for the development of medium-density single-family and two-family dwelling areas where public services and utilities are available.

**702.2. Uses Permitted by Right**

- a) Churches, or other places of worship, provided:
  - 1) The lot is at least two (2) acres in size.
  - 2) All buildings are located at least fifty feet (50') from any property line.
  - 3) A planted buffer strip at least ten feet (10') wide is provided along all side and rear property lines.
- b) Dwellings, Single Family.
- c) Dwellings, Duplex
- d) Industrialized Homes.
- e) Parks and Playgrounds.
- f) Public Buildings and Uses.
- g) Public Utility Structures and Substations, Unmanned.
- h) Telecommunications facilities in accordance with Section 904.

**702.3 Accessory Uses**

- a) Accessory Buildings or Structures.
- b) Home Occupations.
- c) Mobile Office, Temporary, in conjunction with the construction of a building or development on a lot where construction is taking place. Such temporary office

must be removed upon completion of construction.

- d) Guest House and/or Relative Residence.
- e) Satellite Dish Antenna.
- f) Non commercial livestock and poultry, provided:
  - 1) No building or enclosure for the maintenance or shelter of animals shall be located within 300 feet any residence, other than that of the owner;
  - 2) No building or enclosure for the maintenance or shelter of animals shall be located within 300 feet any public building;
  - 3) No building or enclosure for the maintenance or shelter of animals shall be located within 150 feet any property line;
- g) Shelters or enclosures for three (3) or less household pets may be located within the 300 foot requirement, provided they meet the provisions of the Sanitary Rules of Habersham and Banks County and/or the health regulations of the State of Georgia. The definition of household pets shall be determined by the appropriate health official.
  - 1) Note: Pastures are not considered enclosures under this subsection
- h) Swimming Pools and Tennis Courts, Private.

#### 702.4 Uses Permitted by Special Use Permit (SUP)

- a) Manufactured Homes, Class A.
- b) Telecommunications Facilities - Concealed Support Structures in accordance with Section 904.
- c) Day Care Facilities, provided:
  - 1) At least 100 square feet of outdoor play area is provided for each child; and
  - 2) The entire play area is enclosed by a fence having a minimum height of at least five feet (5') and constructed in such a manner that maximum safety to the children is ensured.
- d) Family Personal Care Homes.
- e) Such other uses as the City Council determines are consistent with the uses stated in Section 702.2 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 702.1 of this Ordinance.

#### 702.5 District Development Regulations

- a) Minimum Lot Area for lots on slopes of 10% or less: (Single Family) 10,000 square feet on public sewer. Lots on individual septic systems shall comply with the Health Department minimum lot requirements
- b) Minimum Lot Area for lots on slopes of 10% or less on public sewer: (Duplex) 7,500 square feet per dwelling, 15,000 square feet per lot. Lots on individual



septic systems shall comply with the Health Department minimum lot requirements

- c) Minimum Lot Area for lots on slopes of **more** than 10%: See **Table 8.3**.
- d) Minimum Lot Width for lots on slopes of 10% or less: 80 feet.
- e) Minimum Lot Width for lots on slopes of **more** than 10%: See **Table 8.3**.
- f) Minimum Road Frontage: 40 feet.
- g) Maximum Density: 5.8 dwelling units/acre
- h) Minimum Building Setbacks:
  - 1) Front: 40 feet (from right-of-way line of State Highways).
  - 2) Front: 35 feet (from rights-of-way of all other streets)
  - 3) Side: 15 feet.
  - 4) Rear: 15 feet.
- i) Maximum Height: 35 feet.

### **Section 703. (R-3) Residential Multi-Family District**

#### **703.1 Purpose**

The purpose of this Zoning District is to provide for the orderly development of high density residential areas for two family and multi-family dwellings, said areas being protected from the encroachment of those uses which are incompatible to a desirable residential environment.

#### **703.2 Uses Permitted By Right**

- a) Boarding or Rooming Houses.
- b) Personal Care Homes.
- c) Churches, or other places of worship, provided:
  - 1) The lot is at least two (2) acres in size.
  - 2) All buildings are located at least fifty feet (50') from all property lines.
  - 3) A planted buffer strip at least ten feet (10') wide is provided along the side and rear property lines.
- d) Clubs or Lodges, Private.
- e) Dwellings, Condominiums and/or Townhouses, provided:
  - 1) Maximum density: eight (8) units per acre.
  - 2) Lot Area – No Minimum.

- 3) Lot Width – No Minimum.
- 4) Internal Road Frontage – No Minimum.
- 5) External Road Frontage For Overall Development – 50-feet.
- 6) Minimum unit width:
  - a. Twenty-two (22) feet for double-car garage townhomes.
  - b. Eighteen (18) feet for single-car garage townhomes.
  - c. Forty (40) feet for villas.
- 7) Maximum height: 35-feet.
- 8) Internal yard requirements: A 20-foot grassed or landscaped strip shall be provided between all buildings and interior driveways/streets.
- 9) External yard requirements:
  - a. Front yard: 50-Feet
  - b. Side yard: 40-Feet
  - c. Rear yard: 40-Feet
- 10) Provide three or more off-street parking spaces per dwelling unit. At least 80 percent of required parking areas for overall development must be located directly in the front or rear of the dwelling units. The balance of the parking spaces may be located in a parking facility separated from the units. All units shall require at least single-car garages.
- 11) All grassed areas shall be sodded.
- 12) Provide sidewalks adjacent to both sides of interior streets or private driveways.
- 13) A minimum of three (3) and a maximum of eight (8), dwelling units shall be allowed in each row of townhouses. Villas shall have a minimum of three units and a maximum of four units per building.
- 14) A minimum of a two-hour rated firewall shall be required between each attached dwelling unit. A four hour rated firewall shall be required between every fourth attached dwelling unit. The four-hour firewall may be reduced to a two-hour firewall if approved residential sprinkler systems, or similar fire prevention measures as approved by the Fire Marshal, are installed in each unit. Firewalls shall be constructed in accordance with applicable building Ordinances of the City of Baldwin
- 15) All utilities shall be placed underground.
- 16) A 50-foot wide landscaped setback shall be provided along all exterior street frontages. The landscaped setback may incorporate natural vegetation and shall include a decorative fence/wall and entrance monument. The fence may be constructed as a solid brick or stacked stone

wall, or as a wrought iron-style fence with brick or stacked stone columns (maximum 30-feet on-center).

- f) Dwellings, Multi-Family, provided:
  - 1) Density shall not exceed eight (8) dwelling units per acre.
  - 2) Buildings shall have a minimum separation of twenty feet (20') between buildings.
- g) Dwellings, Duplex.
- h) Dwellings, Single Family
- i) Fraternity or sorority houses.
- j) Day Care Facilities provided:
  - 1) At least one-hundred (100) square feet of outdoor play area is supplied for each child accommodated.
  - 2) The entire play area is enclosed by a fence having a minimum height of at least five feet (5') and constructed in such a manner that maximum safety to the children is ensured.
- k) Manufactured Homes, Class A
- l) Nursing Homes.
- m) Parks and Playgrounds.
- n) Public Buildings and Uses.
- o) Public Utility Structures and Substations, Unmanned.
- p) Telecommunications facilities in accordance with Section 904.

### 703.3 Accessory Uses

- a) Accessory Buildings or Structures.
- b) Home Occupations.
- c) Mobile Office, Temporary, in conjunction with the construction of a building or development on a lot where construction is taking place. Such temporary office must be removed upon completion of construction.
- d) Satellite Dish Antenna.
- e) Swimming Pools and Tennis Courts, Private.

### 703.4 Uses Permitted by Special Use Permit (SUP)

- a) Telecommunications Facilities-Concealed Support Structures in accordance with Section 904.
- b) Such other uses as the City Council determines are consistent with the uses

stated in Section 703.2 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 703.1 of this Ordinance

#### 703.5 District Development Regulations

- a) Minimum Lot Area for lots on slopes of 10% or less:
  - 1) Duplex - 10,000 square feet (5,000 square feet per dwelling unit).
  - 2) Multi-Family – Lot area 7,500 square feet.
  - 3) Townhouse – See Section 703.2.
- b) Minimum Lot Area for lots on slopes of 10% or **more**:
  - 1) Duplex – See **Table 8.3**
  - 2) Multi-Family – See **Table 8.3**.
  - 3) Townhouse – See Section 703.2.
- c) Minimum Lot Width for lots on slopes of 10% or less:
  - 1) Duplex - 80 feet
  - 2) Multi-Family - 80 feet.
  - 3) Townhouse – See Section 703.2.
- d) Minimum Lot Width for lots on slopes of 10% or **more**:
  - 1) Duplex – See **Table 8.3**
  - 2) Multi-Family – See **Table 8.3**;
  - 3) Townhouse – See Section 703.2.
- e) Minimum Road Frontage:
  - 1) Duplex - 40 feet
  - 2) Multi-Family - 40 feet.
  - 3) Townhouse – See Section 703.2.
- f) Minimum Building Setbacks:
  - 1) Front: 40 feet (from right-of-way line of State Highways).
  - 2) Front: 35 feet (from rights-of-way of all other streets)
  - 3) Side: 15 feet.
  - 4) Rear: 40 feet.
  - 5) Townhouse – See Section 703.2.
- g) Maximum Height: 35 feet.

## **Section 704. (MHD) Manufactured Housing Development District.**

### **704.1. Purpose**

This zoning district is intended exclusively for the placement of manufactured housing in an environment that will provide pleasant and otherwise satisfactory living conditions and, at the same time, will not produce adverse effects upon neighboring properties. Within this district, there are permitted manufactured housing developments, in which lots are leased, as well as subdivisions designed for manufactured houses.

The following types of dwellings are allowed a use by right within this District:

- Manufactured Home, Class A
- Manufactured Home, Class B
- Manufactured Home Class C (In Manufactured Housing Parks Only)
- Industrialized Homes.
- Single Family Dwellings (In Manufactured Housing Subdivisions)

### **704.2 Standards – Manufactured Housing Park**

A Manufactured Housing District development shall meet the following requirements:

- a) **Location.** A Mobile Home District development shall front for a sufficient distance to provide safe access upon a State Highway, a Major Thoroughfare, a Collector Street or a local access road paralleling an expressway and shall have access and egress only on such road.
- b) **Street Access Requirements.** The entrance road to a Mobile Home District development shall have a minimum right-of-way width of 60 feet with a minimum pavement width of 28 feet. The entrance road shall have a turning radius from the highway of at least 30 feet and the entrance road shall extend at least 100 feet into the Mobile Home District development.
- c) **Size.** A Manufactured Housing District development shall have a minimum buildable area of at least 15 contiguous acres.
- d) **Density.** A Manufactured Housing District development shall have a density of not more than four (4) mobile home lots per buildable acre.
- e) **Manufactured Housing Lots.** Each manufactured home shall be located on a separate mobile home lot.
- f) **Recreation and Other Community Facilities.** Not less than eight (8) percent of the gross area of the Manufactured Housing District development shall be devoted to recreation and other community use facilities. Each recreation space shall have a minimum area of 10,000 square feet.
- g) **HUD Mobile Home Court Development Guide.** The Mobile Home District development shall meet the standards of the "Mobile Home Court Development Guide", as set forth in the above titled pamphlet, FHA G4200.7, published January, 1970, which is hereby made a part of this Ordinance, as well as the requirements of

the Baldwin Zoning Ordinance and the building codes of the City of Baldwin. If there are any differences in the above two sets of requirements, the most stringent shall apply.

- h) No Site Construction Until Preliminary Subdivision Plat Approved. No site construction shall be undertaken and no permits shall be issued until a Preliminary Subdivision Plat that meets the requirements of the City of Baldwin and the requirements of this Zoning Ordinance has been given tentative approval.
- i) Certificates of Occupancy. No Certificate of Occupancy for the placing of a mobile home in a Mobile Home District development shall be issued until at least 50 mobile home lots have been developed in accordance with an officially approved and recorded Final Subdivision Plat and are ready for occupancy.
- j) Skirting or Underpinning. Refer to Article III, Definitions, which outlines these requirements for each class of manufactured house or industrialized building.

#### 704.3 Standards – Manufactured Housing Subdivisions.

Subdivisions containing manufactured homes, industrialized buildings, and/or modular homes are permitted in this district, provided the following provisions are met:

- a) Subdivision. The subdivision shall be designed to only allow lot frontage on minor interior streets and shall meet the requirements of a single family subdivision as defined in the City Of Baldwin Subdivision Ordinance or other ordinances. All other City regulations regarding the construction of a subdivision shall be followed.
- b) Size. The subdivision development shall have a minimum area of at least 20 contiguous acres.
- c) Minimum area, yard and height requirements. Each lot shall meet the minimum requirements of the R-1 Single Family Residence District.
- d) Enclosure of space beneath the home. The space underneath each manufactured home shall be fully enclosed to protect this space from the elements and to create an aesthetic appearance for each unit. Materials used for this purpose shall be rigidly mounted and shall be acceptable for exterior use.
- e) Tiedowns. Acceptable provisions for tiedowns for each home shall be made in accordance with Appendix H of the Standard Building Ordinance adopted by the City of Baldwin or by the Baldwin mobile Home Ordinance, whichever is more stringent.
- f) Foundations. All piers shall be placed on footings of solid concrete not less than the following:
  - 1) Single-wide - 20 inches by 20 inches by eight (8) inches.
  - 2) Double-wide - 24 inches by 24 inches by eight (8) inches.
  - 3) Industrialized homes or site-built homes shall meet foundation requirements of the Standard Building Ordinance adopted by the City of Baldwin. All other placement or construction criteria shall meet the building Ordinances adopted by the City of Baldwin.

- g) Protective Covenants. All manufactured home subdivisions shall have protective covenants, drawn up in a form acceptable to the City Attorney and according to the requirements of this section.
- h) Completion of site preparation. The developer shall be responsible for final site preparation with the exception of those items included in the approved covenants of the subdivision as the homeowners' responsibility.
- 1) Items which shall be required of the developer include, but are not limited to, the following:
    - a. Paving of driveways and parking from the curb line of streets to the actual home location site behind the setback line.
    - b. Lawns shall be landscaped and seeded by the developer within a reasonable period of time (not to exceed sixty (60) days) after the installation of the manufactured home taking into consideration weather changes and conditions.
    - c. All trees shall remain on lots except as their removal is required for installation of driveways and the location of the home on each lot with a reasonable yard area.
    - d. Only multi-sectional (double-wide) manufactured homes, industrialized homes or on site-built homes shall be allowed on any exterior lot of the subdivision.
  - 2) Items which shall be required of the developer or lot owner include, but are not limited to, the following:
    - a. A home location plan shall be submitted for approval by the Zoning Administrator for each lot showing the exact location of the home, driveways, etc. in relation to the lot lines prior to the issuance of a permit for the installation of a home.
    - b. Installation of the manufactured home, including tiedowns, skirting or similar enclosure, connection of utilities and other requirements concerning the installation of a home set-forth in this section and specified in the manufacturer's installation instructions.
    - c. Entrances and service walkways.
    - d. Exterior steps and porches.

The above listed items shall be set-forth within the Protective Covenants approved and recorded with the Final Plat of the subdivision which has been developed.
- i) Certificate of Occupancy. A Certificate of Occupancy shall be issued prior to the occupancy of any home allowed within this section. No Certificate of Occupancy shall be issued for any home until the required improvements of Paragraph h. above, have been completed.
- j) Eligibility. Only the following types of housing may be placed within an approved

manufactured home subdivision:

- 1) New manufactured homes, Classes "A" and "B".
- 2) Industrialized homes and new site-built homes provided the home meets the minimum floor area requirements of the R-1 District, Section 701 of this Ordinance.
- k) Buffers. A minimum of a twenty-five (25) foot buffer shall be required adjacent to exterior property lines of the development to protect the subdivision from adverse visual, noise or other impact caused by surrounding land usages and to provide a buffer to any residential property immediately adjoining the site.

#### 704.4 Other Permitted Uses

- a) Customary accessory buildings and uses.
- b) Customary home occupations.
- c) Existing cemeteries.
- d) Public buildings and land uses.
- e) Telecommunications Facilities – Concealed Support Structures in accordance with Section 904.
- f) Electric substations or gas regulator stations, if essential for service to this zoning district, provided:
  - 1) The structures are placed not less than fifty (50) feet from any property line.
  - 2) The structures are enclosed by a woven wire fence a least eight (8) feet high.
  - 3) The lot is suitably landscaped, including a buffer strip at least ten (10) feet wide along the side and rear property lines, but not extending into the required front yard, planted with evergreen trees and shrubs that grow at least eight (8) feet tall and provide an effective visual screen.
  - 4) No vehicles or equipment are stored on the premises.

Within the MHD Manufactured Home Development District, the following uses may be permitted as a Special Use provided the applicant for such use is granted a Special Use Permit by the Mayor and Council after a public hearing.

- a) A beauty parlor or barber shop in a one-family residence.
- b) Group Personal Care Homes.
- c) Such other uses as the City Council determines are consistent with the uses stated in Section 704.2 and 704.3 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 704.1 of this Ordinance

#### **Section 705. (NC) Neighborhood Commercial District**



### 705.1 Purpose

The purpose of this Zoning District is to serve two (2) primary functions. First, it should provide convenience goods and services, that is, goods and services purchased on a regular and frequent basis by a household in or adjacent to developed and developing residential areas and at a scope compatible with such residential uses and areas. Second, it should be used to provide more rural areas with convenience goods and services. This district should remain distinct in character from arterial or highway oriented commercial districts that are established to accommodate a broader range of commercial uses including more intense uses than are allowed in this District.

### 705.2 Uses Permitted By Right

#### a) Retail Uses:

- 1) Amusement or Recreational Activities (Commercial) carried on wholly within a building, such as cinema, theater, auditorium and uses of similar nature.
- 2) Art Studio.
- 3) Athletic Club.
- 4) Antique Shop.
- 5) Bait Sales.
- 6) Baked Goods (Commercial).
- 7) Banks, Financial Institutions.
- 8) Barber Shop.
- 9) Beauty Shop.
- 10) Cafe, Restaurant, Supper Club.
- 11) Churches or other places of worship.
- 12) Convenience Food Stores, with or without gas pumps, provided that the pump islands and canopy are setback at least fifteen feet (15') from any right-of-way line.
- 13) Curio and Souvenir Shop.
- 14) Dance School or Studio.
- 15) Day Care Facilities, provided that:
  - a. At least one-hundred (100) square feet of outdoor play area is supplied for each child accommodated.
  - b. The entire play area is enclosed by a fence having a minimum height of at least five feet (5') and constructed in such a manner that maximum safety to the children is ensured.

- 16) Dry Clearing Pickup Station.
- 17) Florist, Greenhouse, Nursery (Retail and Wholesale).
- 18) Food Stores, including retail bakeries, meat markets, dairy products, confectioner shops, and stores of similar nature.
- 19) Funeral home.
- 20) Grocery, Fruit or Vegetable Market.
- 21) Hardware Store.
- 22) Hotel.
- 23) Jewelry Store.
- 24) Laundries, Self-Service.
- 25) Library.
- 26) Locksmith, Gunsmith.
- 27) Medical, Dental, or similar clinic.
- 28) Music Teaching Studio.
- 29) Newspaper or Magazine Publishing and Distribution.
- 30) Personal Service Shop, such as barber shops, beauty shops, shoe repair, laundry pickup stations, watch repair and services of a similar nature.
- 31) Pest Control.
- 32) Photographic Studio.
- 33) Telecommunications Facilities in accordance with Section 904.
- 34) Radio or Television Broadcasting Station or Studio.
- 35) Restaurant, Supper Club, Cafe and Food Catering Service.
- 36) Retail Auto Parts and Tire Stores.
- 37) Retail Candy and Ice Cream Stores.
- 38) Rooming House.
- 39) Signs in conformance with the Sign Ordinance.
- 40) Specialty Shops.
- 41) Tailor.
- 42) Taxi Station.
- 43) Theater.

b) Office Uses

- 1) Architecture, Engineering and Surveying Offices
- 2) Professional Offices.
- 3) Real Estate Office.
- c) Public and Semi-public Uses
  - 1) Auditorium, Assembly Hall.
  - 2) Museum
  - 3) Parks and Playgrounds.
  - 4) Public Buildings and Uses.
  - 5) Public Owned Recreation Centers, Y.M.C.A.'s, and Institutions of a similar nature.
  - 6) Public Utilities Plant and Public Service Structures.

705.3 Accessory Uses

- a) Accessory Off-Street Parking.
- b) Accessory Buildings or Structures.

705.4 Uses Permitted by Special Use Permit (SUP)

- a) Hotel
- b) Motel.
- c) Nursing home, personal care home or assisted living facility
- d) Telecommunications Facilities – Concealed support Structures and New Monopole Towers in accordance with Section 904.
- e) Such other uses as the City Council determines are consistent with the uses stated in Section 705.2 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 705.1 of this Ordinance.

705.5 District Development Regulations

- a) Minimum Lot Area: NONE.
- b) Minimum Road Frontage: 40 feet.
- c) Minimum Building Setbacks:
  - 1) Front: 35 feet (from right-of-way line of State Highways).
  - 2) Front: 15 feet (from rights-of-way of all other streets)
  - 3) Side: 10 feet.
  - 4) Rear: 15 feet (25 feet if abutting a residential district).

d) Maximum Height: 40 feet.

**Section 706. (HB) Highway Business District**

**706.1 Purpose**

The purpose of this Zoning District is to provide for those business activities which are larger users of space than commercial uses serving the Neighborhood Commercial District and to provide for those business activities which cater to the needs of individual neighborhoods, and highway business areas.

**706.2 Uses Permitted By Right**

a) Retail Uses

- 1) Ambulance Service or Rescue Squad.
- 2) Amusement Park.
- 3) Amusement or Recreational Activities (Commercial), carried on outside a building such as golf course, softball field, and uses of similar nature.
- 4) Amusement or Recreational Activities (Commercial), carried on wholly within a building, such as cinema, theater, auditorium and uses of similar nature.
- 5) Animal Hospital, Commercial Kennels, Veterinary Clinic or Animal Boarding Place, located at least 300 feet from the nearest residential district.
- 6) Antique Shops.
- 7) Appliance Stores.
- 8) Art Studio.
- 9) Athletic Club.
- 10) Auditorium, Assembly Hall.
- 11) Automobile Parking Lot or Parking, Garage (Commercial).
- 12) Automobile and Truck Sales, Repair, Service Shop.
- 13) Automobile Body Shop.
- 14) Bait Sales.
- 15) Baked Goods (Commercial).
- 16) Banks, Financial Institutions.
- 17) Barber Shop.
- 18) Beauty Shop.
- 19) Bottle Gas, Storage and Distribution.
- 20) Bowling Alley.

- 21) Builders Equipment and Material Storage.
- 22) Bus Terminal.
- 23) Cafe, Restaurant, Supper Club.
- 24) Canning Plant.
- 25) Car Wash.
- 26) Carnival, Rodeo, Horse Show, or Athletic Event, Tent Revival, Community Fair or other event of interest to the Public, not to exceed thirty (30) days.
- 27) Carpet and Rug Sales, Storage.
- 28) Churches or other places of worship.
- 29) Clinic.
- 30) Convenience Food Stores, with or without gas pumps, provided that the pump islands and canopy are setback at least fifteen feet (15') from any right-of-way line.
- 31) Contractors Equipment and Material Storage.
- 32) Curio and Souvenir Shop.
- 33) Dance School or Studio.
- 34) Day Care Facilities, provided that:
  - a. At least one-hundred (100) square feet of outdoor play area is supplied for each child accommodated.
  - b. The entire play area is enclosed by a fence having a minimum height of at least five feet (5') and constructed in such a manner that maximum safety to the children is ensured.
- 35) Department Store.
- 36) Drive-In Restaurant.
- 37) Drug Stores.
- 38) Dry Cleaning Plant and/or Pickup Station.
- 39) Electrical Repair (Commercial).
- 40) Experimental Laboratory.
- 41) Fabrication Shop, Wood and Fabric.
- 42) Farm Equipment, Sales and Service.
- 43) Feed, Grain, or Fertilizer (Wholesaling or Storage).
- 44) Feed, Seed, and Insecticides, and Fertilizer Retail Sales.
- 45) Fish, Meat (Wholesale, Cure, Storing).

- 46) Florist, Greenhouse, Nursery (Retail or Wholesale).
- 47) Food Stores, including retail bakeries, meat markets, dairy products, confectioner shops, and stores of similar nature.
- 48) Freight Express Office.
- 49) Funeral Home, with or without crematory.
- 50) Furniture Upholstery Shop.
- 51) Furniture Store, Retail.
- 52) Garage, Public Storage.
- 53) Gasoline Service Station.
- 54) Glass Sales and Storage.
- 55) Grocery (Fruit or Vegetable Market).
- 56) Hardware Store.
- 57) Home Furnishings and Hardware.
- 58) Hotel.
- 59) Ice (Manufacturing and Sales).
- 60) Imported Goods, Warehouses.
- 61) Jewelry Store.
- 62) Laundries, Self-Service.
- 63) Library.
- 64) Liquor Store.
- 65) Locksmith, Gunsmith.
- 66) Machine Shop, Metal Fabrication.
- 67) Manufactured Home Sales Lot.
- 68) Motel.
- 69) Music Teaching Studio.
- 70) Newspaper or Magazine Publishing and Distribution.
- 71) Nursing home, personal care home or assisted living facility
- 72) Office Equipment, Sales and Service.
- 73) Pawn Shops.
- 74) Personal Service Shops, such as barber shops, beauty shops, shoe repair, laundry pickup stations, watch repair and services of a similar nature.
- 75) Pest Control.

- 76) Photographic Studio.
- 77) Printing, Photo-Engraving, Book Binding, Blueprinting.
- 78) Restaurant, Supper Club, Cafe and Food Catering Service.
- 79) Retail Auto Parts and Tire Stores.
- 80) Retail Candy and Ice Cream Stores.
- 81) Rooming House.
- 82) Service Station, Automobile.
- 83) Sheet Metal Products.
- 84) Skating Rink.
- 85) Small Motor Repair Shops.
- 86) Specialty Shops.
- 87) Storage Warehouse (including mini-warehouses).
- 88) Tailor.
- 89) Taxi Station.
- 90) Taxidermist.
- 91) Theater.
- 92) Telecommunications Facilities in accordance with Section 904.
- 93) Upholstery Shop.
- 94) Vending Machine Distributor.
- 95) Warehousing, not related to sales on the premises.
- 96) Welding Shop.
- 97) Office Uses:
  - 98) Medical, Dental, or similar Clinic.
  - 99) Professional Offices.
  - 100) Real Estate Office.
  - 101) Radio and Television Broadcasting Station or Studio.

b) Public and Semi-public Uses:

- 1) Athletic Field, Public.
- 2) Community Center.
- 3) Electric Power Yards, Substation.
- 4) Hospital and Nursing Homes.

- 5) Museum.
  - 6) Parks and Playgrounds.
  - 7) Public Buildings and Uses.
  - 8) Public Owned Recreation Centers, Y.M.C.A.'s and Institutions of a similar nature.
  - 9) Public Utilities Plant and Public Service Structures.
  - 10) Utility Substations.
- c) Other Uses
- 1) Adult Entertainment Establishments, provided they meet the following standards:
    - a. Minimum Distance Requirement from Residential Zoning Districts. No Adult Entertainment Establishment shall be located, established, maintained or operated on any parcel that is within 1,000 feet of a residence located on a parcel of land which is zoned A, R-1, R-2, R-3, R-3, PRD or MHD, or any combination thereof.
    - b. Minimum Distance Requirement from Other Adult Entertainment Establishments. No Adult Entertainment Establishment shall be located, established, maintained or operated on any parcel that within 1,000 feet of any other parcel on which any other Adult Entertainment Establishment is located, established, maintained or operated.
    - c. Minimum Distance Requirement from Public Uses. No Adult Entertainment Establishment shall be located, established, maintained or operated on any parcel within 1,000 feet of any other parcel on which a governmental building simultaneously owned and occupied by such government, library, civic center, hospital, public park or neighborhood playground is located.
    - d. Minimum Distance Requirement from Other Uses. No Adult Entertainment Establishment shall be located, established, maintained or operated on any parcel within 1,000 feet of a parcel of land upon which a church, school, educational institution or religious institution is located.
    - e. Measurement. For purposes of this subsection, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the Adult Entertainment Establishment is located to the nearest point on a property line of (i) any residentially-zoned parcel, or (ii) any parcel on which a Public Use is located, or (iii) a parcel on which an "Other Use" is located, or (iv) a parcel on which another Adult Entertainment Establishment, as the case may be, is established, maintained or operated.
    - f. Limited Exception for Subsequent Protected Uses or Residential Property.



An Adult Entertainment Establishment lawfully operating under this Ordinance and under the City's Adult Entertainment Ordinance shall not be deemed to be in violation of the location restrictions set forth solely herein because (i) a Public Use or Other Use subsequently locates within the minimum required of the Adult Entertainment Establishment, (ii) property within the minimum required distance of an Adult Entertainment Establishment subsequently becomes residentially-zoned property. This Paragraph shall not apply to an Adult Entertainment Establishment at a time when an application for an "Adult Entertainment License" under the City's *Adult Entertainment Ordinance* for that Establishment is submitted after the License has previously expired, has been revoked, or is at that time under suspension.

### 706.3 Accessory Uses

- a) Accessory Off-Street Parking.
- b) Accessory Buildings or Structures.

### 706.4 Uses Permitted by Special Use Permit (SUP)

- a) Telecommunications Facilities – Concealed Support Structures and New Monopole Towers in accordance with Section 904.
- b) Such other uses as the City Council determines are consistent with the uses stated in Section 706.2 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 706.1 of this Ordinance.

### 706.5 District Development Regulations

- a) Minimum Lot Area: NONE.
- b) Minimum Lot Width: 40 feet.
- c) Minimum Road Frontage: 40 feet.
- d) Minimum Building Setbacks:
  - 1) Front: 40 feet (from right-of-way line of State Highways).
  - 2) Front: 35 feet (from rights-of-way of all other streets)
  - 3) Side: 15 feet.
  - 4) Rear: 15 feet (40 if abutting residential district)
- e) Maximum Height: 50 feet.

## **Section 707. (I-1) Light Industrial District**

### 707.1 Purpose

The purpose of this Zoning District shall be to provide and protect areas for those

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.

#### 707.2 Uses Permitted By Right

a) Adult Entertainment Establishments, provided they meet the following standards:

- 1) Minimum Distance Requirement from Residential Zoning Districts. No Adult Entertainment Establishment shall be located, established, maintained or operated on any parcel that is within 1,000 feet of a residence located on a parcel of land which is zoned A, R-1, R-2, R-3, R-3, PRD or MHD, or any combination thereof.
- 2) Minimum Distance Requirement from Other Adult Entertainment Establishments. No Adult Entertainment Establishment shall be located, established, maintained or operated on any parcel that within 1,000 feet of any other parcel on which any other Adult Entertainment Establishment is located, established, maintained or operated.
- 3) Minimum Distance Requirement from Public Uses. No Adult Entertainment Establishment shall be located, established, maintained or operated on any parcel within 1,000 feet of any other parcel on which a governmental building simultaneously owned and occupied by such government, library, civic center, hospital, public park or neighborhood playground is located.
- 4) Minimum Distance Requirement from Other Uses. No Adult Entertainment Establishment shall be located, established, maintained or operated on any parcel within 1,000 feet of a parcel of land upon which a church, school, educational institution or religious institution is located.
- 5) Measurement. For purposes of this subsection, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the Adult Entertainment Establishment is located to the nearest point on a property line of (i) any residentially-zoned parcel, or (ii) any parcel on which a Public Use is located, or (iii) a parcel on which an "Other Use" is located, or (iv) a parcel on which another Adult Entertainment Establishment, as the case may be, is established, maintained or operated.
- 6) Limited Exception for Subsequent Protected Uses or Residential Property. An Adult Entertainment Establishment lawfully operating under this Ordinance and under the City's Adult Entertainment Ordinance shall not be deemed to be in violation of the location restrictions set forth solely herein because (i) a Public Use or Other Use subsequently locates within the minimum required of the Adult Entertainment Establishment, (ii) property within the minimum required distance of an Adult Entertainment Establishment subsequently becomes residentially-zoned property. This Paragraph shall not apply to an Adult Entertainment Establishment at a time when an application for an "Adult Entertainment License" under the City's *Adult Entertainment Ordinance* for

that Establishment is submitted after the License has previously expired, has been revoked, or is at that time under suspension.

- b) Advertising Display Manufacturing, Sales.
- c) Automobile Body Shop.
- d) Bottling and Canning Plant.
- e) Broadcasting Studio (Radio and Television).
- f) Builders Equipment, Material Storage.
- g) Carnival, Rodeo, Horse Show, or Athletic Event, Tent Revival, Community Fair or other event of Interest to the Public, not to exceed thirty (30) days.
- h) Cemetery.
- i) Cosmetic and Pharmaceutical Products (Manufacturing).
- j) Electric Power Yards, Substation.
- k) Experimental Laboratory.
- l) Fabrication Shop, Wood and Fabric.
- m) Feed, Grain, or Fertilizer (Wholesaling or Storage).
- n) Food Manufacturing.
- o) Ice (Manufacturing and Sales).
- p) Junk and Salvage Yards, provided that:
  - 1) Said use shall not be located within one hundred feet (100') of a right-of-way line.
  - 2) An eight-foot (8') high solid fence or wall shall be erected to screen the storage yard.
- q) Lumber Yard, Coal Storage Yards, or other storage not specifically listed in this column.
- r) Machine Shop, Metal Fabrication.
- s) Manufacturing, Heavy.
- t) Manufacturing, Light.
- u) Mobile Office, Temporary (in conjunction with construction of a building or development) on a lot where construction is taking place. Such temporary office shall be removed upon completion of construction.
- v) Paving, Temporary Batch Plant.
- w) Public Buildings and Uses.
- x) Public Utilities Plant and Public Service Structures.

- y) Telecommunications Facilities in accordance with Section 904.
- z) Radio and Television Broadcasting Station or Studio.
- aa) Railroad Spur Tracks.
- bb) Railroad Passenger Station.
- cc) Railroad Freight Station.
- dd) Satellite Television Receiving Dish.
- ee) Sawmill, Lumber Yard.
- ff) Septic Tank Manufacturing.
- gg) Sheet Metal Products.
- hh) Silos.
- ii) Storage Warehouse (including mini-warehouses).
- jj) Tanks for fuel, oil or other non-flammable elements.
- kk) Temporary Building, for storage of materials (in conjunction with construction of a building), on a lot where construction is taking place or on adjacent lots, such temporary uses to be terminate upon completion of construction.
- ll) Truck Terminal.
- mm) Utility Substations.
- nn) Vending Machine Distributor.
- oo) Warehousing, not related to sales on the premises.
- pp) Welding Shop.

#### 707.3 Accessory Uses

- a) Accessory Off-Street Parking.
- b) Accessory Buildings or Structures.

#### 707.4 Uses Permitted by Special Use Permit (SUP)

- a) Airport.
- b) Churches or other places of Worship.
- c) Telecommunications Facilities – Concealed Support Structures, Monopole Towers, Self supporting lattice or guyed towers in accordance with Section 904.
- d) Such other uses as the City Council determines are consistent with the uses stated in Section 707.2 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 707.1 of this Ordinance

#### 707.5 District Development Regulations

- a) Minimum Lot Area: NONE.
- b) Minimum Lot Width: 40 feet.
- d) Minimum Road Frontage: 40 feet.
- e) Minimum Building Setbacks:
  - 1) Front: 40 feet (from right-of-way line of State Highways).
  - 2) Front: 35 feet (from rights-of-way of all other streets)
  - 3) Side: 5 feet.
  - 4) Rear: 5 feet (25 feet if abutting a residential district).
- f) Maximum Height: 40 feet.

#### **Section 708. (I-2) Heavy Industrial District**

##### 708.1 Purpose

The I-2 Heavy Industrial District provides a location for industrial operations and processes conducted both indoors and outdoors, and which due to their intensity of use, should be located on or have ready access to a major thoroughfare or state highway.

##### 708.2 Uses Permitted By Right

- a) Industrial Uses
  - 1) Aircraft factory.
  - 2) Aircraft hanger/maintenance.
  - 3) Aircraft landing field.
  - 4) Alcoholic beverage plant/distillery.
  - 5) Animal hospital or veterinary clinic.
  - 6) Appliance repair shop.
  - 7) Automobile or truck storage lot, excluding junk or wrecked vehicles (subject to screening requirements for outdoor storage).
  - 8) Automobile rental.
  - 9) Baking plant.
  - 10) Bank/financial services institution.
  - 11) Building material sales (wholesale).
  - 12) Cabinet shop.

- 13) Cafeteria (employee/accessory only).
- 14) Catering service (no retail sales).
- 15) Cement, concrete, masonry plant.
- 16) Clothing and apparel manufacturing.
- 17) Cold storage plant.
- 18) Contractor's office, with accessory vehicle maintenance (subject to screening requirements for or storage).
- 19) Convention facility.
- 20) Crematory.
- 21) Depot/passenger terminal (bus, rail).
- 22) Distribution facility.
- 23) Die casting works.
- 24) Food processing/packaging/canning plant (other than poultry/meat processing).
- 25) Fraternal club or lodge.
- 26) Heavy equipment and farm equipment rental or sales and service.
- 27) Hospital or medical clinic.
- 28) HVAC equipment dealer/contractor.
- 29) Ice manufacturing/packing plant.
- 30) Laboratory.
- 31) Laundry/dry cleaning plant.
- 32) Lawn treatment service.
- 33) Machine shop (not including on-site automotive repair).
- 34) Maintenance shop (automobile or truck fleet vehicles).
- 35) Manufacturing or assembly plant, general (including outdoor activities subject to screening requirements).
- 36) Medical/dental laboratory.
- 37) Movie studio.
- 38) Outdoor storage, other than junk/salvage yards, meeting the following requirements:
  - a. It shall not be located within a required front yard.
  - b. It shall be screened by a solid wood fence, masonry wall or slatted chain-link fence at least eight feet (8') high.

c. Materials stored outdoors shall not be placed or stacked at a height exceeding that of the screening fence.

- 39) Parking garage.
  - 40) Pest control/extermination business.
  - 41) Pharmaceutical manufacturing plant.
  - 42) Photo processing plant.
  - 43) Plant nursery (wholesale).
  - 44) Plastics extrusion plant.
  - 45) Plumbing equipment dealer/contractor.
  - 46) Printing/bookbinding/publishing plant.
  - 47) Radio/television station.
  - 48) Railroad repair/storage yard.
  - 49) Recording/rehearsal studio.
  - 50) Research and testing facility.
  - 51) Soft drink bottling/distribution plant.
  - 52) Stadium/concert hall/amphitheater.
  - 53) Storage Warehouse (including mini-warehouses).
  - 54) Taxi/limousine service.
  - 55) Textile/carpeting factory.
  - 56) Trade/vocational school.
  - 57) Truck rental or leasing.
  - 58) Truck fleet maintenance shop, principal use.
  - 59) Truck terminal.
  - 60) Upholstery shop.
  - 61) Welding shop.
  - 62) Wholesaling and warehousing (accessory retail sales are permitted, not to exceed 15 percent of floor area).
  - 63) Wholesale membership club.
- b) Public and semi-public uses.
- 1) Electrical, telephone or other public or semi-public utility station.
- c) Residential uses.
- 1) Caretaker or watchman quarters as an accessory use.

### 708.3 Accessory Uses

- a) Accessory Off-Street Parking.
- b) Accessory Buildings or Structures.

### 708.4 Uses Permitted by Special Use Permit (SUP)

- a) Asphalt plant.
- b) Bulk storage tanks including natural gas, chemical and petroleum and excluding accessory fuel dispensing/storage tanks or stations. No above ground storage facilities may be located closer than 500 feet to a residential district. All storage is to be subject to approval of the fire department.
- c) Church, temple or synagogue.
- d) Day care facility.
- e) Explosives plant/storage.
- f) Feed processing facility.
- g) Health club or fitness center.
- h) Metal smelting/forging works.
- i) Nursing home, personal care home or assisted living facility.
- j) Salvage operation, junk yard, impound lot (subject to screening requirements or outdoor storage).
- k) Sugar refinery.
- l) Telecommunications Facilities – concealed support structures, monopole towers, self supporting lattice or guyed towers in accordance with Section 904.
- m) Towing/wrecker service.
- m) Such other uses as the City Council determines are consistent with the uses stated in Section 708.2 of this Ordinance and that are consistent with and promote the goals and purposes set forth in Section 708.1 of this Ordinance.

### 708.5 District Development Regulations

- a) Minimum Lot Area: 1 Acre.
- b) Minimum Lot Width: 100 feet.
- c) Minimum Road Frontage: 40 feet.
- d) Minimum Building Setbacks:
  - 1) Front: 50 feet (from right-of-way line of State Highways).



- 2) Front: 40 feet (from rights-of-way of all other streets)
- 3) Side: 15 feet.
- 4) Rear: 25 feet (50 feet if abutting a residential district).

## **Section 709. AOD. Airport Overlay District**

### **709.1. Purpose**

This district provides restrictions that supplement or override provisions of the underlying zoning districts beneath the airport zones, and includes all areas shown on the map labeled as such and adopted as part of the Official Zoning Map as required by Federal Aviation Regulations (FAR) Part 77.

### **709.2. Definitions related to airport zones.**

*Airport:* Habersham County Airport

*Airport elevation:* The highest point of an airports usable landing area measured in feet from sea level.

*Approach surface:* A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 709.4 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

*Approach, transitional, horizontal, and conical zones:* Those zones are set forth in Section 709.23 of this Ordinance

*Conical surface:* A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

*Hazard to air navigation:* An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

*Height:* For the purpose of determining the height limits in all zones set forth in this Ordinance and *shown on* the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

*Heliport primary surface:* The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

*Horizontal surface:* A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

*Larger than utility runway:* A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

*Nonconforming use:* Any pre-existing structure, object of natural growth, or use of

land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

*Nonprecision-instrument runway:* A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

*Obstruction:* Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 709.4 (a) of this Ordinance.

*Precision instrument runway:* A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

*Primary surface:* A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planning hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in 355 (b) of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

*Runway:* A defined area of an airport prepared for landing and takeoff of aircraft along its length.

*Structure:* An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

*Transitional surfaces:* These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

*Utility runway:* A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

*Visual runway:* A runway intended solely for the operation of aircraft using visual approach procedures.

### 709.3 Airport zones.

In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Habersham County airport. An area located in more than one of the

following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- 1) Utility runway visual approach zone. The inner edge of the approach zone coincides with the width of the primary surface and is 75 feet wide and the cross wind or secondary runway which is 60 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- 2) Utility runway nonprecision instrument approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- 3) Runway larger than utility visual approach zone. The inner edge of the approach zone coincides with the width of the primary surface and is 75 feet wide and the cross wind or secondary runway which is 60 feet wide. The approach zone expands outward uniformly to a width of 1, 500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- 4) Runway larger than utility with a visibility minimum greater than 3/4 mile nonprecision instrument approach zone. The inner edge of the approach zone coincides with the width of the primary runway which is 75 feet wide and the cross wind or secondary runway which is 60 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- 5) Runway larger than utility with a visibility minimum as low as 3/4 mile nonprecision instrument approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- 6) Precision instrument runway approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- 7) Heliport approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is (reserved) feet wide. The approach zone expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface.
- 8) Transitional zones. The transitional zones are the areas beneath the transitional

surfaces.

- 9) Heliport transitional zones. These zones extend outward from the sides of the primary surface and the heliport approach zones a horizontal distance of 250 feet from the primary surface centerline and the heliport approach zone centerline.
- 10 Horizontal zone. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all other from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- 11 Conical zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

Section 709.4 Airport zone restrictions and permits.

a) Airport zone height limitations.

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1) Utility runway visual approach zone:

Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2) Utility runway non-precision instrument approach zone:

Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

3) Runway larger than utility visual approach zone:

Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

4) Runway larger than utility with a visibility minimum greater than  $\frac{3}{4}$  mile non-precision instrument approach zone:

Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

5) Runway larger than utility with a visibility minimum as low as  $\frac{3}{4}$  mile nonprecision instrument approach zones:

Slopes 34 feet outward for each foot upward beginning at the end of and at the

same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

6) Precision instrument runway approach zone:

Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence, slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

7) Heliport approach zone:

Slopes 8 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along the heliport approach zone centerline.

8) Transitional zones:

Slope 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1448 feet above mean sea level. In addition to the foregoing, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

9) Heliport transitional zone:

Slope 2 feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach zones and extending a distance of 250 feet measured horizontally from and at 90 degree angles to the primary surface centerline and heliport approach zones centerline.

10) Horizontal zone:

Established at 150 feet above the airport elevation or at a height of 1448 feet above mean sea level.

11) Conical zone:

Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

12) Excepted height limitations:

Nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 75 feet above the surface of the land.

b) Airport zone land use restrictions.

Notwithstanding any other provisions of this Section, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of the pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

c) Nonconforming uses.

1) Regulations not retroactive.

The regulations prescribed by this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of this Section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Section, and is diligently prosecuted.

2) Marking and lighting.

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Chairman, Habersham County Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstructions.

Section 709.5. Airport zone permits.

a) Future uses.

1) Except as specifically provided in this subsection, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any airport zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Section shall be granted unless a variance has been approved in accordance with Section 1805.

a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or

topographic features, such tree or structure would extend above the height limits prescribed for such zones.

- b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
- c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

- 2) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Section except as set forth in Section 709.4.

b) Existing uses.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Section or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

c) Nonconforming uses abandoned or destroyed.

Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

d) Variances.

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the City Council for a variance from such regulations. The application for variance shall be accompanied by a determination from the federal aviation administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application of enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section. Additionally, no application for variance to the requirements of this Section may be considered by the board of adjustment unless a copy of the application has been furnished to the fixed based operator for advice as to the aeronautical effects of the variance. If the fixed base operator does not respond to the application within 15 days after receipt, the

board of adjustment may act on its own to grant or deny said application.

e) **Obstruction marking and lighting.**

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the board of adjustment, this condition may be modified to require the owner to permit the Habersham County Airport Authority at its own expense, to install, operate, and maintain the necessary markings and lights.

**Section 710. (DROD) Downtown Redevelopment Overlay District**

**710.1. Background; Goal; Purposes**

The downtown center of the City of Baldwin is an important meeting place where residents and visitors greet neighbors, shop, stroll, picnic, visit public buildings, and enjoy the beauty of the lake. The City has continued to prosper, but the vitality of Downtown Baldwin has diminished over the years. Because the downtown is critical to the wellbeing of the community, the City of Baldwin is committed to the redevelopment of the downtown areas of Baldwin. To this extent, the following standards have been established for the areas identified on the Official Zoning Map of the City of Baldwin in as being in the Downtown Redevelopment Overlay District (DROD). Preserving and strengthening the character of a traditional southern small town can be by the comprehensive and consistent application of the regulations of the DROD to all new construction, redevelopment, remodeling, and alteration of downtown buildings, structures, and amenities. The City's overarching goal for Downtown Baldwin is to create and sustain a thriving residential and retail environment that will:

- a) Make Downtown Baldwin a desired destination for residents of the City and nearby communities,
- b) Improve the quality of life in the community by creating a new and vibrant retail and residential district, complete with gathering places and improved traffic flow,
- c) Protect and enhance the value of property within the downtown and throughout the City,
- d) Strengthen the economy of the City, and
- e) Enhance the City's overall ability to deliver quality services and support to its residents.

The City has determined that it is essential that the downtown include:

- a) Buildings of consistent architectural style and of scale, height, design, and materials conforming to the City's Comprehensive Plan and the high standards set in those plans,
- b) Use of the buildings and all other property within the DROD only in a manner consistent with the Comprehensive Plan, to achieve the proper balance of high quality retail shops, office spaces, and residential dwellings, and Pedestrian-friendly features such as inviting storefronts, landscaped walkways, comfortable street furniture, plazas and other gathering places, aesthetically pleasing signage, convenient passage from building to building and to parking, and similar thoughtful design features.



- c) The regulations of this Section are intended to govern all development; redevelopment; building construction, alteration, and modification; all related physical activity; and all uses, all to promote the important goals and purposes set forth above and to protect against the use or maintenance of any property within the DROD inconsistent with the City's master plans and standards.

#### 710.2. Overlay District Function; Application Of Base District Regulations

The DROD appears on the Zoning Map as an "overlay district," imposed on top of other districts created by this Ordinance and referred to in this Article as "base districts" or "zoning districts." Development of property in the DROD must comply with the regulations of the DROD, with the regulations of the base district in which they are located, and, in certain instances, with the regulations of the Sensitive Lands Overlay Districts. In many instances, the regulations of the DROD are more restrictive than, and preemptive of, the regulations of the base district, particularly in regard to building design and location and with what uses may be established. When there is any conflict between the regulations of the DROD and the regulations of the base district, the regulations of the DROD shall control.

#### 710.3. Mapping Location And Standards

The DROD shall be mapped as provided on the Official Zoning Map, which includes, principally, the property in the central business district area of the City along Willingham Avenue, Airport Road and adjoining streets and adjacent property.

#### 710.4 Permitted Uses

- a) Permitted Uses On First Story Abutting Willingham Avenue or Airport Road. The following uses and no others shall be permitted as of right on the first story (street level) of any building in the DROD on property that abuts Willingham Avenue or Airport Road:
- 1) Those retail trade uses listed in Section 705.2 of this Article as permitted in the NC Neighborhood Commercial District.
- b) Permitted Uses Above First Story Abutting Willingham Avenue or Airport Road. The following uses and no others shall be permitted as of right on stories above the first story (that is, not at street level) of a building in the DROD on property that abuts Willingham Avenue or Airport Road:
- 1) Multiple family dwellings.
  - 2) Uses owned or operated by the City of Baldwin.
  - 3) Legal services.
  - 4) Engineering, architectural, and surveying services.
  - 5) Accounting, auditing, and bookkeeping services.
  - 6) Management and public relations services.
  - 7) Offices and clinics of doctors of medicine and dentists.
  - 8) Services not elsewhere classified.

- 9) Such other services uses as the City Council determines are consistent with the uses stated in this subsection and that are consistent with and promote the goals and purposes set forth in Section 710.1 of this Ordinance.
- c) Permitted Uses Not Abutting Willingham Avenue or Airport Road. The following uses and no others shall be permitted as of right in a building in the DROD on property that does not abut Willingham Avenue or Airport Road:
  - 1) Single Family dwellings.
  - 2) Uses owned or operated by the City of Baldwin.

#### 710.5 Special Uses

- a) Special Uses On First Story Abutting Willingham Avenue or Airport Road. The following uses and no others may be authorized on the first story (street level) of any building in the DROD on property that abuts Willingham Avenue or Airport Road, subject to the issuance of a special use permit as provided in Article XVI of this Ordinance:
  - 1) Garden supplies, tools, and nursery stock stores in existence and operation within as of the date of adoption of this Ordinance.
  - 2) Outdoor seating accessory to permitted eating places.
  - 3) Beauty shops, barber shops, and full-service beauty and health spas.
  - 4) Such other retail sales tax generating uses as the City Council determines are consistent with the uses stated in this subsection and that are consistent with and promote the goals and purposes set forth in Section 710.1 of this Ordinance.

#### 710.6 Limitations On Uses

In addition to the limitations established in Sections 710.4 and Section 710.5 of this Article , the City Council shall have the authority to limit, specifically or generally, the types of retail, office, or service uses that are authorized within the DROD. The City Council shall have the authority to place any condition on any such uses as the City Council determines is appropriate, consistent with the goals and purposes of the DROD set forth in Section 710.1 of this Article.

#### 710.7 Special Development And Use Regulations; Conflicts

All development and uses of all property within the DROD shall be consistent with the Comprehensive Plan, as determined by the City Council. The following standards shall apply:

- a) Reserved
- b) Additional Standards. The City Council from time to time may adopt, by ordinance, additional standards for development and uses within the DROD. Such standards shall apply and control within the DROD as provided by the City Council.

- c) **Special Exterior Appearance and Design Standards.** In addition to compliance with this Section 710.7 and with all other applicable exterior appearance standards, the City Council shall consider and evaluate all development and use of all property within the DROD guided by the standards established by the Comprehensive Plan, including without limitation location, bulk, height, architectural design, color, and consistency with the goals and purposes set forth in Section 710.1 of this Ordinance.

For buildings proposed within the DROD near existing residential houses and taller than two (2) stories, the following standards shall apply to site plan and exterior appearance plan reviews:

- 1) When a building is proposed near existing residential houses, the plans shall depict how the building's design, architecture, landscaping, and other features are reasonable in the residential context within which the building will be located, and
- 2) When a building is proposed near existing residential houses and for a height of four stories or greater, the application shall include information related to viability and need for the building.

#### 710.8 Accessory Uses And Structures

Accessory uses and structures, including without limitation sheds, parking lots, vending machines, sales, kiosks, and garages, shall not be permitted in the DROD. The City Council shall have the authority to authorize an accessory use or structure in conjunction with a development approved by the City Council if the City Council finds that the proposed accessory use or structure will be consistent with the goals and purposes set forth in Section 710.1 of this Ordinance, will comply with the standards set forth in Section 710.7 of this Ordinance, and will be consistent with and promote the intent of the Comprehensive Plan.

#### 710.9 Parking And Loading Requirements

The parking and loading requirements applicable in the base districts set forth in Article XV of this Ordinance shall apply to development within the DROD except as may be modified for uses in the DROD by ordinance duly adopted by the City Council. The City Council shall have the authority to change, alter, vary, modify, or waive a parking or loading requirement as it applies to a development approved by the City Council if the City Council finds that the proposed development will be consistent with the goals and purposes set forth in Section 710.1 of this Ordinance, will comply with the standards set forth in Section 710.7 of this Ordinance, and will be consistent with and promote the intent of the Comprehensive Plan.

#### 710.10 Sign Regulations

No sign shall be permitted in the DROD except only as specifically approved by the City Council. All signs within the DROD shall be consistent with the Baldwin Sign Ordinance. The sign regulations applicable in the base districts set forth in the Baldwin Sign Ordinance shall apply on the DROD only to the extent that they are consistent with the Comprehensive Plan. The City Council shall have the authority to change, alter, vary, modify, or waive any sign regulation if the City Council finds that a proposed sign will be consistent with the goals and purposes set forth in Section 710.1 of this Ordinance and will comply with the standards

set forth in Section 710.7 of this Ordinance. Signs that are not authorized by the Baldwin Sign Ordinance shall not be permitted in the DROD except only as approved in advance by ordinance duly adopted by the City Council.

#### 710.11 Bulk, Yard, And Space Standards

The bulk, yard, and space standards of the applicable base district shall apply to development within the DROD except as may be specifically modified by ordinance duly adopted by the City Council. The City Council shall have the authority to change, alter, vary, modify, or waive any bulk, yard, or space regulation as it applies to a development approved by the City Council, but only if the City Council finds that the proposed development will be consistent with the goals and purposes set forth in Section 710.1 of this Ordinance and will comply with the standards set forth in Section 710.7 of this Ordinance.

In addition, the following standards shall apply unless changed, altered, varied, modified, or waived by the City Council:

- a) Maximum height: District maximum except only as otherwise specifically approved by ordinance of the City Council, but in no event more than five (5) stories
- b) Minimum number of off-street parking spaces for residential uses: 1.2 spaces per dwelling unit
- c) Minimum number of parking spaces for retail and office uses: 1 space for each 250 feet net floor area

### **Section 711. Scenic Corridor Overlay District**

#### 711.1 Introduction to the Scenic Corridor Overlay District.

The State Highway designated as the "441 Bypass" which passes through the municipal limits of the City of Baldwin, Georgia contains vistas of natural scenic beauty. These vistas of natural scenic beauty enhance the aesthetic quality of the community of the City of Baldwin, Georgia, and the City Council finds that it is appropriate to protect and preserve these vistas of natural scenic beauty by the prohibition of off-premise outdoor advertising signs that would affect the aesthetic impact of said vistas of natural scenic beauty.

With these purposes in mind, it is the intention of this section to regulate on-premise signs within said scenic corridor, and to prohibit off-premise outdoor advertising signs in order to protect and preserve the vistas of natural scenic beauty along the 441 Bypass within the municipal limits of the City of Baldwin, Georgia.

#### 711.2 Definitions.

For the purposes of this Section, the following definitions shall apply:

Words used in the singular shall include the plural; and the plural shall include the singular; and the words used in the present tense shall include the future tense.

Words not defined here shall be construed to have their common dictionary definition, unless otherwise defined within the Zoning Ordinance of the City of Baldwin, Georgia, the Sign Ordinance of the City of Baldwin, or pursuant to specific statutory provisions of the State of Georgia.

The word, "shall" is mandatory, not discretionary. The word "may" is permissive.

The words, "scenic corridor", "scenic corridor overlay district", and "district" shall have the same meaning and refer to the scenic corridor overlay district, or having the ordinary meaning of said terms according to the context in which they are used.

The words "on-premise signs" shall mean those signs which are located within one hundred (100) feet of a regularly used part of the business being advertised and on the same continuous piece of property, and as previously defined by the Zoning Ordinance of the City of Baldwin, Georgia, as amended.

The words, "off-premise outdoor advertising signs" shall mean those signs that do not meet the definition of an on-premise sign, and that advertise a building, profession, product, service, activity, entertainment or other advertisement not conducted, sold, or offered on the premise upon which the sign is located. The term shall also include the term, "billboards" in accordance with said term's common dictionary definition, and include all off-premise, permanent, freestanding signs typically of a standard, uniform, nationally recognized size including but not limited to signs having a sign face of twelve (12) feet in height and twenty-five (25) feet in length, with or without trim, and signs having a sign face of ten (10) feet in height and thirty (30) feet in length, with or without trim.

**Sign Face or Facing:** The surface or plane of the sign upon, against, or through which a message is displayed or illustrated.

**Non-conforming Sign:** Any sign which was erected legally prior to the adoption of this ordinance amendment, but which does not conform to any one or more of the requirements of this article.

**Overlay District:** A geographical area that encompasses one (1) or more underlining zoning districts and that imposes additional requirements above that required by the underlying zoning district.

### 711.3 Scenic Corridor Overlay District.

- a) Purpose. The purpose of the scenic corridor overlay district is to protect and preserve the vistas of natural scenic beauty that lie along the State Route designated as the "441 Bypass", and which is within the municipal limits of the City of Baldwin, Georgia.
- b) Designation of the Scenic Corridor Overlay District. The scenic corridor overlay zone shall have as its beginning points, the points that comprise each of the right of way lines of the State Route designated as the "441 Bypass", that is within the municipal limits of the City of Baldwin, Georgia, and beginning at the current municipal limits within Banks County and extending along both sides of the 441 Bypass until the end of the current municipal limits in Habersham County, and extending from 3/10 of a mile south of State Highway Mile Marker 19 for the 441 Bypass and extending to 3/10 of a mile north of State Highway Mile Marker 1 for the

441 Bypass. From these beginning points comprising the right of way lines of the 441 Bypass, the scenic corridor overlay zone shall extend perpendicularly from the right of way line on each side of the 441 Bypass (and being in the direction away from the right of way line of the 441 Bypass along and through the real property which adjoins each line), a distance of one thousand (1,000) feet, or at the ending point of the current municipal limits, whichever is shorter.

**711.4 Regulation of Signs.**

- a) All on-premise signs that are permitted by the Sign Ordinance of the City of Baldwin, Georgia, as amended, within the underlying zoning district shall be similarly permitted under the Scenic Corridor Overlay District.
- b) Off-premise outdoor advertising signs, also known as billboards, shall be prohibited within the Scenic Corridor Overlay District.
- c) All current provisions of the Sign Ordinance regarding sign construction, permitting, continuation, and non-conforming signs, shall continue to be applicable to the regulation of on-premise signs within the Scenic Corridor Overlay District, and as to any billboards currently within the zone that are a legal conforming use.

**Section 712. Reserved**

## ARTICLE VIII – MINIMUM AREA, HEIGHT AND YARD REQUIREMENTS

### Section 800. Minimum Floor Area Requirements

All dwelling units shall have a minimum heated finished living area, excluding a basement, attic, carport or garage, as follows:

In the A and R-1 districts.....	1,400
In the R-2 district.....	1,200
In the PDD district.....	See Article XI
In the MHD District.....	See Section 705
Each three-bedroom or larger duplex dwelling unit in the R-3 district .....	1,000
Each two-bedroom or smaller duplex dwelling unit in the R-3 district.....	800
Each three-bedroom or larger attached dwelling unit in the R-3 districts .....	1,000
Each two-bedroom attached dwelling unit in the R-3 districts .....	800
Each one-bedroom attached dwelling unit in the R-3 districts.....	600
Each efficiency or studio apartment in the R-3 districts .....	450

**Table 8.1 -- Minimum Area, Height and Width - Residential Districts with slopes less than 10%**

District	Minimum Lot Size			Minimum Front Yard Setback in Feet				Minimum Side Yards in Feet	Minimum Rear Yards in Feet	Maximum Height in Feet
	Area in Square Feet	Square Feet Per Family	Minimum Width in Feet	Minor Road	County Road	Collector St. or Major Highway	State Highway			
A	1 Acre	1 Acre	125	35	40	40	40	15	15	35
R-1	15,000	15,000	100	35	35	40	40	15	15	35
R-2	10,000	7,500	80	35	35	40	40	15	15	35
R-3	7,500	5,000	80	35	35	40	40	25	40	35
MHD	See Section 705									
PDD	Plan Specific -- See Article XI -- Planned Development Districts.									

**Note: See Article XII for any overriding requirements of Lots in Sensitive Land Overlay Districts**



**Table 8.2 – Minimum Area, Height and Width - Non Residential Districts**

District	Minimum Lot Size (Area in Square Feet)	Minimum Lot Width	Minimum Front Yard Setback in Feet			Minimum Side Yards in Feet	Minimum Rear Yards in Feet	Maximum Height in Feet
			Local Street	County Road	Collector St. or Major Highway			
NC	None	None	15	35	35	10	15/25	40
HB	None	40	35	40	40	15	15/40	35
PCD	Plan Specific – See Article XI – Planned Development Districts.							
AOD	See Section 709							
SCOD	See Section 711							
PID	Plan Specific – See Article XI – Planned Development Districts.							
I-1	None	40	35	40	40	5	5/25	40
I-2	1 Acre	100	40	50	50	15	25/50	40

**Table 8.3 Minimum Residential Lot Size Permitted on Land Containing Slopes of More than 10 Percent**

Topography (Slope Average percent)	Minimum Area (Sq.Ft.)	Minimum Average Width (Sq.Ft.)	Minimum Average Depth(ft)	Ground Surface to Remain in its Natural state (No cut or fill)
10-15	18,000	80	100	60%
15-20	22,000	80	110	65%
20-25	28,000	100	120	70%
25-30	35,000	100	150	75%
30-35	44,000	120	175	80%
35-40	54,000	150	200	85%
40-50	65,000	175	250	90%
50-70	85,000	200	300	95%
70-100	Not less than five (5) acres			95%
Over 100	No lot development permitted			100%

## ARTICLE IX – TELECOMMUNICATIONS TOWERS

### **Section 900. Purpose and Intent**

The purpose of this Article is to provide clear guidance for agencies and businesses that wish to locate telecommunications towers and associated facilities within the City Limits of Baldwin, to regulate the height and composition of telecommunications towers, where possible; and to balance the needs of the telecommunications industry with desire of the public for an unobtrusive viewshed.

### **Section 901 Definitions related to telecommunications.**

*Antenna:* Any device or combination of devices, whether rods, panels or dishes, designed to receive and/or transmit radio frequency signals for amateur radio or personal wireless services, including but not limited to cellular telephone, Personal Communications Services (PCS), Specialized Mobile Radio (SMR), Enhanced Specialized Mobile Radio (ESMR), Private Mobile Radio (PMR) and paging.

*Tower:* Any structure designed and constructed primarily for the support of one or more antennae and including guyed, self-support (lattice) and monopole types. This term does not include Concealed Support Structures.

*Concealed Support Structure:* Any freestanding structure constructed for the primary purpose of supporting one or more antennae but designed to resemble an architectural or natural feature of the specific environment, concealing or camouflaging the presence of the antennae. The term includes but is not limited to clock towers, campaniles, water towers, silos, light poles, flagpoles, and artificial trees.

*Temporary Wireless Communication Facility:* Portable equipment without permanent foundation that is used for a limited period while a permanent facility is under construction, under repair or during a special public event or emergency. Also called a Cell-on-Wheels (COW).

### **Section 902. Exemptions.**

- a) Wireless communications facilities for which a permit was issued prior to the effective date of this Ordinance are not required to meet the standards contained herein.
- b) Wireless communication facilities located on properties owned by the City of Baldwin are not subject to the requirements this section.
- c) Antennae and towers less than 70 feet in height owned and operated by the holder of an Amateur Radio license issued by the Federal Communications Commission are exempt from the requirements of this Section.
- d) Personal over-the-air devices for audio or video programming and wireless internet services are not subject to the requirements of this Section.
- e) Monopole towers 100 feet or less in height located within electrical sub-stations are not subject to the requirements this Section.

- f) Satellite ground relay station facilities are not subject to the requirements of this Section.

**Section 903. Principal or accessory use.**

Antennae, towers and concealed support structures may be either a principal use or an accessory use and may be located on a non-conforming lot or on a lot containing a non-conforming use. The construction of a tower or Concealed Support Structure in compliance with this Section shall not be considered an expansion of a nonconforming use.

**Section 904 Approval required.**

- a) No wireless communications facility located on private property shall be constructed unless it has first been approved as determined by the following Table 9.1.

**Table 9.1: Approval process for wireless communications facilities**

	Facility Type				
	Attachment to Existing Building or Structure	Concealed Support Structure	New Tower		Co-Location on Existing Tower
			Monopole	Other	
A	BP/AR	SU	SU	SU	BP
R-1	BP/AR	SU	Prohibited	Prohibited	BP
R-2	BP/AR	SU	Prohibited	Prohibited	BP
R-3	BP/AR	SU	Prohibited	Prohibited	BP
MHD	BP/AR	SU	Prohibited	Prohibited	BP
PDD	BP/AR	SU	Prohibited	Prohibited	BP
NC	BP/AR	SU	SU	Prohibited	BP
AOD	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
SCOD	BP/AR	SU	Prohibited	Prohibited	BP
DROD	BP/AR	SU	Prohibited	Prohibited	BP
HB	BP/AR	SU	SU	Prohibited	BP
I-1	BP	SU	SU	SU	BP
I-2	BP	SU	SU	SU	BP

BP = Building Permit BP/AR = Building Permit After Administrative Review SU = Special Use

- b) No antenna, tower or Concealed Support Structure shall be located on a lot platted or used for single -family residential purposes.
- c) Concealed support structures in the A, R-1 and R-2 zoning districts shall be allowed only in conjunction with an existing non-residential use.
- d) A Temporary Wireless Communication Facility may be approved by Administrative

Review in any zoning district for a period not to exceed 90 days. The application shall include an explanation of the urgency of need for a temporary facility in addition to all other documentation requirements.

- e) In addition to the standards enumerated for Administrative Review or special use approval, the following factors shall also be considered:
- 1) Height of the proposed tower or Concealed Support Structure.
  - 2) Proximity of residential uses.
  - 3) Topography of the surrounding area.
  - 4) Surrounding tree cover and existing vegetation.
  - 5) Design of the structure with particular reference to characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - 6) Whether there exist or have been approved other suitable towers or tall structures within the geographic area required to meet the proposed service provider's engineering requirements. The lack of suitable alternatives may be demonstrated by one or more of the following:
    - a. That existing towers or tall structures are not located within the necessary geographic area.
    - b. That existing towers or tall structures are not of sufficient height to meet system engineering requirements.
    - c. That existing towers or tall structures do not have the structural capacity to support the service provider's antennae or do not have sufficient ground or interior space for related equipment.
    - d. That the proposed service provider's antennae would cause interference with antennae on existing towers or tall structures or that existing systems would cause interference with the proposed service provider's signal.
    - e. That other limiting factors, not including economic considerations, render existing towers or tall structures unsuitable.
  - f) Any decision to deny an application to place, construct, or modify personal wireless service facilities shall be in writing and cite the basis on substantial evidence contained in a written record.

#### **Section 905 Height Limitations and Co-Location Requirements.**

- a) Antennae attached to existing buildings or structures other than towers shall not increase the total height by more than 20 feet.
- b) Concealed support structures in any agricultural or residential district shall not exceed 70 feet in height. Concealed support structures in other districts shall not exceed 100 feet in height. Co-location for additional users may be required contingent upon the design of the structure.

- c) Towers located in the A - Agricultural district shall not exceed 165 feet in height.
- d) Monopoles located in the R-3 & MHD districts shall not exceed 125 feet in height.
- e) Monopoles located in commercial and industrial districts shall not exceed 165 feet in height.
- f) Self-support (lattice) and guyed towers shall not exceed 250 feet in height.
- g) All towers over 100 feet in height shall have structural capacity and ground or interior space to accommodate multiple users. Towers up to 160 feet shall accommodate at least 3 users. Towers over 160 feet shall accommodate at least 5 users.

**Section 906. Design Criteria.**

**906.1 Setbacks.**

- a) All towers shall be located no less than a distance equal to the height of the tower from any property zoned or used for single -family residential purposes.
- b) All towers shall be located at least one-third of its height from any public right-of-way.
- c) Setbacks shall be based on the entire lot on which the tower is located and shall not be applied to any lease area within the host parcel.
- d) Accessory structures or anchors in conjunction with a tower shall comply with the minimum yard requirements of the zoning district in which they are located.

**906.2 Landscaping, Screening and Visual Impact.**

- a) A minimum 10-foot wide area meeting buffer standards shall surround towers and related equipment. Landscaping and buffer areas must be under the ownership or long-term lease of the tower owner. The required buffer area may be reduced or waived by the City Council if existing natural vegetation on site provides sufficient screening from adjacent properties and public rights-of-way.
- b) Antennae and related equipment attached to existing structures other than towers shall be of the same color as any feature of the structure that forms the background.
- c) Antennae and related equipment attached to historically or architecturally significant structures, within the Scenic Corridor Overlay District (SCOD) or within Significant View Corridors, as established by the City of Baldwin or state or federal law or agency, shall be concealed in a manner that matches the architectural features of the structure.
- d) Concealed support structures shall have all related equipment screened from view by one of the following methods:
  - 1) Locating all equipment in an existing building;
  - 2) Locating all equipment in an underground vault; or
  - 3) Locating all equipment in a new building that is of an architectural style similar to existing buildings or compatible with the specific environment.

### 906.3. Lighting.

Security lighting of the facility is allowed to the extent that the light source is shielded from adjacent properties. Towers shall not be lighted beyond that required by the FAA. If lighting is required on a tower located within 1 mile of a residential use, the owner shall request FAA approval of a dual-lighting system.

### 906.4 Security.

All towers and related equipment shall be enclosed by decay-resistant security fencing not less than 6 feet in height and shall be equipped with other anticlimbing devices as appropriate to prevent unauthorized access.

### 906.5 Signage.

Tower facilities shall have mounted in a conspicuous place, a sign of not more than 1 square foot in area, identifying the facility's owner and providing a means of contact in the event of an emergency. All other signs and any form of advertising are prohibited.

### 906.6. Compliance.

All towers, concealed support structures, antennae and related equipment shall comply with all building, electrical and other Ordinances currently in force, the applicable standards of the Electronic Industries Association and the applicable regulations of the Federal Communications Commission and Federal Aviation Administration.

## **Section 907. Application Requirements**

### 907.1. Administrative Review

Applicants shall submit the following documentation for Administrative Review by the City of Baldwin:

- a) A written statement of commitment to use the proposed site from at least one federally-licensed wireless service provider.
- b) Narrative and graphic materials, such as signal propagation plots, prepared by a radio frequency engineer clearly explaining and illustrating the proposed service provider's need for the new antenna installation. In documenting need, the applicant will address existing towers and tall structures located within 1 mile of the proposed location, the reasons why co-location on an existing tower is not feasible, the required antenna height and alternate locations as may be appropriate.
- c) For towers or concealed support structures, a report from a qualified independent engineer licensed in the State of Georgia documenting the following:
  1. The location of the facility by longitude and latitude and Georgia State Plane Coordinate System, ground elevation and total height.
  2. Total anticipated capacity of the tower or Concealed Support Structure, including assumptions as to number and type of antennae supported.
  3. Evidence of the structural integrity of the structure with respect to wind and ice loading.

4. Design characteristics that indicate the limits of falling debris in the event of catastrophic structural failure.
- d) Architectural renderings or simulated photographs of all proposed structure(s) in context with particular attention to views from public streets or residential uses.
- e) Identity and current contact information of the person authorized by the applicant to answer questions from the local government or community regarding construction and operation of the facility. Include name, mailing address, telephone number, facsimile number and electronic mail address, if applicable.

#### 907.2 Special Use.

All applicants for special use approval shall submit the following in addition to all documentation required by Article XVI for special use applications:

- a) A written statement of commitment to use the proposed site from at least one federally-licensed wireless service provider.
- b) Narrative and graphic materials, such as signal propagation plots, prepared by a radio frequency engineer clearly explaining and illustrating the proposed service provider's need for the new antenna installation. In documenting need, the applicant will address the proposed site's relationship to the existing antenna network, existing towers and tall structures located within 1 mile of the proposed location, the reasons why co-location on an existing tower is not feasible, the required antenna height and alternate locations as may be appropriate.
- c) Architectural renderings or simulated photographs of all proposed structure(s) in their physical environment with particular attention to views from public streets or residential uses.
- d) For towers or concealed support structures, a report from a qualified independent engineer licensed in the State of Georgia documenting the following:
  - 1) The location of the facility by longitude and latitude and Georgia State Plane Coordinate System, ground elevation and total height.
  - 2) Total anticipated capacity of the tower or concealed support structure, including assumptions as to number and type of antennae supported.
  - 3) Evidence of the structural integrity of the structure with respect to wind and ice loadings.
  - 4) Design characteristics that indicate the limits of falling debris in the event of catastrophic structural failure.
- e) A scale drawing of the site and area that indicates distances to the nearest residential uses.
- f) A map that illustrates the proposed tower location with respect to the nearest airport.
- g) A determination by the FAA regarding hazards to air navigation.
- h) Identity and current contact information of the person authorized by the applicant to



answer questions from the local government or community regarding construction and operation of the facility. Include name, mailing address, telephone number, facsimile number and electronic mail address, if applicable.

## ARTICLE X

### EXCEPTIONS AND MODICIATIONS

#### **Section 1000. Walls and Fences**

Walls or fences shall be permitted in any zoning district and are not subject to setback requirements of this Ordinance, except that in a Residential Zoning District:

- a) No wall or fence shall exceed eight (8) feet in height within a side yard or rear yard.
- b) Any wall or fence which extends into the front yard shall not exceed four (4) feet in height, except fences enclosing stormwater facilities which may not exceed six (6) feet in height.
- c) Fences enclosing tennis courts may not exceed twelve (12) feet in height.
- d) No wall or fence constructed of woven wire or metal fabric (chain link, hog wire or barbed wire) shall extend into a front yard, except fences enclosing stormwater facilities which may be vinyl coated chain link. Woven wire or metal fabric fences may extend into a front yard when the property contains a minimum of three (3) acres and any wall or fence shall not be constructed of exposed concrete block, tires, junk or other discarded materials.
- e) Any wall or fence which extends into the required front yard on property less than three (3) acres shall be ornamental or decorative and constructed of brick, stone, wood, stucco, wrought iron, split rail, and shall not be constructed of exposed concrete block, tires, junk or other discarded materials.
- f) Any subdivision entrance, wall or fence shall not exceed ten (10) feet in height and shall be subject to approval of the Zoning Administrator after the submission of a landscape plan, site plan and architectural elevations.
- g) Electric and barb wire fences shall be prohibited in residential districts except on lots which meet or exceed the minimum requirements for the raising and keeping of livestock (3 acres).

#### **Section 1001. Structures Excluded from Height Limitations**

The height limitations of this Ordinance shall not apply to church spires, belfries, flag poles, monuments, cupolas, domes, ornamental towers, nor to observation towers not intended for human occupancy, water towers, transmission towers, radio or television towers or aerials (except where indicated in Article IX), chimneys, smokestacks, conveyors, derricks, nor to necessary mechanical roof appurtenances nor to barns and silos when located on a farm. The above exclusions from height limits shall not apply in the vicinity of airports, as indicated in Section 709.

#### **Section 1002. Exemptions from Front Yard (Setback) Requirements**

The front yard requirements of this Ordinance shall not apply on any lot where the average depth of the front yards of existing buildings on adjoining lots located wholly or in part within one hundred feet on each side of such lot within the same block and Zoning District and

fronting on the same side of the street is either greater or less than the minimum required front-yard depth.

If the average depth of the front yards is greater than the required minimum front-yard depth, the depth of the front yard of such lot shall be the average of the front yards of the abovementioned buildings but need not be greater than 150 percent of the required front-yard depth.

If the average depth of the front yards is less than the required minimum front-yard depth, the depth of the front yard of such lot may be less than the required front-yard depth but shall not be less than the average of the front yards of the aforementioned buildings.

#### **Section 1003. Temporary Buildings.**

A temporary building or buildings for use in connection with a construction project or land subdivision development shall be permitted on the land of the project during the construction period.

#### **Section 1004. Permitted Encroachments upon Required Setbacks.**

Cornices, eaves, chimneys, landings, porches, bay windows, or other similar architectural features may extend into the required front, side, and rear yard provided such extensions do not exceed three (3) feet. Decks and patios may extend into the side or rear yard but no closer than five (5) feet from any property line. Steps and landings may extend into the required setbacks provided such extensions do not exceed ten (10) feet for the front yard and three (3) feet for side yards. Steps and landings may extend into the rear yard, but, no closer than five (5) feet from the property line. Canopies, covered entrances or walkways for non-residential day care facilities, churches, or other similar uses may extend into the required side or rear yard provided such extension does not exceed three (3) feet and may extend into the required front yard provided such extensions do not extend to a point any closer than fifteen (15) feet from the street right-of-way line or future right-of-way line as designated on the Comprehensive Plan, whichever is greater. However, canopies over pump islands or over sidewalks may extend up to the street right-of-way line or future right-of-way line as designated on the Comprehensive Plan, whichever is greater.

## ARTICLE XI

### PLANNED DEVELOPMENT DISTRICT

#### **Section 1100. Intent and Purpose**

- 1100.1 It is the intent of this district to permit and encourage the development of property which would:
- a) Allow greater flexibility with respect to development standards and site planning considerations.
  - b) Be in the best interest of the City of Baldwin in terms of its long-range development plans.
  - c) Permit the establishment or mixture of uses which without proper design and planning might not be compatible with surrounding uses or zoning districts.
- 1100.2 This district is to be utilized as a "floating zone" which shall mean that areas will not be pre-designated as planned development districts but rather each such designation shall result from a specific and separate application for amendment. Planned development districts are separate zoning districts and shall follow the same amendment procedures as other districts. Unless otherwise stated in this section, the development standards and the land uses which are presented with the application for amendment shall, if approved, become the standards for the subject property and shall become a part of the zoning regulations.

#### **Section 1101. General Conditions**

An area may be considered for rezoning to a planned development district if any one of the following conditions exist:

- a) More than one land use is proposed for development on a single parcel.
- b) Separate land uses which would not otherwise be permitted to locate within the same zoning district are proposed for development on one or more adjacent parcels under single or separate ownership.
- c) Exception or variation from the size, setback, frontage, density, uses or other standards which are required in the other conventional zoning districts are being proposed as part of a comprehensive development plan.

## **Section 1102. Special Requirements**

All proposed planned development district applications shall conform to the following specific requirements:

- 1102.1 The site proposed for planned development district classification must contain an area of fifteen (15) acres or more unless specifically approved by the City Council due to special and unusual circumstances. No tract of land shall be considered for a planned development classification which has an area less than one acre except when such tract abuts a nonresidential zoning district or abuts a district with the same zoning classification as that for which the application is filed. In no case shall the minimum tract size be less than the minimum lot area requirements for the comparable conventional district as specified for each planned development classification in this chapter. (Note: The comparable conventional zoning districts listed in the regulations are R-2 for a PRD, HB for a PCD and I-1 for a PID.)
- 1102.2 The site must abut a public street for a distance of at least 100 feet.
- 1102.3 The Planned Development District application shall be considered as a map amendment and shall be processed, advertised and heard in accordance with the procedures outlined in Section 1605 of this Ordinance and the appropriate filing fees shall be charged.
- 1102.4 The applicant for a Planned Development District shall submit, in addition to any forms and information required by Section 1608 of this Ordinance, a Preliminary Development Plan, described in Section 1104, and any additional special exhibits and required supporting data as described.

## **Section 1103. Planned Development District Classifications**

The following shall be classified as Planned Development Districts subject to the provisions of this Article and to the special provisions for each district:

- PRD: Planned Residential Development.
- PCD: Planned Commercial Development.
- PID: Planned Industrial Development.

## **Section 1104. Preliminary Development Plan.**

- 1104.1 The required Preliminary Development Plan shall include the following:
- a) A sufficient number of copies of the proposed preliminary plans as specified by the Zoning Administrator;
  - b) A written description of proposed improvements;

- c) Location of the site proposed for planned development including adjoining streets in relation to the nearest major streets;
- d) A plan showing location of all structures existing and proposed, landscaping, parking and other improvements related to existing and proposed changes in the topography of the site;
- e) The location and capacities of all municipal utilities in the vicinity of the site and tentative extensions to the site;
- f) Sketches showing tentative architectural concepts of the proposed buildings;
- g) When more than one use is proposed, the approximate areas proposed for various categories of land use setting out in general terms the uses proposed. For residential uses, there shall be a tabular summary of estimates of population densities;
- h) A time schedule for the construction of various phases of the development.
- i) The Zoning Administrator may arrange a review meeting in a scheduled work session prior to the public hearing with the City Council to discuss the proposal.

1104.2 At a public hearing at which this application will be heard, said hearing being properly advertised, noticed and conducted in accordance with the provisions of this Ordinance, the City Council will seek to determine that:

- a) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard Ordinance requirements.
- b) The resulting development will not be inconsistent with the Comprehensive Plan provisions or zoning objectives of the area.
- c) The area around the development can be planned to be in substantial harmony with the proposed plan.
- d) The plan can be completed within a reasonable period of time, and what that time period should be.
- e) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
- f) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.

If the City Council determines that the project should go forward, they will adopt an Ordinance approving the project, with a specific time frame for the submission of the final development plan.

## **Section 1105. Final Development Plan.**

- 1105.1 Within the time limits specified in the approval of the preliminary plan, a final plan of the project or a single phase shall be submitted to the Zoning Administrator.
- a) The final development plan shall be in accordance with City Ordinance and also include the following:
    - 1) Three copies of the final plan;
    - 2) Locations of buildings and structures and uses contained therein, detailed elevations showing the architecture and locations of exits and entrances and construction materials;
    - 3) Existing and proposed contours at two foot intervals;
    - 4) Surface drainage, sewer, and water lines, fire hydrants, and related calculations, street lighting, gas and electrical mains;
    - 5) Vehicular and pedestrian circulation, street construction plans and details of off-street parking and loading facilities in accordance with Article XV;
    - 6) Detailed design of free standing signs, general indication of signs on buildings and on-site lighting in accordance with the Baldwin Sign Ordinance.
  - b) The final development plan shall be reviewed by the City Council, for conformity with the approved preliminary plan and time schedule.
    - 1) If found to be in compliance, the plan shall be approved for recording.
    - 2) If the final development plan is found not to be in conformance with the approved preliminary plan, but in conformance with the time schedule, the Zoning Administrator shall notify the applicant of the areas of non-conformance, with a definitive time line to bring the plan into conformance.
    - 3) If the final development plan is found not to conform to the time schedule as set out by the preliminary approval, the applicant shall be so informed and no further action shall be taken on the application.
    - 4) No building permits will be issued for this project until such time as the final development plans have been approved by the City Council, and the plan has been recorded with the Clerk of Superior Court where the subject property lies.

## **Section 1106. (PRD) Planned Residential Development)**

### 1106.1 Characteristics

A planned residential development may allow for a more flexible placement, arrangement and orientation of residential structures, the accompanying flexibility in the subdivision of land and the grouping of open space and accessory facilities such as garages and parking. It may also provide for a

mixture of housing types (single-family, two-family, multi-family, etc.) according to a carefully drawn plan. The proposed residential development should make maximum use of natural features and, through proper site planning measures, it should conform to the existing character and development pattern of the surrounding area. Every effort should be made to preserve and protect any existing residential uses from adverse impacts which might result from a higher density development.

#### 1106.2 Required plans

All of the general and special requirements for planned developments shall be provided. The following special items shall also be addressed:

- a) The site plan shall indicate the proposed size, location, number of units and number of bedrooms of all residential structures.
- b) All streets and common open spaces not proposed for dedication to the county shall have the proposed maintenance and ownership agreements explained in detail.
- c) The architectural style and proposed siting of all multi-family structures or zero lot line attached single-family structures shall be indicated.
- d) The development controls for the development shall be detailed (lot coverage, setbacks, building heights, lot sizes, etc.). If standards are not specifically proposed, then the applicable standards in the Single Family Residential (R-2) or Multifamily Residential (R-3) districts shall apply.
- e) Limited commercial uses may be included within the development; however, they shall be only of convenience neighborhood retail nature intended to serve the needs of the residents of the development unless otherwise specifically approved. Retail uses shall be specified as part of the proposal and limited to 10,000 square feet of floor area. Such uses shall be permitted only in planned residential developments of five acres or larger.
- f) A proposed development schedule is required, and development and a listing of proposed uses shall be provided.

### **Section 1107. (PCD) Planned Commercial Development**



1107.1 Characteristics

A planned commercial development shall provide for the maximum attainable commercial usage of property while employing the best aspects of prior site planning and development controls to ensure:

- a) Protection of surrounding residential uses.
- b) Safe access by motorists.
- c) Minimum traffic congestion.
- d) A development which is consistent with long-range plans of the City.

A limited number of carefully planned residential uses may also be included in a planned commercial development.

1107.2 Required plans

All of the general and special requirements for planned developments shall be provided. The following special items shall also be addressed:

- a) The site plan shall indicate the proposed size, location and number of stories of each commercial structure.
- b) The entrances, exits and number and location of all parking spaces shall be shown in detail, together with all loading and no parking zones.
- c) The proposed methods and location of all buffers shall be described.
- d) The proposed exterior lighting shall be shown.
- e) All proposed signs, advertising or identification graphics shall be indicated, showing their number, size, height and location.
- f) The type and number of uses proposed for the commercial development shall be indicated.
- g) The district development regulations for the district shall be stated (lot coverage, setbacks, building heights, lot sizes, etc.). If standards are not specifically proposed, then the applicable standards in the Highway Business (HB) shall apply.
- h) If residential uses are proposed in conjunction with the planned commercial development, then the applicable requirements of the planned residential development shall be provided.

## **Section 1108. (PID) Planned Industrial Development**

### **1108.1 Characteristics**

A planned industrial development should consist of land which has been designated for a planned, organized and controlled industrial use or for multiple but compatible industrial uses in a planned industrial park. The standards employed should be designed to encourage the formation and continuance of a compatible environment for the planned industrial uses and the surrounding land uses. Carefully planned office and commercial uses may be incorporated as part of a planned industrial development.

### **1109.1 Required Plans**

All of the general and special requirements for planned developments shall be provided. The following specific items shall also be addressed:

- a) A site plan indicating the proposed site preparation and grading, streets and parking areas, loading zones, outdoor storage areas, rail facilities, storm drainage, water, gas and sewage systems and all buffer areas.
- b) The development controls for the district shall be detailed (lot coverage, setbacks, building heights, lot sizes, etc.). If standards are not specifically proposed, then the applicable standards in the light industrial (I-I) district, together with the screening and buffer requirements, shall apply.
- c) If office or commercial uses are proposed in conjunction with the planned industrial development, then the applicable requirements in the planned office development or the planned commercial development [district] shall be provided.
- d) A proposed development schedule and listing of proposed uses shall be provided.

## **Section 1109. Extensions**

In those cases where the proposed project is being phased in over several years, the applicant may ask for one extension, beyond the time limit granted by the City Council, consisting of not more than eighteen months for each phase, with the exception of the first phase of the project.

## **Section 1110. Revisions.**

All revisions or changes to the approved final development plan other than minor adjustments shall be made pursuant to the procedures set forth in this section.



## ARTICLE XII

### SENSITIVE LANDS

#### **Section 1200. (S-1) Watershed Protection District**

##### 1200.1 Purpose.

In order to provide for the health, safety and welfare of the public and a healthy economic climate within City of Baldwin and surrounding communities, it is essential that the quality of public drinking water be assured. The ability of natural systems to filter stormwater runoff can be threatened by unrestricted development. Land-disturbing activities associated with development can increase erosion and sedimentation that threatens the storage capacity of reservoirs. In addition, stormwater runoff, particularly from impervious surfaces, can introduce toxins, nutrients and sediment into drinking water supplies, making water treatment more complicated and expensive and rendering waters resources unusable for recreation. Industrial land uses that involve the manufacture, use, transport and storage of hazardous or toxic waste materials result in the potential risk of contamination of nearby public drinking water supplies.

The purpose of this Section is to establish measures to protect the quality and quantity of the present and future water supply of City of Baldwin; to minimize the transport of pollutants and sediment to the water supply; and to maintain the yield of the water supply watershed. This Article shall apply to all existing and proposed water supply watersheds within City of Baldwin.

Additionally, the S-1 Watershed Protection District is intended to maintain a high water quality of the surface water (rivers, creeks, streams and springs) and underground water to assure that a high quality of drinking water is maintained in the future. The district is intended to provide for certain development uses, while maintaining and protecting area water sources from polluting effects of more intense development and from encroachments of those uses that are not compatible with a protected watershed area.

##### 1200.2 Relationship to Other Zoning Districts.

S-1 is an overlay district which applies additional definitions and standards for development to specific areas which lie within any of the zoning districts identified in Article VII of this Ordinance. To the extent the boundaries of the S-1 district overlay property located within other districts, the regulations of both districts shall apply. However if required development standards are specified in both districts, the more stringent provision shall control.

##### 1200.3 Definitions.

The following definitions (in addition to those definitions contained within Article II of this Ordinance) apply to S-1 districts:

- 1) Buffer. A natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas, located adjacent to reservoirs or

perennial streams within a water supply watershed.

- 2) Corridor. All land located within the buffer areas established adjacent to reservoirs or perennial streams within a water supply watershed and within other setback areas specified in Section 1200.7 of this Article.
- 3) Development or Single Development means any project or group of related projects constructed or planned for construction on a single parcel or on contiguous parcels under single ownership.
- 4) Impervious Surface. A man-made structure or surface which prevents the infiltration of storm water into the ground below the structure or surface, including, but not limited to, buildings, roads, driveways, parking lots, swimming pools and patios.
- 5) Large Water Supply Watershed. A watershed containing 100 square miles or more of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.
- 6) Perennial Stream A stream which flows throughout the whole year as indicated on a USGS quadrant map.
- 7) Reservoir Boundary. The edge of a water supply reservoir defined by its normal pool level.
- 8) Small Water Supply Watershed. A watershed that contains less than 100 square miles of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.
- 9) Utility. Public or 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 system and railroads or other utilities identified by a local government.
- 10) Water Supply Reservoirs. A governmentally owned impoundment of water for the primary purpose of providing water to one or more governmentally owned public drinking water systems. This excludes any multipurpose reservoirs owned by the U.S. Army Corps of Engineers.
- 11) Water Supply Watershed. The area of land upstream of a governmentally owned public drinking water intake.

#### 1200.4 Designation and Classification of Water Supply Watersheds.

The following Water Supply Watershed districts and reservoirs are hereby defined and designated by this Article on the S-1 Watershed Protection District Map, as follows:

- Mountain Creek Reservoir Water Supply Watershed. A small water supply watershed which provides an intake for the Banks County Water Authority. This watershed contains a reservoir.

#### 1200.5 Permitted Uses.

Each zoning district in Article VII of this Ordinance specifies a list of permitted principal uses, special exception uses and accessory uses (including special exception accessory uses). The list of Permitted Uses, Special Exception Uses and Accessory Uses for each primary zoning district must be adhered to on land to which the S-1 district also applies.

#### 1200.6 Uses Exempt from S-1 Criteria.

Land Uses existing prior to the adoption this Ordinance.

- a) All mining activities that are permitted by the Georgia Department of Natural Resources under the Georgia Surface Mining Act, as amended.
- b) Utilities (shall be exempted) from the stream corridor buffer setback area provisions in accordance with the following conditions if the utilities located in the buffer or setback areas cannot be feasibly located outside of those areas:
  - 1) The utilities shall be located as far from the streambank as possible.
  - 2) The installation and maintenance of these utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible.
  - 3) The utilities shall not impair the quality of the drinking water stream.
- c) Specific forestry and agricultural activities in the stream corridor buffer and setback areas in accordance with the following conditions:
  - 1) The activity shall be consistent with best management practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture.
  - 2) The activity shall not impair the quality of the drinking water stream.

#### 1200.7 Development and Protection Criteria.

The following regulations shall apply to the Mountain Creek Reservoir Intake Water Supply Watershed identified on the S-1 Watershed Protection District Map as a small water supply watershed with a reservoir.

- a) The corridors of all perennial streams within a seven (7) mile radius of the reservoir boundary must be protected by the following criteria:
  - 1) The buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
  - 2) No impervious surface shall be constructed within a 150 feet setback area on both sides of the stream as measured from the stream banks.
  - 3) Septic tanks and septic tank drainfields are prohibited within a 150 feet setback area on both sides of the stream as measured from the stream banks.

- b) The corridors of all perennial streams outside a seven (7) mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir must be protected by the following criteria:
  - 1) A buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.
  - 2) No impervious surface shall be constructed within a 75 feet setback area on both sides of the stream as measured from the stream banks.
  - 3) Septic tanks and septic tank drainfields are prohibited within a 75 feet setback area on both sides of the stream as measured from the stream banks.
- c) The impervious surface area, including all public and private structures, utilities or facilities of the entire water supply watershed shall be limited to 25% or existing use, whichever is greater.
- d) Any new facility, located within seven (7) miles of a water supply intake or water supply reservoir, 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 amounts of 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 or the requirements of the Standard Fire Prevention Code.
- e) A buffer shall be maintained for a distance of 150 feet from the reservoir boundary. The allowable buffer vegetation and disturbance is specified in the reservoir management plan.
- f) The Mountain Creek Reservoir is owned by the Banks County Water Authority and will be protected by it.

1200.8 Administration and Enforcement.

a) Site Plans

- 1) Applications for a permit from the City of Baldwin Building and Zoning Office for a development permit within a S-1 District shall include a site plan, drawn at a scale of 1"=50' with the following information:
- 2) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross-sectional drawings showing existing and proposed grades. Elevations, horizontal scale and vertical scale must be shown on the cross-sectional drawings.
- 3) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on the other maps provided by the applicant.
- 4) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.
- 5) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.

- 6) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than five feet.
- 7) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- 8) All proposed temporary disruptions or diversions of local hydrology.

b) Activities to Comply With Site Plan:

All development activities or site work conducted after approval of the site plan shall conform to the specifications of said site plan. Significant changes to the site plan, that would alter the amount and velocity of storm-water runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of vegetation during construction or otherwise result in an alteration of the overall appearance of the development as proposed, can be amended only with the approval of the City of Baldwin Zoning Administrator/Building Official. Minor changes, such as realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions, are exempted from this requirement.

c) Exemptions from Site Plan Requirements:

The following activities and developments are exempt from the requirement for detailed site plans:

- 1) Single family detached homes constructed within a subdivision of fewer than five parcels.
- 2) Repairs to a facility that is part of a previously approved and permitted development.
- 3) Construction of minor structures, such as sheds or additions to single family residences.

d) Review Procedures

The application shall be made to City of Baldwin and will be reviewed within 30 days. At the time of application, the applicant shall pay a filing fee as specified by City of Baldwin. Filing fees up to the larger of \$100 per acre or \$500 may be required to review the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment, mitigation, and wetland boundary determinations, as deemed necessary by the City of Baldwin Zoning Administrator. The applicant will receive written notification of the findings of the City of Baldwin. If the review is not completed within 30 days, the application is considered to be approved. Decisions of the City of Baldwin staff may be appealed to the Mayor and Council of the City of Baldwin.



e) Duration of Permit Validity

- 1) If construction described in the development permit has not commenced within twelve months from the date of issuance, the permit shall expire.
- 2) If construction described in the development permit is suspended after work has commenced, the permit shall expire twelve months after the date that work ceased. In cases of permit expiration due to abandonment or suspension of work, the landowner shall be required to restore topography to its original contours and restore vegetation as far as practicable.
- 3) Written notice of pending expiration of the development permit shall be issued by the City of Baldwin Zoning Administrator.

f) Penalties

- 1) When a building or other structure has been constructed in violation of this section, the violator may be required to move the structure at the discretion of the City of Baldwin Zoning Administrator.
- 2) When removal of vegetative cover, excavation, or fill has taken place in violation of this ordinance, the violator may be required to restore the affected tract to its original contours and to restore vegetation, as far as is practicable, as the discretion of the City of Baldwin Zoning Administrator.
- 3) If the City of Baldwin Zoning Administration discovers a violation of this ordinance that also constitutes a violation of the Clean Water Act, as amended, the Mayor and Council shall issue a written notification of the violation to the US Environmental Protection Agency, the US Army Corps of Engineers and the land owner.

g) Suspension, Revocation

The City of Baldwin may suspend or revoke a permit if he/she finds that the applicant has not complied with the conditions or limitations as set forth in the permit or has exceeded the scope of the work set forth in this permits. The City of Baldwin shall cause notice of denial, issuance, conditional issuance, revocation, or suspension of a permit to be published in a daily newspaper having a broad circulation in the area where the violation is located.

1200.9 Judicial Review

a) Jurisdiction

All final decisions of City of Baldwin concerning denial, approval or conditional approval of a special permit under Section 1200.8 (d) shall be reviewable in the Superior Court of Banks County.

b) Alternative Actions

- 1) Based on these proceedings and the decision of the Superior Court of Banks County, the Mayor and Council or its designee may, within the time specified by the Court, elect to:
- 2) Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
- 3) Approve the permit application with lesser restrictions or conditions (i.e., grant a variance); or
- 4) Institute other appropriate actions ordered by the court that fall within the jurisdiction of the Mayor and Council.

1200.10     Amendments

These regulations and the Watershed District Map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

**Section 1201. Reserved**

## ARTICLE XIII BUFFER AREAS

### **Section 1300. Buffer Area Required**

- 1300.1 A buffer area, 30 feet in width, shall be established and maintained on all property zoned R-3, MHD, NC and/or I-1 where abutting an A, R-1, R-2 and/or PRD Zoning Districts.
- 1300.2 A buffer area, 35 feet in width, shall also be established and maintained on all property zoned HB and/or I-1 where abutting R-3 and MHD Zoning Districts.
- 1300.3 A buffer area, 60 feet in width, shall also be established and maintained on all property zoned I-2 where abutting A, R-1, R-2, R-3, PRD and/or MHD Zoning Districts.

### **Section 1301. Buffer Area Standards**

Buffer Areas shall be established and maintained under the following provisions:

- 1301.1 Maintained as a planted area, using existing vegetation with additional plantings as necessary to provide a visual screen.
- 1301.2 Planted with evergreen trees and shrubs.
- 1301.3 Not be used for parking or a structure other than a fence. However, a Buffer Area may be used for vehicular access and utility easements only if these uses are positioned perpendicular to the greater distance of the Buffer Area.
- 1301.4 Except as provided above, the natural topography of the land shall be preserved and natural growth shall not be disturbed beyond the removal of diseased, dangerous and decayed timbers.
- 1301.5 Wherever screening is required by this Ordinance, or where the conditions described in the preceding paragraph cannot be met by reason of the topography of the land or of the prior removal of or lack of timber and foliage, the owner of the Buffer Area shall erect a permanent wall or fence or not less than eight feet (8') in height or screen of evergreen plantings, so designed and developed to provide visual screening between the property described herein. These plantings shall consist of evergreen shrubs not less than eight feet (8') in height, or shrubs which will, in normal growth, attain a height of six feet (6') within three (3) years.

## ARTICLE XIV NONCONFORMANCES

### **Section 1400. Nonconforming Lots**

Any lot for which a plat or legal description has been recorded in the Office of the Clerk of Superior Court of Banks and/or Habersham Counties at the time of passage of this Ordinance, or was recorded prior to the passage of the 1982 Zoning Ordinance, which fails to comply with the dimensional requirements of the Zoning District in which it is located, may be developed provided that the minimum requirements of the Zoning District for front, side, and rear yard, and height shall be complied with or the necessary variances are obtained through the Baldwin City Council.

### **Section 1401. Nonconforming Uses**

Nonconforming uses shall be governed by the following restrictions in addition to any other requirements of this Ordinance:

- a) When a nonconforming use of land has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- b) Nonconforming uses of land shall not be changed to another nonconforming use.
- c) A nonconforming use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
- d) When any nonconforming use of land is discontinued for a period in excess of twelve (12) months, any future use of the land shall be limited to those uses permitted in the Zoning 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.

### **Section 1402. Nonconforming Uses of Structures**

Nonconforming uses consisting of structures used, at the time of passage of this Ordinance, for purposes not permitted in the Zoning District in which they are located shall in addition to the other requirements of this Ordinance, be governed by the following restrictions:

- a) An existing nonconforming use of a structure may not be changed to another nonconforming use.
- b) A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure which at the time the use became nonconforming were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a nonconforming use, which would in any way increase the floor space, area, or volume of space occupied by the use.
- c) When any nonconforming use of a structure is discontinued for a period in excess of twelve (12) months, any future use of the structure shall be limited to those uses

permitted in the Zoning District under the provisions of this Ordinance. Vacancy and/or non-use of the structure, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

#### **Section 1403. Reconstruction of Nonconforming Structures**

When a nonconforming structure containing a nonconforming use or is razed or damaged by fire, flood, wind, act of God, such structure or sign may be constructed as a nonconforming use only if reconstruction or replacement is started within twelve (12) months of the occurrence of the razing or damage. Structures which do not conform to the yard requirements of this Ordinance shall be governed by this provision.

#### **Section 1404. Nonconforming Manufactured Dwellings**

A nonconforming manufactured home (i.e., a mobile home or other dwelling which does not meet the definitions of a Manufactured Home, Class A, as defined in Article III and/or is located within a Zoning District which does not allow manufactured houses as a use by right) may be replaced by a Class A Manufactured house, on the same lot, provided:

- a) All necessary permits are obtained for the installation and inspection of the manufactured house.
- b) The manufactured house is installed in conformance with the requirements of all applicable Ordinances, including the Baldwin Mobile Home Ordinance.
- c) The minimum floor area of the proposed dwelling must meet the minimum floor area requirements of the zoning district in which is to be located.
- d) The existing non-conforming structure is completely removed from the property and is not retained for a storage building, etc.

## **ARTICLE XV - PARKING AND SERVICE REQUIREMENTS**

### **Section 1500. Scope of Provisions**

Except as provided in this section, no application for a building permit shall be approved unless a plan is provided for such building improvements, or use, and 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.

### **Section 1501. 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.

### **Section 1502. 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 that 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.

### **Section 1503. 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.

### **Section 1504. Parking Area Design**

Parking stalls shall meet the following requirements:

- a) Width - a minimum width of nine and one half feet (9 ½')
- b) Length of nineteen feet (19').
- c) Oversize vehicle spaces – 10% of required spaces shall be 10' wide by 22' in length and marked "oversized vehicles."
- d) Driveways - 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-two feet (22') wide where used with ninety degree (90°) angle parking, at least twelve feet (12') wide where used with sixty degree (60°) angle parking, at least twelve feet (12') wide where used with forty-five degree (45°) parking, and at least twelve feet (12') wide where used with parallel parking, or where there is no parking, interior driveways shall be at least ten feet (10') wide for one-way traffic movement and at least twenty feet (20') wide for two-way traffic movement.

### **Section 1505. Joint Parking Facilities**

Two (2) or more neighboring uses, of the same or different types may provide joint facilities, provided that the number of off-street parking spaces are not less than the sum of the individual requirements.

### **Section 1506. 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.

### **Section 1507. 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 mentioned in this schedule, the requirements shall be the same as a similar use as mentioned herein. Parking requirements for additions to existing uses shall be based only upon the new addition even if the existing use is deficient.

a) **Apartment and Multi-Family Dwelling**

One and one-half (1-1/2) spaces per dwelling unit.

b) **Auditorium, Stadium Assembly Hall, Gymnasium, Theater, Community Recreation Center, Church**

1) One (1) space per three (3) fixed seats in largest assembly room or area, or

2) One (1) space for each forty (40) square feet of floor area available for accommodation of movable seats in the largest assembly room, or combination of fixed and movable seats, or

3) One (1) space per each one hundred, fifty (150) square feet of gross floor area, whichever is greatest.

c) **Automobile Fueling Stations**

One (1) space (in addition to service area) for each pump and grease rack and one (1) space for each two (2) employees during period of greatest employment, but not less than four (4) spaces.

d) **Automobile Sales and Service, Service Stations and Car Wash Facilities**

One (1) space for each two-hundred (200) square feet of gross floor area of the building.

e) **Bowling Alley**

Four (4) spaces per alley, plus requirements for any other use associated with the establishment such as a restaurant, etc.

f) Club or Lodge

One (1) space for each one hundred (100) square feet of gross floor area.

g) Combined Uses

Parking spaces shall be the total of the spaces required for each separate use established by this schedule.

h) Dance School

One (1) space for one hundred, fifty (150) square feet of gross floor area, plus safe and convenient loading and unloading of students.

i) Fraternity or Sorority

One (1) parking space for each two (2) bedrooms.

j) 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.

k) High Schools, Trade Schools, Colleges, and Universities

One (1) space for each two (2) teachers, employees, and administrative personnel, plus safe and convenient loading of students, plus five (5) spaces for each classroom.

l) Hospital or Care Home

One (1) space for each four (4) beds, plus one (1) space for each four (4) employees (nurses, attendants, etc.) plus one (1) space for each staff or visiting doctor.

m) Hotel

One (1) space for each guest room, suite, or unit plus one (1) space for each two (2) employees.

n) Indoor and Outdoor Recreational Areas (Commercial)

One (1) space for each one-hundred, fifty (150) square feet of gross floor area, for a minimum of ten (10) spaces, or one (1) space per each four (4) seats for facilities available for patron use, whichever is greater.

o) 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.

p) Kindergarten and Nursery School

One (1) space for each employee.

q) Motel

One (1) space for each unit, plus one (1) space for each two (2) employees.



- r) Office, Professional Building, or Similar Use  
One (1) space for each three hundred (300) square feet of the gross floor area.
- s) One (1) Two-Family Dwelling  
Two (2) spaces per dwelling.
- t) Personal Service Establishment  
One (1) space for each two hundred (200) square feet of gross floor area.
- u) Restaurant or Place Dispensing Food, Drink, or Refreshments  
One (1) space for each one hundred (100) square feet of gross floor area.
- v) School  
One (1) space for each teacher, one (1) space for each two (2) employees and administrative personnel, and one (1) for each classroom. For junior high and high schools, an additional one (1) space for each ten (10) pupils.
- w) Shopping Center  
One (1) space for every two hundred (200) square feet of gross floor area.
- x) Swimming Pool  
One (1) space for each two hundred (200) square feet of water surface area plus requirements for additional uses in association with the establishment, such as a restaurant, etc.
- y) Manufactured Homes  
Two (2) spaces per dwelling.
- z) Retail Stores  
One (1) space per two hundred (200) square feet of gross floor area.
- aa) Wholesaling and Warehousing  
One (1) space for each two thousand (2000) square feet of gross floor area
- bb) Other uses  
If a use is not specified herein, the City Council may establish a minimum parking requirement for the use.

**Section 1508. Minimum Number of Loading Spaces Required**

- a) Off-street loading and unloading spaces shall have access from an alley or, if there is no alley, from a public street.
- b) The off-street loading and unloading space shall be so located that it causes a minimum of interference with the free movement of vehicles and pedestrians over a street, sidewalk or alley.

**Section 1509. Minimum Size and Number of Off-Street Loading and Unloading Spaces Required.**

The minimum number and size of off-street loading and unloading spaces required are as follows: For the purpose of this Section, an off-street loading and unloading space shall have the minimum dimensions of 12 feet x 40 feet x 14 feet of overhead clearance. The minimum number of such spaces required are as follows:

Retail business, office, wholesale, industrial, governmental, and institutional uses, including public assembly places, hospitals and educational institutions, one space for the first 25,000 square feet of total floor area or fractional part thereof. For anything in excess of 25,000 square feet, such uses shall provide loading spaces according to the following schedule:

Square Feet	No. of Spaces
25,001 - 99,999	2
100,000 - 159,999	3
160,000 - 239,999	4
240,000 - 349,999	5
350,000 or more	5 plus For each additional 100,000 square feet or fraction thereof, one (1) additional space shall be required

**Section 1510. Curb Cut Requirements**

Within any Zoning District where the lowering or cutting away of curbs for purposes of ingress or egress is required, such curb cut shall be subject to the following provisions:

- 1508.1 No more than two (2) combined entrances and exits shall be allowed any tract of land, the frontage of which is less than two hundred feet (200') on any one (1) street. Additional entrances or exits for parcels of property having a frontage in excess of two hundred feet (200') may be permitted upon approval of the Zoning Administrator.
- 1509.2 At street intersection, no curb cut shall be located within twenty-five feet (25') of the intersection of two (2) curb lines or such lines extended, or within fifteen feet (15') of the intersection of two (2) property lines or such lines extended, whichever is least restrictive.

## **ARTICLE XVI - AMENDMENTS TO THE ZONING ORDINANCE**

### **Section 1600. Authority**

This Ordinance may be amended from time to time by the Mayor and Council after notice as provided herein and holding a Public Hearing.

### **Section 1601. Reserved**

### **Section 1602. Who May Initiate Amendments**

Proposed amendments to the text or map of this Ordinance may be initiated upon a motion by the Mayor and Council or by petition by any individual, firm or organization, or their duly appointed agent or attorney.

### **Section 1603. Minimum Parcel Size**

No tract or parcel of land shall be considered for a Zoning District change that has an area, width or road frontage, less than the minimum required area, width or road frontage for the Zoning District proposed.

### **Section 1604. Procedure for Amending the Text of the Zoning Ordinance**

- a) Proposed amendments to the text of this Ordinance shall be filed with the Zoning Administrator, in such form as deemed appropriate, together with an application fee, to be established by resolution of the Mayor and Council and amended from time to time, at least thirty (30) days in advance of the next regularly scheduled Public Hearing of the City Council.
- b) Upon the filing of a proposed amendment, the Zoning Administrator shall schedule Public Hearings upon the proposed amendment for review and final action by the Mayor and Council.
- c) The Zoning Administrator shall cause to be published, at least fifteen (15), but not more than forty-five (45) days, prior to the date of the Public Hearings, within a newspaper of general circulation within the territorial boundaries of City of Baldwin, a Public Notice of the Public Hearings.
- d) The Mayor and Council shall hold a Public Hearing, as duly advertised and in accordance with the policies and procedures outlined in Article XX, to consider the proposed amendment. The Mayor and Council may adopt the proposed amendment as presented, adopt the proposed amendment with modifications, deny the proposed amendment in whole or in part, or table the proposed amendment.

**Section 1605. Procedure for Amending the Official Zoning Map**

- a) An application to amend the Official Zoning Map shall be filed with the Zoning Administrator, containing at a minimum, the information required by this Ordinance under Section 1608 of this Article, at least thirty (30) days in advance of the next regularly scheduled Public Hearing of the City Council.
- b) Upon the filing of said application, the Zoning Administrator shall schedule Public Hearings upon said application for review and final action by the Mayor and Council.
- c) The Zoning Administrator shall cause to be published, at least fifteen (15), but not more than forty-five (45) days prior to the date of the Public Hearings, within a newspaper of general circulation within the territorial boundaries of City of Baldwin, a Public Notice of the Public Hearings.
- d) If said application is submitted or initiated by a party other than the Mayor and Council, the Zoning Administrator shall place or cause to be placed on the subject property, a Public Notice Sign in a conspicuous location not less than fifteen (15) days prior to the date of the Public Hearings.
- e) The Mayor and Council shall hold a Public Hearing as duly advertised and in accordance with the policies and procedures outlined in Article XX, to consider the application. The Mayor and Council shall consider the application, including any specific recommended conditions of approval and any additional evidence that the applicant wishes to present at the Public Hearing.
- f) The Mayor and Council may do the following after the Public Hearing
  - 1) Adopt the proposed amendments as presented;
  - 2) Adopt the proposed amendment as revised or supplemented by conditions of approval established by the board; said revisions may include, if the proposed amendment is for the rezoning of property, rezoning to the proposed zoning district with conditions or rezoning to any other less intense zoning district with or without conditions;
  - 3) Deny the proposed amendment in whole or in part; or
  - 4) Table the proposal.
- g) The decision rendered by the Mayor and Council regarding the proposed amendment shall be deemed to be the final action.
- h) No amendment, supplement, change or repeal of the final action by the Mayor and Council shall become effective unless said amendment, supplement, change or repeal is approved after a Public Hearing.

**Section 1606. Content of Required Published Public Notice**

The Published Public Notice shall contain the time, date, place and purpose of the Public Hearing. If the Public Notice is regarding a text amendment to the Zoning ordinance, then

the notice shall contain, at a minimum, the Article and Section proposed to be amended.

If an application for a map amendment is submitted or initiated by a party other than the Mayor and Council, the Published Public Notice shall also contain the location, the present and proposed Zoning District designation, and the proposed use for the subject property.

#### **Section 1607. Content of Required Public Notice Sign**

The Public Notice Sign required to be placed on the subject property by this Ordinance shall contain the same information stated in Section 1606 of this Article. Said sign shall be at least nine (9) square feet in area.

#### **Section 1608. Documents Required for Submitting an Application to Amend the Official Zoning Map**

All applications to amend the Official Zoning Maps submitted or initiated by a party other than the Mayor and Council shall be filed with the Zoning Administrator and shall be accompanied by, at a minimum, the following items:

- a) An application form as available from the Zoning Administrator, complete in all respects.
- b) An application fee or fees as required by the Mayor and Council.
- c) A legal description of the subject property and/or a deed to the subject property, showing the current owner. The deed must indicate the stamp of the Clerk of Superior Court of Banks and/or Habersham Counties, showing the time and date of recording of the instrument. If a deed is submitted, it must be legible and show the complete description of the property to be considered for rezoning.
- d) A site plan drawn to scale, designating the subject property and identifying existing and proposed buildings and uses, adjacent existing land uses and Zoning Districts, including those across abutting public roads, and any other significant site improvements proposed to accommodate the proposed use, or to buffer adjacent uses, etc., or a plat of the subject property where no specific land use is proposed.

In the case where only a plat of the subject property is provided and no specific land use is proposed, the Mayor and Council shall evaluate the application based upon the most intense possible land use permitted in the proposed Zoning District.

- e) A Letter of Intent, which is a narrative statement from the applicant describing the proposed use of the property, if zoned.
- f) A response to the Review Standards, as set forth in this Ordinance under Section 1609 of this Article.
- g) Other exhibits, as may be required by specific Sections of this Ordinance.

The above requirements will also apply to any property or properties proposed to be annexed into the City of Baldwin if a change in use is proposed from the use at the time of the annexation.

### **Section 1609. Review Standards**

The Mayor and Council find that the following Review Standards are relevant in balancing the interest in promoting the public health, safety, morals, convenience, order or general welfare against the right to unrestricted use of property and shall govern the exercise of the power to adopt a Zoning District change:

- a) The existing land use and zoning classification of nearby property;
- b) The suitability of the subject property for the zoned purposes;
- c) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
- d) The extent to which the destruction of property values of the subject property promotes the health, safety, morals or general welfare of the public;
- e) The relative gain to the public as compared to the hardship imposed upon the individual property owners;
- f) Whether the subject property has a reasonable economic use as currently zoned;
- g) The length of time that the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
- h) Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
- i) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
- j) Whether the zoning proposal is in conformity with the policies and intent of the land use plan;
- k) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.
- l) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed zoning proposal.

### **Section 1610. Withdrawal of Application for Amendment**

Any applicant or property wishing to withdraw a proposed map amendment or text amendment prior to final action by the Mayor and Council must file a written request with the Zoning Administrator.

- a) If the request for withdrawal is received prior to the publication of notice for the public hearing, the Zoning Administrator shall withdraw the application administratively without restriction on the re-filing of a proposed rezoning on the property in the future. The City shall retain all fees paid with the application.

- b) If notice has been published (or is irretrievably set for publication) but the application has not been heard by the Mayor and Council, the application shall remain on the City Council's public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the City Council.

### **Section 1611. Impact Analysis**

If a proposed amendment is for the rezoning of property:

- a) The initial party, if a party other than the Mayor and Council, shall be required to file, with the application for amendment, a written, documented analysis of the impact of the proposed zoning with respect to each of the matters enumerated in Section 1609 above. Such a zoning proposal and analysis shall be a public record.
- b) The Mayor and Council shall review the applicant's impact analysis and shall take this information in to consideration when deliberating on the proposed zoning decision.

### **Section 1612. Conditional Zoning.**

In adopting an amendment to the zoning map, or approving a special use permit or a variance, the Mayor and Council may impose special conditions which it deems necessary in order to make the requested action acceptable and consistent with the purposes of the district(s) involved and to further the goals and objectives of the comprehensive plan. Such conditions may consist of: setback requirements from any lot line; specified or prohibited locations for buildings, parking, loading or storage areas or other land uses; driveway curb cut restrictions; restrictions as to what land uses or activities shall be permitted; maximum building heights or other dimensions; special drainage or erosion provisions; landscaping or planted area, which may include the location, type and maintenance of plant materials; fences, walls, berms, or other buffering provisions or protective measures; preservation of existing trees or other vegetation; special measures to alleviate undesirable views, light, glare, noise, dust or odor; permitted hours of operation; architectural style; a requirement that the existing building(s) be retained; a requirement that developers must build according to the site plans as adopted; a limitation on exterior modifications of existing buildings; or any other requirement that the Mayor and Council may deem appropriate and necessary as a condition of rezoning or issuance of a variance or special use permit.

Such conditions:

- a) Shall only be valid if they are included in the motion approving the amendment for adoption;
- b) Shall be in effect for the period of time specified in the amendment;
- c) Shall be required of the property owner and all subsequent owners as a condition of their use of the property;
- d) Shall be interpreted and continuously enforced by the development director in the same manner as any other provision of this Ordinance; and
- e) A building permit shall not be issued until after the presentation and approval by the

planning commission and/or the Mayor and Council of final site, architecture and development plans required by such conditions.

### **Section 1613. Reapplication Time Requirement**

If an application to amend the Official Zoning Map is denied by the Mayor and Council, no application or reapplication to amend the Official Zoning Map may be considered on the same property by the Mayor and Council until the expiration of at least six (6) months immediately following the denial action of the application by the Mayor and Council has occurred. If an application is approved by the Mayor and Council, then no reapplication or request to modify the conditions of approval will be considered on the same property until after six (6) months has elapsed.

### **Section 1614. Actions to be Taken if Plans of Property Owner are not Implemented Within Specified Time Limits.**

For any zoning map amendment for which the Mayor and Council are not the applicants, and upon which property no development permit, building permit, or certificate of occupancy has been issued within 12 months of the date of approval of said amendment, the Mayor and Council may review the zoning district classification of the property and determine whether it shall be continued or initiated for rezoning.

### **Section 1615. Special Use Permits**

Special Use Permits may be authorized, as prescribed herein and as expressly permitted as a Special Use within a particular Zoning District, by the Mayor and Council after notice as provided herein and holding a Public Hearing in accordance with the policies and procedures outlined in Article XX. The Mayor and Council reserve the authority to deny any request or to impose conditions on a use as deemed appropriate to protect the general health, safety and welfare.

#### **Section 1615.1 Minimum Parcel Size**

No tract or parcel of land shall be considered for a Special Use Permit that has an area, width or road frontage less than the minimum required area, width or road frontage for the Zoning District of the property.

#### **Section 1615.2 Procedure for Consideration of a Special Use Permit**

- a) An application for a Special Use Permit shall be filed with the Zoning Administrator, containing at a minimum the information required by this Ordinance under Section 1615.5 of this Article, at least thirty (30) days in advance of the next regularly scheduled Public Hearing of the City Council.
- b) Upon the filing of said application, the Zoning Administrator shall schedule Public Hearings upon said application for review and for final action by the Mayor and Council.
- c) The Zoning Administrator shall cause to be published, at least fifteen (15), but not



more than forty-five (45) days, prior to the date of the Public Hearings, within a newspaper of general circulation within the territorial boundaries of City of Baldwin, a Public Notice of the Public Hearings.

- d) The Zoning Administrator shall place, or cause to be placed on the subject property, a Public Notice Sign in a conspicuous location not less than fifteen (15) days prior to the date of the Public Hearings.
- e) The Mayor and Council shall hold a Public Hearing, as duly advertised in accordance with the policies and procedures outlined in Article XX, to consider the application. The Mayor and Council shall consider the recommendations and findings of the Zoning Administrator, including specific conditions of approval, and any additional evidence that the applicant wishes to present at the Public Hearing. The Mayor and Council may adopt the Special Use Permit application as presented, adopt the Special Use Permit application with modifications, deny the Special Use Permit application in whole or in part, or table the Special Use Permit application.
- f) The Mayor and Council may place any reasonable conditions or stipulations upon the proposed Special Use Permit as deemed necessary (such as hours of operation, parking, maximum building size, outside displays, etc.) to further ensure the orderly operation of the proposed use(s) and their compatibility with the surrounding properties.
- g) The decision rendered by the Mayor and Council regarding the proposed Special Use Permit shall be deemed to be the final action on the application.
- h) No amendment, supplement, change or repeal of the final action by the Mayor and Council shall become effective unless said amendment, supplement, change or repeal is approved after a Public Hearing.

#### Section 1615.3 Content of Required Published Public Notice

- a) The Published Notice shall contain the time, date, place and purpose of the Public Hearing.
- b) The Published Public Notice shall also contain the location, the present Zoning District designation, and the Special Use proposed for the subject property.

#### Section 1615.4 Content of Required Public Notice Sign

The Public Notice Sign required to be placed on the subject property by this Ordinance shall contain the same information stated in Section 1615.3 of this Article. Said sign shall be at least six (6) square feet in area.

#### Section 1615.5 Documents Required for Submitting an Application for a Special Use Permit

All applications for a Special Use Permit shall be filed with the Zoning Administrator and shall be accompanied by, at a minimum, the following items:

- a) An application form as available from the Zoning Administrator, complete in all

respects.

- b) An application fee as required by the Mayor and Council.
- c) A legal description of the subject property and/or a deed to the subject property, showing the current owner. The deed must indicate the stamp of the Clerk of Superior Court of Banks and/or Habersham Counties, showing the time and date of recording of the instrument. If a deed is submitted, it must be legible and show the complete description of the property to be considered for rezoning.
- d) A site plan drawn to scale, showing the location of the proposed use(s) or structure(s) and their relationship to existing adjacent uses or structures, the area and dimensions of the site, proposed screening and landscaping, height of building(s), setbacks, access, location and number of parking and loading spaces, location of all existing or proposed utilities, whether public or private, and any pertinent information that the Mayor and Council may require.
- e) A Letter of Intent, which is a narrative statement from the applicant describing the proposed use of the property if zoned.
- f) A response to the Review Standards, as set forth in this Ordinance under Section 1615.6 of this Article.
- g) Other exhibits, as may be required by specific Sections of this Ordinance.

#### Section 1615.6 Review Standards

The Mayor and Council and the Planning Commission find that the following Review Standards are relevant in balancing the interest in promoting the public health, safety, morals, convenience, order or general welfare against the right to unrestricted use of property and shall govern the exercise of the power to adopt a Special Use Permit:

- a) The existing land use and zoning classification of nearby property;
- b) The suitability of the subject property for the zoned purposes;
- c) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
- d) The extent to which the destruction of property values of the subject property promotes the health, safety, morals or general welfare of the public;
- e) The relative gain to the public as compared to the hardship imposed upon the individual property owners;
- f) Whether the subject property has a reasonable economic use as currently zoned;
- g) The length of time that the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
- h) Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
- i) Whether the proposed zoning will adversely affect the existing use or usability of

adjacent or nearby property;

- j) Whether the zoning proposal is in conformity with the policies and intent of the land use plan;
- k) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.
- l) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed zoning proposal.

#### Section 1615.7 Withdrawal of Application for Special Use Permit

Any applicant or property wishing to withdraw a Special Use Permit application prior to final action by the Mayor and Council must file a written request with the Zoning Administrator.

- a) If the request for withdrawal is received prior to the publication of notice for the public hearing, the Zoning Administrator shall withdraw the application administratively without restriction on the re-filing of a proposed rezoning on the property in the future. The City shall retain all fees paid with the application.
- b) If notice has been published (or is irretrievably set for publication) but the application has not been heard by the Mayor and Council, the application shall remain on the City Council's public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the City Council.

#### Section 1615.8 Reapplication Time Requirement

If an application for a Special Use Permit is denied by the Mayor and Council, no application or reapplication for a Special Use Permit may be considered on the same property by the Mayor and Council until the expiration of at least six (6) months immediately following the denial action of the application by the Mayor and Council has occurred.

#### Section 1615.9 Expiration of Special Use Permit

Once established, a Special Use Permit shall be in continuous operation. A Special Use Permit shall expire under the following circumstances:

- a. If operations or construction has not commenced within twelve (12) months of the date of approval by the Mayor and Council.
- b. If operations have ceased for a period of twelve (12) months.

**ARTICLE VXII - RESERVED**

## **ARTICLE VXIII - VARIANCES**

### **Sections 1800 through 1804 - Reserved**

#### **Section 1805. Powers of the Mayor and Council with Respect to Variances**

The Mayor and Council shall have the following powers with respect to variances from the terms of this Ordinance:

- 1805.1 To authorize, upon appeal in specific cases, such variances from the terms of the Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement 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. Such variances may be granted in such individual cases of unnecessary hardship upon a finding by the City Council that:
- a) There are extraordinary and exceptional conditions pertaining to the particular 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) Such conditions are not the result of any actions of the property owner; and
  - e) Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Ordinance;
  - f) No variance may be granted for a use of land or building or structure that is prohibited by this Ordinance or which would result in a greater intensity of development on a property than would otherwise be allowed if no variance were involved.
- 1805.2 In exercising the above powers, the Mayor and Council may, in conformity with the provisions of this Ordinance, reverse decisions or determinations from which the appeal is taken and, to that end, shall have all the powers of the Zoning Administrator from whom the appeal is taken and may issue or revoke or direct the issuance or revocation of a building or other permit.

#### **Section 1806. Procedure for Consideration of a Variance**

- a) An application for a Variance shall be filed with the Zoning Administrator at least thirty (30) days in advance of the next regularly scheduled Public Hearing of the Mayor and Council.
- b) Upon the filing of said application, the Zoning Administrator shall schedule a Public Hearing upon said application for review and final action by the Mayor and Council.
- c) The Zoning Administrator shall cause to be published, at least fifteen (15), but not

more than forty-five (45) days, prior to the date of the Public Hearing, within a newspaper of general circulation within the territorial boundaries of City of Baldwin, a Public Notice of the Public Hearings.

- d) The Zoning Administrator shall place, or cause to be placed on the subject property, a Public Notice Sign in a conspicuous location not less than fifteen (15) days prior to the date of the Public Hearing.
- e) The Mayor and Council shall hold a Public Hearing, as duly advertised and in accordance with the provisions of Article XX, to consider the application. The Mayor and Council shall either: approve, approve with modifications or deny the application.
- f) The decision rendered by the Mayor and Council regarding the proposed Variance shall be deemed to be the final action on the application.

#### **Section 1807. Content of Required Published Public Notice**

- a) The Published Public Notice shall contain the time, date, place and purpose of the Public Hearing.
- b) The Published Public Notice shall also contain the location and the Variance proposed for the subject property.

#### **Section 1808. Content of Required Public Notice Sign**

The Public Notice Sign required to be placed on the subject property by this Ordinance shall contain the same information stated in Section 1808 of this Article. Said sign shall be at least nine (9) square feet in area.

#### **Section 1809. Documents Required for Submitting an Application for a Variance**

All applications for a Variance shall be filed with the Zoning Administrator and shall be accompanied by, at a minimum, the following items:

- a) An application form as available from the Zoning Administrator, complete in all respects.
- b) An application fee as required by the Mayor and Council.
- c) A legal description of the subject property and/or a deed to the subject property, showing the current owner. The deed must indicate the stamp of the Clerk of Superior Court of Banks and/or Habersham Counties, showing the time and date of recording of the instrument. If a deed is submitted, it must be legible and show the complete description of the property to be considered for a variance.
- d) Any pertinent information necessary for the Mayor and Council to render a decision.
- e) A Letter of Intent, which is a narrative statement from the applicant describing the hardship imposed on the subject property by the strict interpretation of the Zoning Ordinance. This letter shall also address how the hardship meets the circumstances described in Section 1805.2 of this Ordinance.

- f) Other exhibits, as may be required by specific Sections of this Ordinance.

**Section 1810. Withdrawal of Application for a Variance**

Any applicant or property wishing to withdraw an application for a Variance prior to final action by the Mayor and Council must file a written request with the Zoning Administrator.

- a) If the request is received prior to the legal advertisement of a public hearing being placed, then the Zoning Administrator for City of Baldwin will not accept any application for consideration on the same property for six (6) months after the date of withdrawal.
- b) An application for a Variance may not be withdrawn by an applicant or property owner under any circumstance after legal advertisement of the public hearing has been placed. All applications, having been advertised, shall be considered by the Mayor and Council.

**Section 1811. Reapplication Time Requirement**

If an application for a Variance is denied by the Mayor and Council, no application or reapplication for the same Variance may be considered on the same property by the Mayor and Council until the expiration of at least six (6) months immediately following the denial action of the application by the Mayor and Council has occurred.

**Section 1812. Appellate Procedure**

Any person or persons severally or jointly aggrieved by a decision of the City Council with respect to this Section may present an Appeal to the Superior Court. Such an Appeal to the Superior Court shall be the same as an Appeal to the Superior Court from any decision made by the Probate Court and as specified in the Official Ordinance of Georgia except, however, that the Appeal shall be filed within thirty (30) days from the date of the decision of the City Council. Upon failure to file the appeal within thirty (30) days, the decision of the City Council shall be final.

On Appeal, the case shall be heard by the Judge of the Superior Court without a jury unless one of the parties files a written demand of the Appeal.

## **ARTICLE XIX - ADMINISTRATION, ENFORCEMENT AND PENALTIES**

The intent of this Article is to provide for suitable and proper administration and enforcement of the provisions of this Ordinance; to designate the enforcing Officer and to outline the proper steps to be taken by parties interested in constructing, erecting or modifying a structure or other land use; and to set forth the penalties for violating the provisions of this Ordinance.

### **Section 1900. Zoning Administrator**

This Ordinance shall be enforced by the Zoning Administrator under the direction of the City Council. The construction, reconstruction and/or alteration of buildings shall not be undertaken, and the development of land shall not be commenced except in accordance with the provisions of this Ordinance. No permit or application for the construction, alteration or change of use of buildings or land shall be approved if the proposed use or activity would be in violation of the Zoning Ordinance.

### **Section 1901. Appointment and Purpose**

The Zoning Administrator shall be appointed by the Mayor and Council. If no such position exists within the City's government structure, or if the position is vacant, then the Mayor and Council may appoint an existing City employee to act as the Zoning Administrator. The Zoning Administrator shall be accountable to the Mayor and Council.

### **Section 1902. Powers and Duties**

The Zoning Administrator is hereby authorized and directed to administer the provisions of this Ordinance to include:

- a) To certify zoning compliance for all building permits, to inspect land, structures and uses to determine compliance with this Ordinance and to initiate appropriate corrective action when there are violations.
- b) To coordinate inspection and enforcement actions to ensure consistent applications of the provisions contained herein.
- c) To inform the Mayor and Council of any provisions contained herein which are causing enforcement problems or should be re-evaluated for consistency with the overall objectives of the Comprehensive Plan.
- d) To maintain current and permanent records of the administration of this Ordinance including, but not limited to, zoning district maps, certificates of occupancy, permits, variances, interpretive decisions of the Mayor and Council, amendments, and all applications related to any of these matters.
- e) To publish, as necessary, up-to-date copies of this Ordinance including the Zoning Map and any amendments thereto.



### **Section 1903. Appeals to the Mayor and Council**

- 1903.1 Appeals to the Mayor and Council may be taken by any person aggrieved by any decision of the Zoning Administrator.
- 1903.2 Such appeal shall be taken within fifteen (15) days after the decision appealed from by filing with the Zoning Administrator and with the Mayor and Council a Notice of Appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Mayor and Council all the documents constituting the record upon which the action appealed from was taken.
- 1903.3 An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Mayor and Council that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such a case, proceedings shall not be stayed otherwise than by the Mayor and Council or by a restraining order granted by a court of record on application, and notice to the Zoning Administrator for good cause shown.

### **Section 1904. Notice of Violation and Sanctions**

If the Zoning Administrator finds that any of the provisions of this Ordinance are being violated, the person responsible for such violations shall be notified in writing. The Zoning Administrator shall indicate the nature of the violation, and order the action necessary to correct it. The Zoning Administrator shall take any other action authorized by law to ensure compliance with or to prevent violation of the provisions of this Ordinance.

### **Section 1905. Building Permit Required**

A building 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, or alteration of any building or structure or sign. No building permit 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.

### **Section 1906. Certificate of Occupancy**

A Certificate of Occupancy shall be issued by the Zoning Administrator in accordance with the following provisions:

- 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 occupancy or use will occur.

### **Section 1907. Issuance of Certificate of Occupancy**

Upon payment of any required fees, the Zoning Administrator shall sign and issue a

certificate if the proposed use of land or building as stated on the Certificate of Occupancy is signed thereto by the owner or his appointed agent and is found to conform to the applicable provisions of this Ordinance, and if the building, as finally constructed, complies with the sketch or plan submitted and approved for the building permit.

#### **Section 1908. 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 the structure conforms with the applicable provisions of the building Ordinance and complies with the sketches or plans submitted for obtaining the building permit.

#### **Section 1909. Penalties for Violation**

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be penalized to the maximum extent allowed by the City Charter, and may also lose the right to City services including but not limited to the termination of water service or sewer service, or both.

#### **Section 1910. Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Ordinance, the Zoning Administrator or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings, and the City may also terminate any City service including but not limited to water service or sewer service or both, in order to prevent violation in the case of such buildings, structures, or land.

## **ARTICLE XX - POLICIES AND PROCEDURES FOR CALLING AND CONDUCTING PUBLIC HEARINGS**

### **Section 2000 - Reserved**

### **Section 2001. Polices and Procedures for Calling and Conducting Hearings Before the Mayor and Council (City Council)**

- a) All persons who wish to address the City Council at a hearing on the proposed zoning decision under consideration by the City Council shall first sign up on a form to be provided by the City prior to the commencement of the hearing.
- b) The Zoning Administrator will read the proposed zoning decision under consideration prior to receiving public input on said proposed zoning decision. Proposed zoning decisions shall be called in the order in which they were filed.
- c) The Mayor shall then call each person who has signed up to speak, except the applicant, who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless the City Council, at its discretion, allows the person to speak on the zoning decision, notwithstanding the failure of the person to sign up prior to the hearing.
- d) The applicant, or his/her representative, spokesperson or attorney shall be allowed ten (10) minutes to address the City Council concerning the zoning decision then under consideration, unless the City Council, votes to allow additional time in which to address the Council on said proposed zoning decision. The speaker may initially use all of the time allotted to him to speak or he may speak and reserve a portion of his allotted time for rebuttal. If there is time remaining, or at the discretion of the Mayor and Council, other persons may rise to speak in support of the application provided they signed up to speak in accordance with subsection c) above.
- e) After the applicant's initial presentation, the City Council may question the applicant regarding the information presented in the application or ask other questions related to the proposed zoning decision.
- f) A total of ten (10) minutes will be allotted for all those persons who are opposed to the application to address the City Council. The speaker or speakers shall decide amongst themselves how to allot the time, unless the City Council, in the interest of an orderly progression of the hearing, allots a set amount of time per speaker. One member of the City staff shall be designated as the time keeper to record the time expended by each speaker.
- g) The City Council may question those persons who spoke in opposition of the proposed zoning decision and may also ask questions of any person who spoke in favor of the application not associated with the applicant.
- h) The applicant, if sufficient time remains, may address the City Council in rebuttal of the opposition and may address any information raised by persons speaking in opposition to the proposed zoning decision.

- i) Each speaker shall speak only to the merits of the proposed zoning decision under consideration and shall address his remarks only to the members of the City Council. Each speaker shall refrain from personal attacks on any other speaker or the discussion of the proposed zoning decision under consideration. The Mayor or acting Chair may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.
- j) Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed zoning decision is conducted in a fair and orderly manner.

## **ARTICLE XXI - LEGAL STATUS**

### **Section 2100. Conflict With Other Laws**

Should any requirement, regulation, procedure or development standard conflict in any manner with any other law, rule or regulation of any local, State or Federal governmental body or administrative agency, then the stricter law, rule or regulation shall be applied. It is not intended for this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of property or premises or upon the height of buildings, or requires greater space that is imposed or required by other Ordinances, rules or regulations, or by easements, covenants or agreements, the provisions of this Ordinance shall govern.

### **Section 2101. Severability**

If any paragraph, subparagraph, sentence, clause, phrase, section, article or any portion of this Ordinance be declared invalid or unconstitutional by any Court of competent jurisdiction, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent of the Mayor and Council to provide for separable and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.