

# **Lee County**

## **Albany MSA**

**2003 Population Estimate 28,410; +12.9% change from 2000 Census.**

**Not a Tree City USA.**

**No tree board established by ordinance.**

### **ARTICLE III. GENERAL PROVISIONS, ARTICLE III. LOGGING OPERATIONS**

**First adopted 2000. Last revised 2004.**

**Addresses public and private property.**

**Includes buffer and landscape regulations.**

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<b>ARTICLE III. GENERAL PROVISIONS</b>
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**Sec. 70-75. Applicability.**

Except as hereinafter specifically provided, the regulations of this article shall apply.

(Ord. of 12-2-02, § 70-75)

**Sec. 70-76. Conflicting regulations.**

Whenever any provision of this article imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by any other county ordinance this article shall govern.

(Ord. of 12-2-02, § 70-76)

**Sec. 70-77. Scope.**

No building or structure, as defined herein, or part thereof, shall hereinafter be erected, constructed, reconstructed, or altered and maintained, and no new use or change in use shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this article.

(Ord. of 12-2-02, § 70-77)

**Sec. 70-78. Only one principal building per lot.**

Except as herein provided, there shall be no more than one principal building per lot other than within a planned unit development.

In agriculture zones within the unincorporated area of county, there shall be permitted, as a matter of right, to any owner of property one primary dwelling and for farms between 25 and 50 acres, one accessory dwelling. For each 50 acres over 50 acres, up to 200 acres, one accessory dwelling per 50 acres shall be allowed. For over 200 acres, one accessory dwelling for each additional 100 acres shall be allowed. The additional accessory dwellings set forth above will be permitted on any parcel of land under single ownership where the following conditions can be met:

- (1) Each such accessory residential use shall occupy a land area not less than one and one-half acres in size.
- (2) Each such land area shall be so defined by permanent physical markers as to be given a numerical address and location designation.
- (3) Each such land area shall receive approval from the county health authorities as to its suitability as a site for an effective sanitary sewage disposal system designed to accommodate wastes generated by the user of that land site.
- (4) An acceptable domestic water supply shall be available to each accessory dwelling and such water supply shall meet local public requirements as administered by the county health authorities.

- (5) No commercial use of this special provision will be permitted.
- (6) Each such use shall be accessible either by private drive or public roadway to the public thoroughfare system.
- (7) Facilities established under this special provision for residential use shall meet the requirements of local construction and use codes established by the board of commissioners.
- (8) Building permits for construction will not be issued prior to the approval of each of the aforementioned conditions by the planning director, or his designee. In addition, any change in use must be approved by the zoning administrator.

(Ord. of 12-2-02, § 70-78)

#### **Sec. 70-79. Substandard lots.**

Any lot which was of record at the time of the adoption of the ordinance from which this chapter derives that does not meet the requirements of this chapter for yards or other area or open space, may be utilized for a use for which it is zoned, provided that all applicable health and safety standards are observed. The purpose is to permit utilization of recorded lots, which lack adequate width or depth as long as reasonable living or working standards can be provided. Substandard lots under the same ownership shall be combined where possible, to make standard lots, or to make the lots as close to being standard as possible.

(Ord. of 12-2-02, § 70-79)

#### **Sec. 70-80. Substandard lots resulting from public dedication or condemnation.**

In the event that a lot of record is reduced in size through an act of public dedication or condemnation for public purposes the development standards contained in the zoning ordinance of the county, for width, depth, or area may be waived by the county planning director and such property may be utilized for all permitted and, where authorized, conditional uses. Said waiver is permissible only if the county health department determines that the health and general welfare of the lot owner and the county will not be affected by the intended use. Undeveloped lots of record in single ownership, which are affected by the public dedication or condemnation for public purposes, shall be recombined where possible, to standard lots.

(Ord. of 12-2-02, § 70-80)

#### **Sec. 70-81. Lot frontage.**

Every new residential lot shall abut a public street. No building shall be erected on a parcel that does not abut a public street, or road, except as otherwise provided for herein. If a property, residential or commercial, that was recorded prior to the date of adoption of this chapter does not abut a public road, the lots shall be recombined or redivided to provide the required road frontage access, if possible, or a legal easement shall be recorded and a recorded copy submitted with the permit application before a building permit may be issued.

(Ord. of 12-2-02, § 70-81)

#### **Sec. 70-82. Site distance at intersections.**

In all districts, no fence, wall, hedge, shrub planting, or other plant or structure, which obstructs the site lines at elevations between two and 12 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained to comply with the above site lines.

(Ord. of 12-2-02, § 70-82)

### **Sec. 70-83. Reduction of lot area prohibited.**

No lot shall be reduced in size so that the yard, lot width, lot area or other requirements of this chapter are not maintained, except in cases where the size of a lot of record is reduced as a result of public dedication or condemnation for public uses and where such size reduction has been approved by the planning director. This includes lots of record at the time of the adoption of this chapter.

(Ord. of 12-2-02, § 70-83)

### **Sec. 70-84. Accessory buildings.**

Accessory buildings, except as otherwise permitted in this chapter shall be subject to the following regulations:

- (1) Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to principal buildings.
- (2) Accessory buildings, except garages, may be erected in any required yard except a front yard, providing further that in no instance shall such a building be nearer than ten feet to any adjoining side lot line or rear lot line.
- (3) In residential districts, an accessory building shall not exceed two stories and in no instance shall the square footage of the footprint of the accessory building, or combination of accessory buildings, exceed the square footage of the ground floor area of the principal building.
- (4) No detached accessory building shall be located closer than 15 feet to any principal building.
- (5) In the case of corner lots, accessory buildings shall observe front yard requirements on both street frontages.
- (6) Garages. In any residential zone, no garage shall be erected closer to the side lot line than the permitted distance for the dwelling.
- (7) Carport. In any residential zone, no carport shall be erected, constructed or altered closer to the side lot line than the permitted distance for the dwelling, nor beyond the front line of the house to which it is attached.
- (8) Manufactured homes, mobile homes or tractor-trailers shall not be used as accessory buildings.

(Ord. of 12-2-02, § 70-84)

**Sec. 70-85. Prohibited in all residential districts.**

(a) It shall be prohibited in all residentially zoned districts to park or store in the open power driven construction equipment, used lumber or metal, or any other miscellaneous scrap or salvageable material in quantity.

(b) Vehicles larger than a regularly maintained pickup or panel truck of 7,500 pounds, or greater, gross vehicle weight capacity, tractor-trailer combinations, tractors, or trailers shall not be placed, parked, or stored in residentially zoned districts except on lots five acres or greater and shall be located in the rear yard. Vehicles so allowed shall not exceed one in number per lot. Trucks used, or intended for use, for commercial purposes, less than 7,500 pounds gross vehicle weight capacity shall be limited to no more than one per lot and shall be located in the rear yard, behind the principal building.

(c) Kennels.

(Ord. of 12-2-02, § 70-85)

**Sec. 70-86. Landscaping and screening.**

(a) *Applicability.* This section shall apply to all new commercial or industrial businesses and additions thereto that increase the building footprint by at least 30 percent and that add at least 3,000 square feet to existing structures, where plans have not been approved prior to May 24, 2000.

(b) *Purpose and intent.* The following regulations are designed to promote the health, safety, order, aesthetics and general welfare by protecting incompatible uses of land, providing for a more attractive urban environment, assuring adequate open space, and reducing noise, night lighting, odor, objectionable view, loss of privacy and other adverse impacts and nuisances through the use of buffers and landscaping.

(c) *Submission of landscape plans.* A landscape plan shall be submitted to the planning and development department together with the site development plan if one is required. If a site development plan is not required by the land development chapter, then landscape plans must still be submitted to the planning and development department before a building permit may be issued. The following information shall be shown on the required landscape plan:

- (1) Calculation of net site area showing all existing and proposed structures, parking and access, other paved areas, and all required buffer yard areas pursuant to this section;
- (2) Calculation of required landscape area;
- (3) Location and dimensions of areas to be landscaped and total amount of landscaped area;
- (4) Delineation of artificial lot, if applicable, including depiction of all proposed and existing structures, access drives, appurtenant parking and other paved areas proposed for expansion or new construction.

(d) *Landscape area required.*

- (1) *Delineation of artificial lot:* If a developer wishes to develop a portion of a one acre or larger tract, the developer, subject to the approval of the planning director, or his designee, shall delineate the portion of the tract to be developed as an artificial lot for purposes of calculating landscape requirements for the development. Artificial lots may be delineated in any type of development, including schools and places of worship. All artificial lots shall meet the following

requirements:

- a. Contain the entire area on which the development is to occur, including all paved areas;
- b. Contain an area of less than 50 percent of the entire tract, or, if the proposed artificial lot contains more than 50 percent of the entire tract, the planning director, or his designee, must determine that a substantial amount of the tract is not affected by the proposed development; and
- c. Be delineated on the landscape plan as required in this section.

(2) *Commercial or institutional uses:* A minimum of ten percent of net site area shall be landscaped; provided, however, that for new construction on undeveloped sites, the required landscape area shall not be less than the minimum landscape area set out in the table below. In addition:

- a. For every 500 square feet, or fraction thereof, of required landscape area, one tree of three-inch caliper or larger is required. Up to 50 percent of the required number of trees may be replaced by five-gallon shrubs at the rate of one tree equals ten shrubs.
- b. For every 50 square feet, or fraction thereof, of required landscape area, one shrub a minimum of five gallons in size is required. Up to 50 percent of the required number of shrubs may be replaced by three-inch caliper trees at the rate of ten shrubs equals one tree.

(3) *Industrial uses:* A minimum of four percent of net site area, or, at the option of the developer, a landscape area of at least 30 feet in depth along the property frontage on all public rights-of-way adjacent to the property; provided, however, for new construction on undeveloped sites, the required landscape area shall not be less than the minimum landscape area set out in the table below. In addition:

- a. For every 500 square feet, or fraction thereof, of required landscape area, one tree of three-inch caliper or larger is required. Up to 50 percent of the required number of trees may be replaced by five-gallon shrubs at the rate of one tree equals ten shrubs.
- b. For every 50 square feet, or fraction thereof, of required landscape area, one shrub a minimum of five gallons in size is required. Up to 50 percent of the required number of shrubs may be replaced by three-inch caliper trees at the rate of ten shrubs equals one tree.

(4) *Minimum landscape area for undeveloped sites.*

TABLE INSET:

Building/Structure Footprint	Minimum Area to be Landscaped (greater of):
0 to 10,000 square feet	500 square feet or 10 percent of footprint
10,001 to 20,000 square feet	1,000 square feet or 9 percent of footprint
20,001 to 30,000 square feet	1,800 square feet or 8 percent of footprint
30,001 to 40,000 square feet	2,400 square feet or 7 percent of footprint

40,001 to 50,000 square feet	2,800 square feet or 6 percent of footprint
50,001 square feet and over	3,000 square feet or 5 percent of footprint

(e) *Landscape strip required:* All properties except those containing single-family detached or attached residences, or two-family residences, shall provide landscape strips, as herein defined, of ten feet in width along the developed portion of side and rear property lines. This landscape area may account for up to 25 percent of the landscape area required by subsection (d) of this section.

It shall be the responsibility of the property owner of a lot to be used or built upon to install the required landscape strips. Installation of landscape strips may be phased in accordance with approved building plans.

(1) *Acceptable material :* If a wall or fence is not used pursuant to this section then the following must apply:

Multiple-family residential and non-residential property abutting single-family residential property. Where non-residential property abuts property zoned for residential use, landscaping shall be provided along the side and rear property lines so that a solid screen five feet in height when planted is formed and will, within a year, grow to six feet. If deemed necessary by the planning director, or his designee, due to topographical changes between the multiple-family residential or non-residential and residential property, the minimum height may be increased to eight feet. At a minimum, materials shall consist of 25 percent evergreen trees a minimum of six feet tall, 25 percent ornamental and/or shade trees with a minimum three-inch caliper or in small groups of ornamental and/or shade trees six feet tall having the same effect of a three-inch caliper ornamental and/or shade tree, and 50 percent evergreen and deciduous shrubs, provided that no more than 25 of the shrubbery may be deciduous. When planted, this landscaping shall form a continuous screen that is at least six feet in height.

(2) *Ground cover.* Except where occupied by planting beds, all perimeter-landscaping areas shall be sodden or seeded. If seeded, grass shall be established through proper watering and fertilization as needed.

In order to encourage the preservation of existing trees, the area within the drip line of trees of 12 to 24 caliper inches that is protected by fencing during grading and construction and is included in the required landscape area shall receive double credit toward the required landscape area. If the tree is in the buffer area, such credit can be given in the buffer area as long as the desired buffer zone effect is accomplished. Otherwise, the credit shall be given to other areas, not located in the buffer area. Any tree 24 caliper inches or over shall be preserved, unless approved for removal by the planning director, or his designee where removal of such tree is mandated by development constraints that cannot reasonably be altered. If such tree is approved for removal, the tree must be replaced by a tree, or cluster of trees, that, when planted, has an overall caliper of at least six inches.

**GRAPHIC LINK: Preservation of Trees**

(f) *Exemptions from landscape requirements.* The following are not subject to these landscape requirements:

(1) Structures that do not create or expand building square footage and temporary structures such as job shacks or trailers associated with construction activities;

(2) Change in existing structure, unless the structure is expanded in accordance with subsection (a) above;

(3) Temporary buildings in place for a maximum of five years and erected as accessory buildings for elementary and secondary schools and institutions of higher education.

(g) *Installation and maintenance.* The owner and/or user of the property shall be responsible for installing all required landscaping and maintaining them in a neat and orderly appearance. This includes irrigating or watering, fertilizing, pruning and replanting where necessary. Where fences or walls are involved, this also includes any and all necessary maintenance and/or repair.

Necessary trimming and maintenance shall be the responsibility of the property owner or user of the property to maintain the health of all plant and landscaping materials, to provide an aesthetically pleasing appearance, and to assure that all screening actually serves the purpose for which it is intended. In cases of noncompliance, the planning director, or his designee, shall be empowered to take action as provided by law to ensure maintenance of all plant and landscaping materials.

(h) *Miscellaneous requirements.*

(1) All required landscape areas adjacent to vehicle use areas shall be protected by wheel stops, curbs, or other physical barriers.

(2) All required landscape areas shall be located outside the exterior perimeter of the footprint of a building or structure.

(3) With the exception of landscaping required in the side and rear yards, a minimum of 75 percent of all remaining required landscape areas shall be located in the front yard between the building line and the front property line. For lots with multiple street frontages, the minimum percentage to be placed on either frontage shall be determined by the planning director, or his designee.

(4) No artificial plants, trees, ground cover or other artificial vegetation may be installed.

(5) Unless otherwise specified by this section, any walls constructed pursuant to the requirements of this section shall be a minimum of six feet in height and constructed of brick, stone, or concrete block textured or coated with an architectural finish (paint, stucco, etc.). Walls shall be located in a manner, which accomplishes the purposes of this section.

(6) When fencing is provided pursuant to this section, the finished surface of the fence shall face externally to the project. Fences shall be located in a manner that accomplishes the purposes of this section and shall be constructed of solid wood or other approved material that achieves the desired visual and acoustical screening.

(7) Areas reserved for storm water detention/retention are not permitted within buffers of landscape strips. However, exceptions may be granted by the planning director, or his designee, if, after consultation with the manager of development services, no reasonable alternatives are available or undue hardship is shown.

(i) *Modification of landscape requirements.* The planning director, or his designee, may approve minor variations in the location of required landscape materials due to unusual topographic restraints, sight restrictions, siting requirements, preservation of existing stands of native trees or similar conditions, or in order to maintain consistency of established front yard setbacks. These minor changes may vary the location of landscape materials, but may not reduce the amount of required landscape area or the

required amount of landscape materials. The landscape plan shall be submitted and specify the modifications requested and present a justification for such modifications.

(j) *Acceptable tree types.* Following is a list of example tree types that are indigenous to the area and tend to grow well. This list is not an all-inclusive list.

*Shade trees:* Black Tupelo, Bald Cypress, Florida or Southern Sugar Maple, Ginkgo or Maiden Tree, Live Oak, Overcup Oak, Scarlet Oak, Swamp Chestnut Oak, White Oak, American Beech, American Holly, Chinafir, Dawn Redwood, Deodar Cedar, Green Ash, Japanese Cryptomeria, Japanese Pagodatree, Laurel or Darlington Oak, Loblolly Pine, Longleaf Pine, Red Cedar, Red Maple, River Birch, Sawtooth Oak, Shumar Oak, Slash Pine, Southern Magnolia, Sweetgum, Tulip Tree or Yellow Poplar, Water Oak, White Ash, Willow Oak.

*Ornamental trees:* Bradford Pear, Cabbage Palmetto, Carolina Laurel Cherry, Cassine Holly, Caste Tree, Chinese Pistache or Pistachio, Chinese Tallowtree, Crepe Myrtle, Croonenburg Holly, Dogwood, Fringe-Tree or Grancy Graybeard, Goldenrain Tree, Hybrid Holly, Japanese Evergreen Oak, Japanese Flowering Apricot, Japanese Maple, Japanese or Saucer Magnolia, Leyland Cypress, Lost Gordonia, Nellie R. Stevens Holly, Purpleleaf Plum, Redbay Persea, Redbud or Judas Tree, Savannah Holly, Sassafras, Sweetbay Magnolia, Trident Maple, Virginia Pine, Yaupon Holly, Weeping Yaupon Holly, Weeping Willow.

*Shrubbery:* Cleyem, Evonymus, Japanese Privet, California Privet, European Privet, Southern Waxmyrtle, Northern Bayberry, Pittsporum, Japan Yew, and Red Tip Photinia.

(Ord. of 12-2-02, § 70-86)

### **Sec. 70-87. Animals in residential districts.**

It is the intent of this section to permit certain uses in residential zoning districts which involve the keeping of limited numbers of domestic animals or pets where it is recognized that such areas are changing from agricultural to suburban residential in character. This section is further intended to minimize problems that may arise from such animal uses and to provide suitable standards for protection of health, safety, welfare and preservation of residential districts from indiscriminate raising of animals.

- (1) Animals shall be allowed only where the primary dwelling exists already and is on the same lot.
- (2) These permitted use provisions for animals in residential districts are meant to apply only outside of the residence on an individual lot and are not intended to restrict the type or number of animals within a residence.
- (3) Uses permitted.
  - a. Domestic pets. Cats, dogs, rabbits or other generally recognized domestic pets may be kept by persons residing on the property for their use and enjoyment.
  - b. Unless otherwise specified, horses may be kept in R-1L and R-3L residential zoning districts, provided that the lot is not less than five acres total, that the area where the horses are kept is not less than 50,000 square feet per every three such animals and that the area shall be fenced and maintained at least 25 feet from any property line. Up to three horses may be kept per each 50,000 square feet of fenced area.
  - c. No keeping of livestock, fowl or domestic pets shall become a nuisance as defined in the county nuisance ordinance.

(4) *Conditional uses.* Upon conditional use permit being granted by the county board of commissioners in certain zoning districts.

a. *Livestock.* Unless otherwise specifically stated, Horses, cows, ponies, donkeys and other domestic livestock may be kept, raised or bred for home use and enjoyment; provided that only three such animals shall be permitted for each 50,000 square feet of land area not to include the front and side yards of the principal dwelling and all livestock shall be adequately contained by fence within that property at least 25 feet from any property lines.

b. *Fowl.* Ducks, quail, chickens, turkeys, pigeons, pheasants, etc., may be raised for home use, provided such fowl are adequately contained within that property in the rear yard and at least 25 feet from any property lines.

(5) *Uses prohibited.* The keeping, breeding or training of any animals or fowl for monetary gain or profit shall be deemed a commercial business and is expressly prohibited in all residential districts except where such operations may qualify as a non-conforming use as defined in this chapter.

(Ord. of 12-2-02, § 70-77)

#### **Sec. 70-88. Reserved.**

#### **Sec. 70-89. Conditional uses.**

Before a building permit shall be issued for a conditional use, application shall be made to the planning commission which, after careful review of any applicable sections of this chapter, may recommend to the county commission the issuance of such permit or approval if in the judgment of the planning commission it will not be detrimental to the health, safety and general welfare of the county.

An application to establish a conditional use shall be approved following a review by the planning commission and a determination by the board of commissioners that:

- (1) The proposed use shall not be contrary to the purpose of this article.
- (2) The proposed use shall not be detrimental to the use or development of adjacent properties or the general neighborhood nor affect adversely the health and safety of residents and workers.
- (3) The proposed use shall not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation or type of physical activity.
- (4) The proposed use shall not be affected adversely by the existing uses; and the proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use.
- (5) The parking and all development standards set forth for each particular use for which a permit may be granted can be met.
- (6) Provided, that the county commission may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood; and provided that wherever the

county commission shall find, in the case of any permit granted pursuant to the provisions of these regulations that any term, conditions or restrictions upon which such permit was granted are not being complied with, said commission shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a public hearing.

(7) Conditional uses shall not be transferable except upon written approval of the county commission and shall be executed within a period of 12 months from the time the use is granted or become null and void and subject to procedures for resubmission as established above and are subject to all other applicable laws and regulations.

(Ord. of 12-2-02, § 70-89)

### **Sec. 70-90. Variances.**

(a) The board of commissioners shall authorize, after review of the planning commission, in specific cases such variances from the terms of this chapter as will not in its opinion, be contrary to the public interest, where owing to special conditions, a literal enforcement of this chapter will in an individual case, result in unnecessary hardship. Such variance may be granted in such individual cases of unnecessary hardship upon consideration of the following criteria:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography, and;

(2) The application of the chapter to this particular piece of property would create an unnecessary hardship, and;

(3) Such conditions are peculiar to the particular piece of property involved, and;

(4) Release if granted, would not cause substantial detriment to the public interest or impair the purposes and intent of this chapter, provided, however, that no variance may be granted for a use of land or building which is prohibited by this article. The county will control the actual use of properties through zoning and conditional uses and not through variance.

(b) In exercising the above powers, the board of commissioners shall not consider any nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures, or buildings in other districts as grounds for the issuance of a variance.

(c) If the board of commissioners grants a variance the reason for such variance must be put forth clearly in the minutes of the meeting at which the variance was granted.

(Ord. of 12-2-02, § 70-90)

### **Sec. 70-91. Site plan review.**

(a) In order to assure that the requirements of this chapter are complied with, all applications for a building permit shall be accompanied by a building site plan which shall conform to the following list of requirements and be reviewed by the county planner, or his duly authorized representative to determine compliance with this article before a building permit is issued.

- (1) The site plan shall be drawn to scale. The planning director, or his designee, may request that the plan be drawn by a registered engineer or surveyor certified to work in the state if questions of soil suitability or flood zone locations exist within the property for which a building permit is being sought.
  - (2) The plan shall show the complete outline of the proposed building at the location it is proposed to be built.
  - (3) The plan shall show all property lines.
  - (4) The plan shall show all required building front set back lines. No part of any permanent structure shall encroach on any required front setback.
  - (5) The plan shall show all required parking, landscape buffers and all other requirements as set out in this chapter.
  - (6) The plan shall show all other structures on adjacent lots within ten feet of the appropriate property line.
  - (7) The plan shall show front, side, and rear elevations indicating the building height from finished grade.
- (b) After the county planner or his duly authorized representative has approved the site plan such approval shall be noted on the permit application.
  - (c) Before construction begins, the builder shall locate and clearly mark all lot corners.
  - (d) At the time the building inspector conducts the foundation inspection, he will measure from the property lines to the proposed outermost edge of the building to assure compliance with the approved site plan.

(Ord. of 12-2-02, § 70-91)

### **Sec. 70-92. Recreation areas.**

Every new residential subdivision, or new phase to an existing residential subdivision, shall have land, as herein described, dedicated to and accepted by the county to be used as parks, public open space, or recreation areas. All new single-family detached major subdivisions, shall have at least one recreation area, as herein described, for each 50 acres to be developed. Duplex subdivisions shall have at least one recreation area for each 25 acres to be developed. Single-family attached, townhouse, and apartment developments shall have at least one recreation area for every ten acres to be developed. Where there are future phases to subdivisions existing prior to the adoption of this chapter, the land area requirement shall not be interpreted to be retroactive so that it counts previously developed land, or land that has previously been given preliminary approval.

- (1) In developments that are to be developed in phases, this area shall be dedicated and accepted in conjunction with construction of the first phase of each section of the development containing the number of acres indicated above. For example, where a 200-acre tract is to be developed in eight 25-acre phases for a single-family detached development, phase 1 shall include the first recreation area, phase 3 shall include the second, and so forth.
- (2) For each development required to dedicate recreation land, six percent (6%) of the gross land area shall be provided for the recreational use, but in no case shall the area required exceed six acres. Not over 60 percent of the area reserved for recreation may be within the 100-year floodplain. Water surface area shall not count for more than 15 percent of the total land area requirement.

a. All such dedicated land shall have at least a 30-foot wide access to a public road located within the development the recreation land is to serve.

b. The land so provided shall be contiguous and of suitable shape and condition for construction of a playground and a picnic shelter. Suitable condition shall mean that initial clearing, grading and stabilization is completed prior to dedication and acceptance in accordance with all applicable local and state standards.

c. If the developer constructs at least a playground and a picnic shelter or other acceptable recreation facilities as approved by the county recreation department the total set-aside area required by this section can be reduced to the amount actually required for the construction and maintenance of the facilities, but not less than 50 percent of the gross recreational set-aside requirements outlined herein.

d. If the developer wishes, the recreation area may be included in the common area required in this chapter.

(3) The county may lease or sell land reserved for public parks to a qualified property owners association with a deed restriction that the land be used exclusively for open space or public recreational purposes in perpetuity. The organization of a qualified property owners association and its adequate financing for the discharge of its responsibilities shall be assumed through acceptable private deed covenants running with the land or other such documents as approved by the board of commissioners of the county. If the property owners association ceases to exist or stops maintaining the recreation site it shall revert to the ownership of the county.

(Ord. of 12-2-02, § 70-92; Ord. of 12-6-04(5))

### **Sec. 70-93. Flag lots.**

Flag lots shall be subject to the following regulations:

(1) Flag lots shall be measured from the mid-point between two opposite lot lines of the flag portion of the lot.

(2) When calculating lot area the pole portion shall not be counted.

(3) The minimum required lot area shall be the same as that required in the zoning district in which it is located.

(4) The access pole must be part of the flag lot and must be under the same ownership as the flag portion. An easement shall not be allowed as a means of access to a flag lot.

(5) Flag lots shall not be permitted whenever their effect would be to increase the number of driveways taking access to a collector or arterial road. Shared driveways shall be used to eliminate additional points of access. This criterion prohibits one of the most common abuses, the use of flag lots to avoid the developmental costs of roads. These sites are best developed without flag lots, even if the cost of the lots is thereby increased, since controlling access reduces congestion on major roads.

(6) Any land division that creates one or more lots, flag or otherwise, with or without common access shall be a minor subdivision and shall meet all

applicable regulations of the county subdivision ordinance.

- (7) All applicable regulations of chapter 38 of the Code must be met.
- (8) Flag lots have required building setbacks that must meet the requirements in the zoning district in which it is located. The pole portion shall not be considered when determining required building setbacks.
- (9) The access pole shall have a minimum width of 30 feet and shall not be greater than or equal to the minimum required width for building in the applicable zoning district. The purpose of this maximum width criterion is to prevent an abuse of flag lots in order to circumvent the county's length versus width requirement in the subdivision of lots. The maximum length of the pole of the lot shall be no more than five times the lot width of the flag portion.

(Ord. of 12-2-02, § 70-93)

### **Sec. 70-94. Land conservation.**

(a) In order to protect open green space and to help keep the cost of development of a residential subdivision down, this chapter establishes density neutral development requirements by establishing the total number of units a specified amount of developable land will yield. This total yield must not include undevelopable areas such as wetlands, storm water management ponds, etc. In order to do this, where the property is to be developed as a major subdivision, the following process must be followed:

- (1) Delineate all unbuildable lands such as wetlands, steep slopes, creeks, rivers, lakes, storm water retention areas, etc.
- (2) Then, out of the remaining buildable land, determine the number of dwelling units desired, provided that the maximum density allowed by this chapter is not exceeded.
- (3) Once subsection (2) is done, where the property is to be developed as a major subdivision, unless otherwise specified, a minimum of 25 percent of the remaining developable land shall be preserved. Where the property is to be developed with wells and septic tanks, a minimum of ten of the developable land shall be preserved. Preservation under this section shall be accomplished by doing the following. Delineate any potential conservation areas such as significant tree stands, fields, historic or cultural items, etc. These areas are to be preserved as a common area for the residents of the subdivision. A legal entity such as the original owner, a homeowner's association, or trust for maintenance and care must be provided to the county and filed with the subdivision files.
- (4) Once potential conservation areas noted in subsection (3) are delineated, the next step is to locate potential house sites on the remaining land.
- (5) Once potential house sites are located, streets should be aligned with the houses. Trails, separate from public roads, may also be used to connect the house sites to allow neighborhood connectivity.
- (6) The final step is to draw in lot lines. These cannot include unbuildable lands noted in subsection (1) or land delineated as conservation areas per subsection (3).

Unless the entire property consists of buildable lands, both of these must be done, provided that in no case shall less than 25 percent of the total tract be preserved.

- (b) Not required in R-1L, R-3L or when the governing body has stipulated a minimum

building lot size greater than allowed for the zoning density.

(Ord. of 12-2-02, § 70-94)

### **Sec. 70-95. Buffers in residential districts.**

(a) *Applicability.* This section shall apply to all new residential subdivision developments and additions thereto, where preliminary plat plans have not been approved prior to November 15, 2004. New phases that are being developed under a previously approved general development plan will have to meet this requirement for all phases that have not received preliminary plat approval prior to November 15, 2004.

(b) *Purpose and intent.* The following regulations are designed to promote the health, safety, order, aesthetics and general welfare by protecting incompatible uses of land, providing for a more attractive residential environment, to promote desirable living conditions and the sustained stability of neighborhoods, assuring adequate open space, and reducing noise, night lighting, odor, objectionable view, loss of privacy and other adverse impacts and nuisances through the use of residential buffers and landscaping.

(c) *Submittal of buffer plans.* A buffer plan shall be submitted to the planning and development department together with the preliminary plat. The buffer plan may be included on the preliminary plat. The following information shall be shown on the required plan:

- (1) Clearly state what level of service will be provided to the development and what level of service will be provided to adjacent residential developments.
- (2) Location and dimensions of areas to be buffer area.
- (3) Delineation of buffer area as restricted easement of private lots or dedicated to the county.

(d) *Level of service.* Buffer areas shall be required between all developments served by a different level of public utilities. The levels of service of public utilities that may be provided are:

- (1) Level 1--Individual well and septic system.
- (2) Level 2--County water system and individual septic system.
- (3) Level 3--County water system and county sewer system.

(e) *Buffer area required.* A minimum 20-foot natural or landscape-enhanced buffer shall be provided along side and rear property lines of development with differing levels of service. This buffer area may account for the land conservation area required by section 70-94 of this chapter. It is the responsibility of the developer to provide the required buffer area prior to final acceptance of the development by the county board of commissioners.

(f) *Acceptable buffer.*

- (1) *Natural buffer.* In cases where the natural vegetation is mature enough to provide a solid visual buffer there should be no disturbance within the buffer area. If the buffer area is included within a private lot, a restrictive easement shall be recorded with the lot indicating the area of easement, restricting use of the easement, and requiring the easement to remain undisturbed. The restrictive easement shall state that failure to leave the buffer undisturbed shall result in the property owner being required to bring the buffer area into compliance with the following subsection (2).

(2) *Landscape-enhanced buffer.* In cases where the natural vegetation is not adequate to provide a solid visual buffer between developments then landscaping shall be required to supplement the natural vegetation. This landscaped buffer area shall consist of trees and shrubs that are indigenous to the area and tend to grow well. All existing vegetation shall not be disturbed.

(g) *Installation and maintenance.* The owner and/or user of the property shall be responsible for installing all required buffers and maintaining them in a neat and orderly appearance. Necessary trimming and maintenance shall be the responsibility of the property owner or user of the property to maintain the health of all plants, to provide an aesthetically pleasing appearance, and to assure that all buffers actually serve the purpose for which they were intended. In cases of noncompliance, the planning director, or his designee, shall be empowered to take action as provided by law to ensure maintenance of all plants and buffer areas.

(h) *Miscellaneous requirements.*

(1) No artificial plants, trees, ground cover or other artificial vegetation may be installed.

(2) Areas reserved for storm water detention/retention are not permitted within buffer areas. However, exceptions may be granted by the planning director, or his designee, if, after consultation with the manager of development services, no reasonable alternatives are available or undue hardship is shown.

(i) *Modification of buffer requirements.* The planning director, or his designee, may approve minor variations to the buffer requirement due to unusual topographic restraints, sight restrictions, siting requirements, preservation of existing stands of native trees or similar conditions. The buffer plan shall be submitted and specify the modifications requested and present a justification for such modifications.

(Ord. of 12-6-04(6))

Secs. 70-96--70-125. Reserved.

<b>ARTICLE III. LOGGING OPERATIONS</b>
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**Sec. 50-66. Bond and information required.**

Prior to beginning a tree harvesting operation in the county, all loggers shall post a cash bond in the amount of \$1,000.00 with the clerk of the board of commissioners for each separate tract of land from which trees are to be removed. For each such tract, the logger shall also provide:

- (1) His name, address and telephone number.
- (2) The name, address and telephone number of the foreman on each tract.
- (3) The name, address and telephone number of the owner of each tract.
- (4) The approximate location of the site for access to county roads for each tract.
- (5) The anticipated date for commencement of removal of trees for each tract.
- (6) The anticipated date for completing the removal of trees for each tract.

(Ord. of 1-22-1998, § 1)

**Sec. 50-67. Installation of required culverts.**

Upon receipt of the information required by section 50-66, the county road superintendent shall inspect each such site to determine if a culvert is required to provide ingress and egress from the county road to the tract and, if so, the length and diameter of the culvert. Should a culvert be required, it shall be installed at the expense of the logger under the supervision of the road superintendent. Loggers shall have the right to remove any culvert installed by them upon completion of the tree removal.

(Ord. of 1-22-1998, § 2)

**Sec. 50-68. Road entrance.**

The entrance to a county road from a logging operation shall be of sufficient width so that the logging trucks entering the road will have to turn as little as possible on the pavement; and if the pavement is damaged by the trucks entering the highway, the cost of repairs shall be deducted from the cash bond; if the amount of the cash bond does not cover the repair, the remainder shall be paid by the logger.

(Ord. of 1-22-1998, § 3)

**Sec. 50-69. Requirements for removal of trees.**

During the removal of trees from a tract, the logger shall:

- (1) Conduct all loading of logs at a site off the county right-of-way and behind the established ditch line maintained by the county.
- (2) Refrain from loading or skidding any logs upon or across the county right-

of-way.

(3) Keep ditches clear of debris and residue so as to not interfere with proper drainage.

(4) Keep the road adjacent to the site clean and serviceable at all times to accommodate the passing public, emergency vehicles, school buses, mail carriers, etc.

(Ord. of 1-22-1998, § 4)

#### **Sec. 50-70. Mud to be kept off roadway.**

Loggers shall use necessary means to prevent trucks and other equipment from transporting mud from the site on the adjacent roadway to such an extent as creates a danger to the passing public.

(Ord. of 1-22-1998, § 5)

#### **Sec. 50-71. Notice of completion; inspection of site; disposition of bond.**

Loggers shall notify the clerk of the board of commissioners within three days of the completion of tree removal at each site, whereupon the road superintendent shall inspect the site. Should the road superintendent determine that the road and right-of-way is in as good condition as prior to the commencement of the tree removal, the bond shall be void and the logger's money returned. If corrective repairs are necessary, the reasonable cost of such repairs shall be deducted from the bond and the remainder, if any, returned to the logger.

(Ord. of 1-22-1998, § 6)

#### **Sec. 50-72. Stop work orders.**

The board of commissioners authorizes the road superintendent to order all logging operations to cease if it is determined that a logger is failing to comply with this article.

(Ord. of 1-22-1998, § 7)

#### **Sec. 50-73. Penalties.**

Prosecutions for violations of this article shall be upon citation as provided in O.C.G.A. § 15-10-63 or upon accusation of the county attorney or such other attorney as the board of commissioners shall designate. Violators of this article shall, upon conviction, be punished as provided in section 1-12.

(Ord. of 1-22-1998, § 8)