

## Chapter 5

### BUILDINGS; CONSTRUCTION AND RELATED ACTIVITIES

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## ARTICLE I. IN GENERAL

### Sec. 5-1. Codes adopted, amended.

It is the intent of Liberty County to enforce the latest edition of the following Georgia State Minimum Standard Codes, as adopted and amended by the Georgia Department of Community Affairs:

International Building Code

International Mechanical Code

International Gas Code

International Plumbing Code

National Electrical Code

International Fire Prevention Code

International Residential Code/CABO One and Two Family Dwelling Code

Georgia State Energy Code, (CABO Model Energy Code)

The following codes appendices, as adopted and amended by the Georgia Department of Community Affairs, are hereby adopted by reference as though they were copied herein fully:

International Building Code

International Mechanical Code

International Plumbing Code

International Fire Prevention Code

International Residential Code/CABO

One and Two Family Dwelling Code

The latest editions as adopted and amended by the Georgia Department of Community Affairs, are hereby adopted by reference as though they were copied herein fully. It is the intent of Liberty County to enforce the latest edition of the following Georgia State Minimum Standard Codes, as adopted and amended by the Georgia Department of Community Affairs:

International Property Maintenance Code

International Existing Building Code  
(Mo. of 1-8-02; Ord. No. 2005-005, 9-6-05)

**Sec. 5-2. Building permit fee schedule.**

(a) *Generally.* Permit fees for buildings and structures, other than signs and fences, and mobile homes, shall be as determined from total dollar value. Cost of construction or total dollar valuation shall be determined by the building official of Liberty County and shall be calculated from "building valuation data" as published by the Southern Building Code Congress International.

(b) *Starting work without a permit.* Where work is begun (for which a permit is required) prior to obtaining the required permit, the fees specified herein shall be doubled. The payment of such double fee shall not relieve any person, firm or corporation from fully complying with the requirements of the building code in the execution of the work nor from any other penalties as may be prescribed by the governing authority.

(c) *Payment of fees.* All fees shall be paid by the person to whom the permit is issued and shall be paid at the time of issuance. **The schedule of fees to be paid in connection with applications under this ordinance is adopted by reference and is on file in the offices of Liberty County Chief Official and the Liberty Consolidated Planning Commission.**

**FEE SCHEDULE**

**TABLE INSET:**

<del>Electrical permit.....</del>	<del>\$ 33.00</del>
<del>Reinspection fee.....</del>	<del>33.00</del>
<del>—</del>	
<del>Mobile home permit.....</del>	<del>256.00</del>
<del>Move permit.....</del>	<del>228.00</del>
<del>Demolition permit.....</del>	<del>46.00</del>
<del>Building permit—Single family.....</del>	<del>550.00</del>
<del>Building permit—Accessory.....</del>	<del>138.00</del>
<del>Building permit—Additions.....</del>	<del>196.00</del>
<del>Building permit—Church.....</del>	<del>695.00</del>
<del>Building permit—Swimming pool.....</del>	<del>139.00</del>
<del>Building permit—Dock.....</del>	<del>84.00</del>
<del>Building permit—Commercial.....</del>	<del>844.00</del>
<del>Building permit—Multifamily—</del>	<del>—</del>
<del>1—5 units.....</del>	<del>1,229.00</del>
<del>6—10 units.....</del>	<del>2,206.00</del>

<del>11-20 units.....</del>	<del>3,128.00</del>
<del>21 units or more.....</del>	<del>4,097.00</del>
<del>Building permit - Renovation.....</del>	<del>196.00</del>
<del>Building permit - Signs.....</del>	<del>98.00</del>
<del>Building permit - I-95 outdoors.....</del>	<del>190.00</del>
<del>Building permit - County buildings.....</del>	<del>640.00</del>
<del>Building permit - Industrial.....</del>	<del>990.00</del>
<del>—</del>	
<del>Tower - New.....</del>	<del>468.00</del>
<del>Tower - Co-location.....</del>	<del>284.00</del>
<del>Tower - New and conditional use.....</del>	<del>561.00</del>
<del>Tower - Co-location and conditional use.....</del>	<del>376.00</del>
<del>Tower review fee - New.....</del>	<del>1,000.00</del>
<del>Tower review fee - Co-locate.....</del>	<del>250.00</del>
<del>Tower review fee - New and conditional use.....</del>	<del>2,000.00</del>
<del>Tower review fee - Co-locate and conditional use.....</del>	<del>500.00</del>
<del>—</del>	
<del>Soil erosion/land disturbing, per acre.....</del>	<del>110.00</del>
<del>After 10 acres, per acre.....</del>	<del>25.00</del>
<del>Rezoning application.....</del>	<del>150.00</del>
<del>Home occupation.....</del>	<del>91.00</del>
<del>Conditional use.....</del>	<del>91.00</del>
<del>Variance.....</del>	<del>80.00</del>

~~(Mo. of 9-5-89; Mo. of 4-6-04; Mo. of 6-1-04)~~

~~**Editor's note:** A building permit fee schedule adopted by motion on Sept. 5, 1989, did not specifically amend this Code; hence, codification of the substantive provisions of such motion as § 5-2 was at the discretion of the editor.~~

**Sec. 5-3. Self-inspection of water and sewer lines by plumbers and utility contractors.**

The governing authority of Liberty County, pursuant to section 3 of Act. No. 1046 does hereby exempt Liberty County from the self-inspection provisions of said Act codified as O.C.G.A. § 8-2-26(d).

(Res. of 6-18-96)

**Editor's note:** A resolution adopted June 18, 1996 did not specifically amend the Code; hence, inclusion as § 5-3 was at the discretion of the editor.

#### **Sec. 5-4. House moving permit--Required.**

No person shall move or cause to be moved over any public road located in the county, any house loaded on a vehicle the total outside width of which vehicle (including load thereon) exceeds ninety-six (96) inches (not including mirrors and accessories attached thereto), or the height of which vehicle (including load thereon) exceeds thirteen (13) feet six (6) inches, or the length of which vehicle (including any trailers and including load thereon) exceeds fifty-five (55) feet, unless a permit for such movement has first been obtained from the ~~joint planning commission~~ chief building official as hereinafter provided.

(Res. of 12-7-71(1), § 1)

**Cross references:** Conformance to codes, App. A, § 3.22.

#### **Sec. 5-5. Same--Rules and regulations.**

The following rules and regulations shall apply to the movement of houses on vehicles that fall within the purview of section ~~5-26~~ 5-4:

- (1) A request for permit must be made to ~~joint planning commission~~ chief building official at least twenty-four (24) hours before movement is to be made.
- (2) Days and hours of movement shall be limited to Monday, Tuesday, Wednesday and Thursday from 9:00 a.m. to 3:00 p.m.
- (3) The following equipment shall be required before permit hereunder shall be issued:
  - (a) Tandem truck and at least one set of tandem dollies required in good condition.
  - (b) At least one extra skidder or wrecker in good condition and capable of moving the whole load in case of a breakdown.
- (4) Front and rear escorts required with flashing lights, also red flags at widest points and regulation wide-load signs on front and rear escorts.
- (5) Proof of liability insurance must be furnished to the ~~joint planning commission~~ chief building official before permit will be issued.
- (6) Each house mover shall be responsible for measuring such mover's own house and all obstacles on moving route that may be involved in the movement, and shall furnish this information to the ~~joint planning commission~~ chief building official when applying for a permit.
- (7) The exact route of movement through the county shall be furnished to the joint planning commission ~~joint planning commission~~ chief building official when applying for a permit.

(8) When house mover applies for permit, such person shall guarantee to the joint planning commission that such person has run the moving route and has made arrangements to pull off the road often enough to keep the flow of traffic moving and that the load will not be stuck on or in between obstacles so as to cause delay in the flow of traffic.

(9) No permit shall be issued to move a house with bricks on it or to move a house the overall height of which, measuring from ground level to top of house (including height of vehicle on which house is loaded), exceeds eighteen (18) feet. A permit to move any house the overall height of which (as herein described) exceeds eighteen (18) feet shall only be issued with the prior written approval of all utility companies (including but not limited to electric, gas and telephone utilities).

(10) In the event that the route of movement of any house will cause same to come in contact with any utility lines (including, but not limited to electric lines, gas lines and telephone lines), the house mover shall be required to coordinate the movement of said house with the owners of such utility lines.

(11) All mail boxes, highway signs and other objects which will be in conflict with the house moving operations shall be removed immediately in front of the operation and re-erected immediately after movement, equal or better than prior to movement. Coordination with property owners must be made before any private property is so removed.

(12) These regulations constitute notice of that which one must take into consideration before the purchase of buildings to be moved over any public roads located in the county.

(13) In order to assure compliance with rule number (11) above, as well as other rules and regulations herein contained, the county superintendent of roads or a county employee designated by such superintendent will accompany each movement.

(14) The cost of each permit shall be two hundred twenty eight dollars (\$228.00).  
(Res. of 12-7-71(1), § 2)

#### **Sec. 5-6. Same--Definitions.**

For the purpose of sections 5-4 and 5-5, the following definitions shall apply:

(1) *Vehicle* is defined as any contrivance used for transportation of property on public roads.

(2) *House* is defined as any sort of building or structure or part thereof, whether used for human habitation or not.

(Res. of 12-7-71(1), § 3)

#### **Secs. 5-7--5-19. Reserved.**

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT\*

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**\*Editor's note:** Ord. No. 2005-004, adopted Nov. 1, 2005, is being treated as superseding Res. of 4-2-85 and Ord. of 12-3-85, from which §§ 5-20--5-25 derived. Sections 5-26--5-28, pertaining to house moving permit, have been retained and renumbered as §§ 5-4--5-6, at the discretion of the editor.

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### Sec. 5-20. Purpose and scope.

(a) *Purpose.* The purpose of this section is to provide for the administration and enforcement of the Georgia State Minimum Standard Codes for Construction as adopted and amended by the Georgia Department of Community Affairs. Hereinafter, the State Minimum Standard Codes for Construction shall be referred to as "the construction codes".

(b) *Code remedial.*

(1) *General.* These construction codes are hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof - which are public safety, health, and general welfare -through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use and occupancy of buildings, structures, or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems.

(2) *Quality control.* Quality control of materials and workmanship is not within the purview of the construction codes except as it relates to the purposes stated therein.

(3) *Permitting and inspection.* The inspection or permitting of any building, system or plan, under the requirements of construction codes shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy Liberty County, nor any employee thereof, shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

(c) *Scope.*

(1) *Applicability.*

a. *General.* Where, in any specific case, different sections of these construction codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

b. *Building.* The provisions of the International Building Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every building or structure or any appurtenances connected or attached to such buildings or structures, except in one-family and two-family dwellings.

c. *Electrical.* The provisions of the National Electrical Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

d. *Gas.* The provisions of the International Gas Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of consumer's gas piping, gas appliances and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories, except in one-family and two-family dwellings.

e. *Mechanical.* The provisions of the International Mechanical Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy related systems. Except in one-family and two-family dwellings.

f. *Plumbing.* The provisions of the International Plumbing Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to every plumbing installation, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances, and when connected to a water or sewerage system.

g. *Fire prevention.* The provisions of the International Fire Prevention Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, of every building or structure or any appurtenances connected or attached to such buildings or structures.

h. *Energy*. The provisions of the International Residential Code/CABO Model Energy Code, as adopted and amended by the Georgia Department of Community Affairs, shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water heating and illumination systems and equipment that will enable the effective use of energy in new building construction.

i. *CABO one-family and two-family dwelling*. The provisions of the CABO One and Two Family Dwelling Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, of every one-family or two-family dwelling or any appurtenances connected or attached to such buildings or structures.

j. *Unsafe building abatement code*. Reserved.

k. *Property maintenance*. The provisions of the Property Maintenance Code provide for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures within the governing authority having jurisdiction.

l. *Existing buildings*. The provisions of the Existing Building Code provide for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings within the governing authority having jurisdiction.

(2) *Federal and state authority*. The provisions of the construction codes shall not be held to deprive any federal or state agency, or any applicable governing authority having jurisdiction, of any power or authority which it had on the effective date of the adoption of the construction codes or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

(3) *Appendices*. Appendices referenced in the text of the construction codes shall be considered an integral part of the construction codes.

(4) *Referenced standards*. Standards referenced in the text of the construction codes shall be considered an integral part of the construction codes. If specific portions of a standard are denoted by code text, only those portions of the standard shall be enforced. Where construction code provisions conflict with a standard, the construction code provisions shall be enforced. Permissive and advisory provisions in a standard shall not be construed as mandatory.

(5) *Maintenance.* All buildings, structures, electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards, which are required by the construction codes when constructed, altered, or repaired, shall be maintained in good working order. The owner, or his/her designated agent, shall be responsible for the maintenance of buildings, structures, electrical, gas, mechanical and plumbing systems.

(d) *Building department.* There is hereby established a department to be called the building and licensing department and the person in charge shall be known as the chief building official. The governing body shall establish the qualifications for the chief building official and other code enforcement personnel.

(1) *Restrictions on employees.* An officer or employee connected with the department, except one whose only connection is as a member of the board established by section 5-24(a), shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system, or in the making of plans or of specifications thereof, unless he is the owner of such. This officer or employee shall not engage in any other work, which is inconsistent with his duties or conflict with the interests of the department.

(2) *Records.* The chief building official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection pursuant to the provisions of the Georgia Open Records Act.

(3) *Liability.* Any officer or employee, or member of the board of adjustments and appeals, charged with the enforcement of the construction codes, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself/herself personally liable, and is hereby relieved from all personal liability, for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his/her duties. Any suit brought against any officer or employee or member because of such act performed by him/her in the enforcement of any provision of the construction codes shall be defended by the governing jurisdiction until the final termination of the proceedings.

(4) *Reports.* The chief building official shall submit annually a report covering the work of the building department during the preceding year. He/she may incorporate in said report a summary of the decisions of the board of adjustments and appeals during said year.

(e) *Existing buildings.*

(1) *General.* Alterations, repairs or rehabilitation work may be made to any existing structure, building, electrical, gas, mechanical or plumbing system without requiring the building, structure, plumbing, electrical, mechanical or gas system to comply with all the requirements of the construction codes provided that the alteration, repair or rehabilitation work conforms to the

requirements of the construction codes for new construction. The chief building official shall determine the extent to which the existing system shall be made to conform to the requirements of the construction codes for new construction.

(2) *Change of occupancy.* If the occupancy classification of any existing building or structure is changed, the building, electrical, gas, mechanical and plumbing systems shall be made to conform to the intent of the construction codes as required by the chief building official.

(f) *Special historic buildings.* The provisions of the construction codes relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the chief building official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts.

(Ord. No. 2005-004, §§ 1.1--1.6, 11-1-05)

## **Sec. 5-21. Powers and duties of the chief building official.**

(a) *General.* The chief building official is hereby authorized and directed to enforce the provisions of the construction codes. The chief building official is further authorized to render interpretations of the construction codes, which are consistent with its intent and purpose.

(b) *Right of entry.*

(1) Whenever necessary to make an inspection to enforce any of the provisions of the construction codes, or whenever the chief building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the chief building official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the chief building official by these construction codes, provided that if such building or premises is occupied, he/she shall first present proper credentials and request entry. If such building, structure, or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the chief building official shall have recourse to every remedy provided by law to secure entry.

(2) When the chief building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the chief

building official for the purpose of inspection and examination pursuant to the construction codes.

(c) *Stop work orders.* Upon notice from the chief building official or his/her authorized representative, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of the construction codes or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the chief building official shall not be required to give a written notice prior to stopping the work.

(d) *Revocation of permits.*

(1) *Misrepresentation of application.* The chief building official may revoke a permit or approval, issued under the provisions of the construction codes, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(2) *Violation of code provisions.* The chief building official may revoke a permit upon determination by the chief building official that the construction erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of the construction codes.

(e) *Unsafe buildings or systems.* Reserved.

(f) *Requirements not covered by code.* Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by or the construction codes, shall be determined by the chief building official.

(g) *Alternate materials and methods.* The provisions of the construction codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the chief building official. The chief building official shall approve any such alternate, provided the chief building official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the construction codes, in quality, strength, effectiveness, fire resistance, durability and safety. The chief building official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

(Ord. No. 2005-004, §§ 2.1--2.7, 11-1-05)

## **Sec. 5-22. Permits.**

### *(a) Permit application.*

(1) *When required.* Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by the construction codes, or to cause any such work to be done, shall first make application to the chief building official and obtain the required permit for the work.

*Exception:* Permits shall not be required for the following mechanical work:

1. Any portable heating appliance;
2. Any portable ventilation equipment;
3. Any portable cooling unit;
4. Any steam, hot or chilled water piping within any heating or cooling equipment regulated by the construction codes;
5. Replacements of any part which does not alter its approval or make it unsafe;
6. Any portable evaporative cooler;
7. Any self-contained refrigeration system containing ten (10) pounds (4.54 kg.) or less of refrigerant and actuated by motors of one (1) horsepower (746 W) or less.

(2) *Work authorized.* A building, electrical, gas, mechanical or plumbing permit shall carry with it the right to construct or install the work, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit. Where these are not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.

(3) *Minor repairs.* Ordinary minor repairs may be made with the approval of the chief building official without a permit, provided that such repairs shall not violate any of the provisions of the construction codes.

(4) *Information required.* Each application for a permit, with the required fee, shall be filed with the chief building official on a form furnished for that purpose, and shall contain a general description of the proposed work and its location. The application shall be signed by the owner, or his/her authorized agent. The building permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the chief building official.

(5) *Time limitations.* An application for a permit for any proposed work shall be deemed to have been abandoned six (6) months after the date of filing for the permit, unless before then a permit has been issued. One (1) or more extensions of time for periods of not more than ninety (90) days each may be allowed by the chief building official for the application, provided the extension is requested in writing and justifiable cause is demonstrated.

(b) *Drawings and specifications.*

(1) *Requirements.* When required by the chief building official, two (2) or more copies of specifications and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the construction codes. Such information shall be specific, and the construction codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.

(2) *Additional data.* The chief building official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the chief building official to be prepared by an architect or engineer shall be affixed with their official seal.

(3) *Design professional.* The design professional shall be an architect or engineer legally registered under the laws of this state regulating the practice of architecture or engineering and shall affix his official seal to said drawings, specifications and accompanying data, for the following:

- a. All Group A, E, and I occupancies.
- b. Buildings and structures three (3) stories or more high.
- c. Buildings and structures five thousand (5,000) square feet (465 m<sup>2</sup>) or more in area.

For all other buildings and structures, the submittal shall bear the certification of the applicant that some specific state law exception permits its preparation by a person not so registered.

*Exception:* Single-family dwellings, regardless of size, shall require neither a registered architect nor engineer, nor a certification that an architect or engineer is not required, unless required by the chief building official.

(4) *Structural and fire resistance integrity.* Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistance wall, floor or

partition will be made for electrical, gas, mechanical, plumbing, signal and communication conduits, pipes and systems and also indicate in sufficient detail how the fire integrity will be maintained where required fire resistance floors intersect the exterior walls.

(5) *Site drawings.* Drawings shall show the location of the proposed building or structure and of every existing building or structure on the site or lot. The chief building official may require a boundary line survey prepared by a qualified surveyor.

(6) *Hazardous occupancies.* The chief building official may require the following:

a. *General site plan.* A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.

b. *Building floor plan.* A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class or the hazardous materials stored.

c. *Examination of documents.*

(1) *Plan review.* The chief building official shall examine or cause to be examined each application for a permit and the accompanying documents, consisting of drawings, specifications, computations, and additional data, and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the construction codes and all other pertinent laws or ordinances.

(2) *Affidavits.* The chief building official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the construction codes. For buildings and structures the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and if accompanied by drawings showing the structural design, and by a statement that the

plans and design conform to the requirements of the construction codes as to strength, stresses, strains, loads and stability. The chief building official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the chief building official, copies of inspection reports as inspections are performed and upon completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the construction codes. Where the chief building official relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of the construction codes and other pertinent laws or ordinances.

(d) *Issuing permits.*

1) *Action on permits.* The chief building official shall act upon an application for a permit without unreasonable or unnecessary delay. If the chief building official is satisfied that the work described in an application for a permit and the contract documents filed therewith conform to the requirements of the construction codes and other pertinent laws and ordinances, he/she shall issue a permit to the applicant.

(2) *Refusal to issue permit.* If the application for a permit and the accompanying contract documents describing the work do not conform to the requirements of the construction codes or other pertinent laws or ordinances, **or if taxes on the subject property are delinquent**, the chief building official shall not issue a permit, but shall return the contract documents to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason for refusal.

(3) *Special foundation permit.* When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the chief building official may, at his/her discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at their own risk and without assurance that a permit for the remainder of the work will be granted nor that corrections will not be required in order to meet provisions of the construction codes.

(4) *Public right-of-way.* A permit shall not be given by the chief building official for the construction of any building, or for the alteration of any building where said building is to be changed and such change will affect the exterior walls, bays,

balconies, or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application at the office of the director of road department for the lines of the public street on which he/she proposes to build, erect or locate said building; and it shall be the duty of the chief building official to see that the street lines are not encroached upon. ~~except as provided for in Chapter 22 of the Standard Building Code.~~

(e) *Contractor responsibilities.* It shall be the duty of every contractor who shall make contracts for the installation or repairs of building, structure, electrical, gas, mechanical, sprinkler or plumbing systems, for which a permit is required, to comply with state or local rules and regulations concerning licensing which the applicable governing authority may have adopted. In such case that the state requires a contractor to have obtained a state license before they are permitted to perform work, the contractor shall supply the local government with their license number before receiving a permit for work to be performed.

(f) *Conditions of the permit.*

(1) *Permit intent.* A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter, or set aside any of the provisions of the construction codes, nor shall issuance of a permit prevent the chief building official from thereafter requiring a correction of errors in plans, construction, or violations of the construction codes. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six (6) months after the time the work is commenced. One (1) or more extensions of time, for periods not more than ninety (90) days each, may be allowed for the permit. The extension shall be requested in writing and justifiable cause demonstrated. Extensions shall be in writing by the chief building official.

(2) *Permit issued on basis of an affidavit.* Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the chief building official, are hazardous or complex, the chief building official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity with the permit, provide copies of inspection reports as inspections are performed, and upon completion

make and file with the chief building official written affidavit that the work has been done in conformity with the reviewed plans and with the structural provisions of the construction codes. In the event such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed and approved by the chief building official.

(3) *Plans.* When the chief building official issues a permit, he/she shall enforce, in writing or by stamp, one (1) set of plans "Plans Approved." One (1) set of drawings so reviewed shall be retained by the chief building official and the other set shall be returned to the applicant. The permitted drawings shall be kept at the site of work and shall be open to inspection by the chief building official or his/her authorized representative.

(g) *Fees.*

(1) *Prescribed fees.* A permit shall not be issued until the fees prescribed by the governing body have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, electrical, plumbing, mechanical, or gas systems, etc. has been paid.

(2) *Work commencing before permit issuance.* Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing, etc. system before obtaining the necessary permits, shall be subject to a penalty of one hundred (100) percent of the usual permit fee in addition to the required permit fees.

(3) *Accounting.* The chief building official shall keep or cause to be kept a permanent and accurate accounting of all permit fees and other money collected, the names of all persons upon whose account the same was paid, along with the date and amount thereof.

(4) *Schedule of permit fees.* On all buildings, structures, electrical, plumbing, mechanical, and gas systems or alterations requiring a permit, a fee for each permit shall be paid as required at the time of filing application, in accordance with the fee schedules as set by the governing body.

(5) *Building permit valuations.* If, in the opinion of the chief building official, the valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appears to be underestimated on the application, permit shall be denied, unless the applicant can show detailed

estimates to meet the approval of the chief building official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor.

(h) *Inspections.*

(1) *Existing building inspections.* Before issuing a permit the chief building official may examine or cause to be examined any building, electrical, gas, mechanical or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. He/she shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems, from time to time, during and upon completion of the work for which a permit was issued. He/she shall make a record of every such examination and inspection and of all violations of the construction codes.

(2) *Manufacturers and fabricators.* When deemed necessary by the chief building official he/she shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the construction codes.

(3) *Inspection service.* The chief building official may make, or cause to be made, the inspections required by subsection (6), hereinbelow. He/she may accept reports of inspectors of recognized inspection services provided that after investigation he/she is satisfied as to their qualifications and reliability. A certificate called for by any provision of the construction codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.

(4) *Inspections prior to issuance of certificate of occupancy or completion.* The chief building official shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical or plumbing system upon completion, prior to the issuance of the certificate of occupancy or completion.

(5) *Posting of permit.* Work requiring a permit shall not commence until the permit holder or his/her agent posts the permit card in a conspicuous place on the premises. The permit shall be protected from the weather and located in such position as to permit the chief building official or representative to conveniently make the required entries thereon. This permit card shall be maintained in such

position by the permit holder until the certificate of occupancy or completion is issued by the chief building official.

(6) *Required inspections.* The chief building official upon notification from the permit holder or his agent shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or his agent of any violations which must be corrected in order to comply with the technical code:

a. *Building.*

1. Setbacks indicating property lines.
2. In flood zones, flood certificates required prior to slab placement or with pier construction prior to horizontal framing.
3. Foundation inspection: To be made after trenches are excavated and forms erected, including reinforcing steel placement, anchor bolts/straps, termite treatment.
4. Frame inspection: To be made after the roof, all framing, fireblocking and bracing are in place, all concealing wiring, all pipes, chimneys, ducts and vents are complete. Hurricane straps/ties installed.
5. Final inspection: To be made after the building is completed and ready for occupancy.

b. *Electrical.*

1. Underground inspection: To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.
2. Rough-in inspection: To be made after the roof, framing, fireblocking and bracing is in place and prior to the installation of wall or ceiling membranes.
3. Final inspection: To be made after the building is complete, all required electrical fixtures are in place and properly connected

or protected, and the structure is ready for occupancy.

*c. Plumbing.*

1. Underground inspection: To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.

2. Rough-in inspection: To be made after the roof, framing, fireblocking and bracing is in place and all soil, waste and vent piping is complete, and prior to this installation of wall or ceiling membranes.

3. Final inspection: To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

4. Note: See ~~Section 311 of the Standard~~ International Plumbing Code for required tests.

*d. Mechanical.*

1. Underground inspection: To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.

2. Rough-in inspection: To be made after the roof, framing, fireblocking and bracing are in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.

3. Final inspection: To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

*e. Gas.*

1. Rough piping inspection: To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.

2. Final piping inspection: To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.

3. Final inspection: To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes in order to insure compliance with all the requirements of the construction codes and to assure that the installation and construction of the gas system is in accordance with reviewed plans.

f. *Energy.*

1. Foundation inspection: To be made before slab concrete is poured in place. To verify that perimeter insulation has been installed correctly on any slab on grade foundations, if required.

2. Frame inspection: To be made before exterior wall insulation is concealed by wall board to check installation of exterior walls insulation and to inspect that all holes and cracks through the structure envelope have been sealed in an appropriate manner as to restrict air passage.

3. Final inspection: To be made after the building is completed and ready for occupancy. To verify installation and R-value of ceiling and floor insulation. To verify correct SEER ratings on appliances.

(7) *Written release.* Work shall not be done on any part of a building, structure, electrical, gas, mechanical or plumbing system beyond the point indicated in each successive inspection without first obtaining a written release from the chief building official. Such written release shall be given only after an inspection has been made of each successive step in the construction or installation as indicated by each of the foregoing three (3) inspections.

(8) *Reinforcing steel, structural frames, insulation, plumbing, mechanical, or electrical systems.* Reinforcing steel, structural frame, insulation, plumbing, work of any part of any building or structure shall not be covered or concealed without

first obtaining a release from the chief building official or his/her authorized representative.

(9) *Plaster fire protection.* In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the chief building official after all lathing and backing is in place. Plaster shall not be applied until the release from the chief building official has been received.

(i) *Certificates.*

(1) *Certificate of occupancy.*

a. *Building occupancy.* A new building shall not be occupied or a change made in the occupancy, nature or use of a building or part of a building until after the chief building official has issued a certificate of occupancy. Said certificate shall not be issued until all required electrical, gas, mechanical, plumbing and fire protection systems have been inspected for compliance with the construction codes and other applicable laws and ordinances and released by the chief building official.

b. *Issuing certificate of occupancy.* Upon satisfactory completion of **all required site improvements**, and construction of a building or structure and installation of electrical, gas, mechanical and plumbing systems in accordance with the construction codes, reviewed plans and specifications, and after the final inspection, the chief building official shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of the construction codes.

c. *Temporary/partial occupancy.* A temporary/partial certificate of occupancy may be issued for a portion of a building, which may safely be occupied prior to final completion of the building.

d. *Existing building certificate of occupancy.* A certificate of occupancy for any existing building may be obtained by applying to the chief building official and supplying the information and data necessary to determine compliance with the construction codes for the occupancy intended. Where necessary, in the opinion of the chief building official, two (2) sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of the construction codes and other applicable laws and ordinances for such occupancy, a Certificate of Occupancy shall be issued.

(2) *Certificate of completion.* Upon satisfactory completion of a building, structure, electrical, gas, mechanical or plumbing system, a certificate of completion may be issued. This certificate is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This certificate does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a certificate of occupancy.

(3) *Service utilities.*

a. *Connection of service utilities.* No person shall make connections from a utility, source of energy, fuel or power to any building or system which is regulated by the construction codes for which a permit is required, until released by the chief building official and a certificate of occupancy or completion is issued.

b. *Temporary connection.* The chief building official may authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary certificate of occupancy.

c. *Authority to disconnect service utilities.* The chief building official shall have the power to authorized disconnection of utility service to the building, structure or system regulated by the construction codes, in case of emergency where necessary to eliminate an immediate hazard to life or property. The chief building official shall notify the serving utility, and whenever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

(j) *Posting floor loads.*

(1) *Occupancy.* An existing or new building shall not be occupied for any purpose, which will cause the floors thereof to be loaded beyond their safe capacity. The chief building official may permit occupancy of a building for mercantile, commercial or industrial purposes, by a specific business, when he/she is satisfied that such capacity will not thereby be exceeded.

(2) *Storage and factory-industrial occupancies.* It shall be the responsibility of the owner, agent, proprietor or occupant of Group S and Group F occupancies, or any occupancy

where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square foot uniformly distributed. The computations and affidavit shall be filed as a permanent record of the building department.

(3) *Signs required.* In every building or part of a building used for storage, industrial or hazardous purposes, the safe floor loads, as reviewed by the chief building official on the plan, shall be marked on plates or approved design which shall be supplied and securely affixed by the owner of the building in a conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, removed or defaced, shall be replaced by the owner of the building.

(Ord. No. 2005-004, §§ 3.1--3.16, 11-1-05)

### **Sec. 5-23. Tests.**

The chief building official may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner, or his/her agent, by an approved testing laboratory or other approved agency.

(Ord. No. 2005-004, § 4, 11-1-05)

### **Sec. 5-24. Construction board of adjustment and appeals.**

(a) *Appointment.* There is hereby established a Board to be called the construction board of adjustment and appeals, which shall consist of seven (7) members and two (2) alternates. The governing body shall appoint the board.

(b) *Membership and terms.*

(1) *Membership.* The construction board of adjustment and appeals should consist of seven (7) members. Such board members should be composed of individuals serving on the board of commissioners with knowledge and experience in the construction codes, such as design professionals, contractors or building industry representatives. In addition to the regular members, there should be two (2) alternate members, one (1) member at-large from the building industry and one (1) member at-large from the public. A board member shall not act in a case in which he has a personal or financial interest.

(2) *Terms.* The terms of office of the board member shall be staggered so no more than one-third ( 1/3) of the board is appointed or replaced in any

twelve-month period. The two (2) alternates, if appointed, shall serve one-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the board shall, at the discretion of the applicable governing body, render any such member subject to immediate removal from office.

(3) *Quorum and voting.* A simple majority of the board shall constitute a quorum. In varying any provision of the construction codes, the affirmative votes of the majority present shall be required. In modifying a decision of the chief building official, not less than two (2) affirmative votes shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.

(4) *Secretary of board.* The chief building official shall act as secretary of the board and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member and any failure of a member to vote.

(c) *Powers.* The construction board of adjustments and appeals shall have the power, as further defined in subsection (d), to hear the appeals of decisions and interpretations of the chief building official and consider variances of the construction codes.

(d) *Appeals.*

(1) *Decision of the chief building official.* The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the chief building official to the construction board of adjustment and appeals whenever any one (1) of the following conditions are claimed to exist:

a. The chief building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.

b. The provisions of the construction codes do not apply to this specific case.

c. That an equally good or more desirable form of installation can be employed in any specific case.

d. The true intent and meaning of the construction codes or any of the regulations thereunder have been misconstrued or incorrectly interpreted.

(2) *Variances.*

a. *Determination of variances.* The construction board of adjustments and appeals, when so appealed to and after a hearing,

may vary the application of any provision of the construction codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the construction codes or public interest, and also finds all of the following:

1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
2. That the special conditions and circumstances do not result from the action or inaction of the applicant.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the construction codes to other buildings, structures or service system.
4. That the variance granted is the minimum variance that will made possible the reasonable use of the building, structure or service system.
5. That the grant of the variance will be in harmony with the general intent and purpose of the construction codes and will not be detrimental to the public health, safety and general welfare.

b. *Condition of variances.* In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with the construction codes. Violation of the conditions of a variance shall be deemed a violation of the construction codes.

(3) *Notice of appeal.* Notice of appeal shall be in writing and filed within thirty (30) calendar days after the chief building official renders the decision. Appeals shall be in a form acceptable to the chief building official.

(4) *Unsafe or dangerous buildings or service systems.* In the case of a building, structure, or service system, which, in the opinion of the chief building official, is unsafe, unsanitary or dangerous, the chief building official may, in his/her order, limit the time for such notice of appeals to a shorter period.

(e) *Rules and regulations.* The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of these procedures. The board shall meet on call of the chairman. The board shall meet within thirty (30) calendar days after notice of appeal has been received.

(f) *Decisions.* The construction board of adjustment and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the chief building official or varies the application of any provision of the construction codes, the chief building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the chief building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the chief building official for two (2) weeks after filing. Every decision of the board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

(Ord. No. 2005-004, §§ 5.1--5.5, 11-1-05)

### **Sec. 5-25. Violations and penalties.**

Any person, firm, corporation or agent who shall violate a provision of the construction codes, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the construction codes is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws.

(Ord. No. 2005-004, § 7, 11-1-05)

### **Secs. 5-26--5-39. Reserved.**

## **ARTICLE III. FLOOD DAMAGE PREVENTION\***

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**\*Editor's note:** Arts. 1--5, of Ord. No. 2008-002, adopted Sept. 2, 2008, have been treated as superseding the provisions of Art. III, §§ 5-40--5-52, 5-56--5-59, and 5-61--5-65, to read as herein set out. Former Art. III pertained to similar subject matter and derived from an ordinance adopted Oct. 27, 1983; and an ordinance adopted March 3, 1987.

**Cross references:** Drainage control, Ch. 6.5.

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## DIVISION 1. STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE AND OBJECTIVES

### **Sec. 5-40. Statutory authorization.**

Article IX, Section II of the Constitution of the State of Georgia and O.C.G.A. section 36-1-20(a), have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Liberty County Board of Commissioners does ordain as follows. (Ord. No. 2008-002, Art. 1, § A, 9-2-08)

### **Sec. 5-41. Findings of fact.**

(1) The flood hazard areas of Liberty County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(Ord. No. 2008-002, Art. 1, § B, 9-2-08)

### **Sec. 5-42. Statement of purpose.**

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

(3) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(4) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and

(5) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

(Ord. No. 2008-002, Art. 1, § C, 9-2-08)

## EDITORS NOTE

### **Sec. 5-43. Objectives.**

The objectives of this article are:

- (1) To protect human life and health;
- (2) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) To help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas;
- (4) To minimize expenditure of public money for costly flood control projects;
- (5) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) To minimize prolonged business interruptions; and
- (7) To insure that potential homebuyers are notified that property is in a flood area.

(Ord. No. 2008-002, Art. 1, § D, 9-2-08)

### **Sec. 5-44. Definitions.**

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

*Accessory structure* means a structure having minimal value and used for parking, storage and other nonhabitable uses, such as garages, carports, storage sheds, pole barns, hay sheds and the like.

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall shall be considered "new construction".

*Appeal* means a request for a review of the administrator's interpretation of any provision of this article.

*Area of shallow flooding* means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one (1) to three (3) feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

*Areas of special flood hazard* is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in division 2, section 5-46.

*Base flood* means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* The elevation shown on the flood insurance rate map for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE, that indicates the water surface elevation resulting from a flood that has a one (1) percent chance of equaling or exceeding that level in any given year.

*Basement* means that portion of a building having its floor subgrade (below ground level) on all sides.

*Building* means any structure built for support, shelter, or enclosure for any occupancy or storage.

*Critical facility* means any public or private facility which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Critical facilities include:

- (a) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
- (b) Hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
- (c) Emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and
- (d) Generating plants, and other principal points of utility lines.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and permanent storage of materials or equipment.

*Elevated building* means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

*Existing construction* means for the purposes of determining rates, structures for which the "start of construction" commenced before December 1, 1983 (the effective date of the initial FIRM for this community).

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before October 27, 1983 (the effective date of the first floodplain management regulations adopted by this community).

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

*Flood insurance rate map (FIRM)* means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

*Flood insurance study* means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

*Floodplain* means any land area susceptible to flooding.

*Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated

for a selected size, flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

*Highest adjacent grade* means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

*Historic structure* means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in states without approved programs.

*Lowest floor* means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Code.

*Manufactured home* means a building, transportable in one (1) or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

*Mean sea level* means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with National Geodetic Vertical Datum (NGVD).

*National Geodetic Vertical Datum (NGVD)* as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

*New construction* means, for floodplain management purposes, any structure for which the "start of construction" commenced after October 27, 1983 (the effective date of the first floodplain management ordinance adopted by the county as a basis for community participation in the NFIP), and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after October 27, 1983 (the effective date of the first floodplain management regulations adopted by this community).

*North American Vertical Datum (NAVD)* as corrected in 1988, is a vertical control used as a reference for establishing varying elevations within the floodplain.

*Recreational vehicle* means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Start of construction* means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (Note: accessory structures are not exempt from any ordinance requirements.) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during a five-year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. Note: The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement; or in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred substantial damage, regardless of the actual amount of repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure.

*Substantially improved existing manufactured home parks or subdivisions* is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*Variance* is a grant of relief from the requirements of this article, which permits construction in a manner otherwise prohibited by this article.

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

(Ord. No. 2008-002, Art. 1, § E, 9-2-08)

## DIVISION 2. GENERAL PROVISIONS

### **Sec. 5-45. Lands to which this article applies.**

This article shall apply to all areas of special flood hazard within the jurisdiction of Liberty County, Georgia.

(Ord. No. 2008-002, Art. 2, § A, 9-2-08)

**Sec. 5-46. Basis for areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its flood insurance study (FIS), dated December 1, 1983, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this article. For those land areas acquired by a municipality through annexation, the current effective FIS, supporting data and any revision thereto, for Liberty County, dated October 27, 1983, are hereby adopted by reference.

Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

The repository for public inspection of the flood insurance study (FIS), accompanying maps and other supporting data is located: Liberty County Courthouse Annex building, Room 105, 112 N. Main Street, Hinesville, Georgia.  
(Ord. No. 2008-002, Art. 2, § B, 9-2-08)

**Sec. 5-47. Establishment of development permit.**

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.  
(Ord. No. 2008-002, Art. 2, § C, 9-2-08)

**Sec. 5-48. Compliance.**

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations.  
(Ord. No. 2008-002, Art. 2, § D, 9-2-08)

**Sec. 5-49. Abrogation and greater restrictions.**

This article is not intended to repeal, abrogate, or impair any existing article, easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.  
(Ord. No. 2008-002, Art. 2, § E, 9-2-08)

**Sec. 5-50. Interpretation.**

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2008-002, Art. 2, § F, 9-2-08)

**Sec. 5-51. Warning and disclaimer of liability.**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes.

This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Liberty County or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 2008-002, Art. 2, § G, 9-2-08)

**Sec. 5-52. Penalties for violation.**

Failure to comply with the provisions of this article or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than sixty (60) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Liberty County from taking such other lawful actions as is necessary to prevent or remedy any violation.

(Ord. No. 2008-002, Art. 2, § H, 9-2-08)

**Secs. 5-53--5-55. Reserved.**

DIVISION 3. ADMINISTRATION

**Sec. 5-56. Designation of article administrator.**

The Liberty County Chief Building Official **or the zoning official, as appropriate** is hereby appointed to administer and implement the provisions of this article.

(Ord. No. 2008-002, Art. 3, § A, 9-2-08)

**Sec. 5-57. Permit procedures.**

Application for a development permit shall be made to the Liberty County Building and Licensing Department **or the zoning official, as appropriate** on forms furnished by the

the same prior to any development activities and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(1) *Application stage:*

- (a) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
- (c) Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of subsections 5-62(2) and 5-64(2);
- (d) Design certification from a registered professional engineer or architect that any new construction or substantial improvement placed in a coastal high hazard area will meet the criteria of subsection 5-66(5);
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development; and

(2) *Construction stage:* For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. Where a structure is subject to the provisions applicable to coastal high hazards areas, after placement of the lowest horizontal structural members. Any regulatory floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The Liberty County Chief Building Official or the zoning official, as appropriate shall review the above-referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop work order for the project.

(Ord. No. 2008-002, Art. 3, § B, 9-2-08)

## **Sec. 5-58. Duties and responsibilities of the administrator.**

Duties of the Liberty County Chief Building Official shall include, but shall not be limited to:

- (1) Review all development permits to assure that the permit requirements of this article have been satisfied;
- (2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; and require that copies of such permits be provided and maintained on file.
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (4) When base flood elevation data or floodway data have not been provided in accordance with section 5-46, then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state or other sources in order to administer the provisions of division 4.
- (5) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor, including basement of all new or substantially improved structures in accordance with subsection 5-57(2).
- (6) Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been floodproofed, in accordance with subsections 5-57(2) and 5-64(2).
- (7) When floodproofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with subsections 5-57(1)(c) and 5-62(2) or 5-64(2).
- (8) Obtain design certification from a registered professional engineer or architect that any new construction or substantial improvement placed in a coastal high hazard area will meet the criteria of subsection 5-66(5).
- (9) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
- (10) Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (11) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA, to ensure accuracy of community flood maps through the letter of map revision process; and assure flood carrying capacity of any altered or relocated watercourse is maintained.

(12) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(13) All records pertaining to the provisions of this article shall be maintained in the office of the administrator and shall be open for public inspection.

(Ord. No. 2008-002, Art. 3, § C, 9-2-08)

**Secs. 5-59, 5-60. Reserved.**

DIVISION 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

**Sec. 5-61. General standards.**

In all areas of special flood hazard, the following provisions are required:

(1) *[Anchoring.]* New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) *[Materials.]* New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;

(3) *[Methods.]* New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;

(4) *Elevated buildings.* All New construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood-resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater (not applicable in coastal high hazard areas):

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one (1) foot above grade; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

(b) So as not to violate the lowest floor criteria of this article, the unfinished or flood-resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and the interior portion of such enclosed area shall not be partitioned or finished into separate rooms;

(5) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and

(10) Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this article, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

(Ord. No. 2008-002, Art. 4, § A, 9-2-08)

### **Sec. 5-62. Specific standards.**

In all special flood hazard areas designated as A1-30, AE, AH, A (with estimated BFE), the following provisions are required:

(1) *New construction and/or substantial improvements.* Where base flood elevation data are available, new construction and/or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection 5-64(4).

(a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing and other service facilities shall be elevated at/or one (1) foot above the base flood elevation.

(2) *Nonresidential construction.* New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one (1) foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in subsection 5-58(6).

(3) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data is available:

(a) All manufactured homes placed and/or substantially improved on:

1. Individual lots or parcels;
2. In new and/or substantially improved manufactured home parks or subdivisions;
3. In expansions to existing manufactured home parks or subdivisions; or
4. On a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement, elevated no lower than one (1) foot above the base flood elevation.

(b) Manufactured homes placed and/or substantially improved in either an existing manufactured home park or subdivision may be elevated so that:

1. The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation; or
2. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than thirty-six (36) inches in height above grade.

(c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement (ref. subsection 5-61(6)).

(d) All recreational vehicles placed on sites must either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days;
2. Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached structures or additions); or
3. The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of subsections 5-62(3)(a) and (c).

(4) *Floodway*. Located within areas of special flood hazard established in section 5-46, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

(b) Only if subsection (a) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of division 4.

(Ord. No. 2008-002, Art. 4, § B, 9-2-08)

### **Sec. 5-63. Building standards for streams without established base flood elevations and/or floodway (A zones).**

Located within the areas of special flood hazard, established in section 5-46, where streams exist but no base flood data has been provided (A zones), or where base flood data have been provided but a floodway has not been delineated, the following provisions apply:

- (1) When base flood elevation data or floodway data has not been provided in accordance with section 5-46, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions

of division 4. Only if data is not available from these sources, then the following provisions in subsections (2) and (3) shall apply.

(2) No encroachments, including structures or fill material shall be located within an area equal to the width of the stream or twenty-five (25) feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in more than a one-foot increase in flood levels during the occurrence of the base flood discharge.

(3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. (Note: require the lowest floor to be elevated one (1) foot above the estimated base flood elevation in A zone areas where a limited detail study has been completed.) Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of subsection 5-61(4).

(a) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than three (3) feet above the highest adjacent grade at the building site.

The administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(Ord. No. 2008-002, Art. 4, § C, 9-2-08)

#### **Sec. 5-64. Standards for areas of special flood hazard (zones AE) with established base flood elevations without designated floodways.**

Located within the areas of special flood hazard established in section 5-46, where streams with base flood elevations are provided but no floodways have been designated (zones AE), the following provisions apply:

(1) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(2) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with section 5-46.

(Ord. No. 2008-002, Art. 4, § D, 9-2-08)

**Sec. 5-65. Standards for areas of shallow flooding (AO zones).**

Areas of special flood hazard established in section 5-46, may include designated "AO" shallow flooding areas. These areas have base flood depths of one (1) to three (3) feet above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection 5-61(4).

The administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(2) New construction or the substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level, plus one (1) foot above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in subsections 5-57(1)(c) and (2).

(3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(Ord. No. 2008-002, Art. 4, § E, 9-2-08)

**Sec. 5-66. Coastal high hazard areas (V zones).**

Located within the areas of special flood hazard established in section 5-46, are areas designated as coastal high hazard areas (V zones). These areas have special flood hazards associated with wave action and storm surge, therefore, the following provisions shall apply:

(1) All new construction and substantial improvements of existing structures shall be located landward of the reach of mean high tide.

(2) All new construction and substantial improvements of existing structures shall be elevated on piles, columns, or shear walls parallel to the flow of water so that the bottom of the lowest supporting horizontal structural member (excluding pilings or columns) is located no lower than one (1) foot above the base flood elevation level. All space below the lowest supporting member shall remain free of obstruction. Open lattice work or decorative screening may be permitted for

aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection (6) below.

(3) All new construction and substantial improvements of existing structures shall be securely anchored on pilings, columns, or shear walls.

(4) All pile and column foundations and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the combined effects of wind and water loads acting simultaneously on all building components, both nonstructural and structural. Water-loading values shall equal or exceed those of the base flood. Wind-loading values shall be in accordance with the most current edition of the **Standard International Building Code**.

(5) A registered professional engineer or architect shall certify that the design specifications and plans for construction are in compliance with the provisions contained in subsections (2), (3) and (4) herein.

(6) All space below the lowest horizontal supporting member must remain free of obstruction. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action without causing structural damage to the supporting foundation or elevated portion of the structure. The following design specifications are allowed:

(a) No solid walls shall be allowed.

(b) Material shall consist of lattice or mesh screening only.

(c) If aesthetic lattice work or screening is utilized, any enclosed space shall not be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

(7) Prior to construction, plans for any structures having latticework or decorative screening must be submitted to the administrator for approval.

(8) Any alteration, repair, reconstruction or improvement to any structure shall not enclose the space below the lowest floor except with latticework or decorative screening, as provided in this section.

(9) There shall be no fill used as structural support. Noncompacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes, provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. The administrator shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:

(a) Particle composition of fill material does not have a tendency for excessive natural compaction;

(b) Volume and distribution of fill will not cause wave deflection to adjacent properties; and

(c) Slope of fill will not cause wave runup or ramping.

(10) There shall be no alteration of sand dunes or mangrove stands, which would increase potential flood damage.

(11) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of section 5-61.

(Ord. No. 2008-002, Art. 4, § F, 9-2-08)

### **Sec. 5-67. Standards for subdivisions.**

(1) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision and/or development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(4) For subdivisions and/or developments greater than fifty (50) lots or five (5) acres, whichever is less, base flood elevation data shall be provided for subdivisions and all other proposed developments, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final [letter of map revision] (LOMR).

(Ord. No. 2008-002, Art. 4, § G, 9-2-08)

### **Sec. 5-68. Standard for critical facilities.**

(1) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.

(2) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

(Ord. No. 2008-002, Art. 4, § H, 9-2-08)

**Sec. 5-69. Variance procedures.**

(a) The Liberty County Board of Commissioners shall hear requests for appeals or variance from the requirements of this article.

(b) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination made by the administrator in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the board may appeal such decision to the Superior Court of Liberty County as provided in "The General Planning and Enabling Act of 1957."

(d) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this article is met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(g) In reviewing such requests, the board of commissioners shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.

(h) Conditions for variances:

(1) A variance shall be issued only when there is:

a. A finding of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(2) The provisions of this article are minimum standards for flood loss reduction, therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the

variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

(4) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(i) Upon consideration of the factors listed above and the purposes of this article, the board of commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(Ord. No. 2008-002, Art. 5, 9-2-08)

**Sec. 5-70. Reserved.**

**ARTICLE IV. SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL**

**Sec. 5-71. Title.**

This article will be known as "Liberty County Soil Erosion, Sedimentation and Pollution Control Ordinance."

(Ord. No. 2007-002, § I, 3-6-07; Ord. No. 2010-002, § I, 7-16-10)

**Sec. 5-72. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this article, unless otherwise specifically stated:

***Best Management Practices (BMPs):*** These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the 'Manual for Erosion and Sediment Control in Georgia' published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

**Board:** The Board of Natural Resources.

**Buffer:** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

**Certified Personnel:** A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

**Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).

**CPESC:** Certified Professional in Erosion and Sediment Control with current certification by Certified Professional in Erosion and Sediment Control Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

**Concrete washout:** Residue and contaminants from washing down equipment such as concrete trucks, pumps, chutes, hand tools, and wheelbarrows.

**Cut:** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.

**Department:** The Georgia Department of Natural Resources (DNR).

**Design Professional:** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control Inc.

**Director:** The Director of the Environmental Protection Division of the Department of Natural Resources or an authorized representative.

**District:** Coastal Soil and Water Conservation District.

**Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.

**Drainage Structure:** A device composed of a virtually non-erodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.

**Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.

**Erosion, Sedimentation and Pollution Control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in section 5-74 paragraph (c) of this article.

**Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.

**Final Stabilization:** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

**Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

**Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

**Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.

**Hazardous waste:** Any solid, liquid, or contained gaseous materials which are no longer used and, if not handled or disposed of properly, could damage or pollute the land, air or water. They can also cause injury or death to exposed individuals. A waste is hazardous if it exhibits one (1) or more of the following characteristics but it is not limited to these characteristics alone:

- (1) **Ignitability:** Ignitable vapors can create fires under certain conditions. Examples include liquids, such as solvents that readily catch fire, and friction-sensitive substances.

- (2) *Corrosivity*: Corrosive wastes include those that are acidic and those that are capable of corroding metal, such as tanks, containers, drums, and barrels.
- (3) *Reactivity*: Reactive wastes are unstable under normal conditions. They can create explosions and/or toxic fumes, gases, and vapors when mixed with water.
- (4) *Toxicity*: Toxic wastes are harmful or fatal when ingested or absorbed. When toxic wastes are disposed of on land, contaminated liquid may drain from the waste and pollute groundwater.

***Illicit discharge***: Any activity or event which results in a release, leak, flow, escape, or the placement of any material other than rainwater (including liquids and solids) into the storm drain system. Each illicit discharge has a unique frequency, composition and mode of entry in the storm drain system. Examples of illicit discharge are listed below but are not limited to these characteristics:

- (1) Motor oil drained from vehicles into a ditch line or storm drain system.
- (2) Gray water discharges (household laundry/wash water that is not being drained into an approved septic or sewage system).
- (3) Discharges from commercial/manufacturing operations, such as manufacturing byproducts (i.e., oil, cooking grease, gasoline, petroleum-based products, or other industrial waste).
- (4) Dumpsters left open that would leach water that has been contaminated with refuse.

***Land-Disturbing Activity***: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in section 5-73 paragraph (5) of this article.

***Larger Common Plan of Development or Sale***: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

***Local Issuing Authority***: The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.

**Metropolitan River Protection Act (MRPA):** A state law referenced as O.C.G.A. section 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

**Natural Ground Surface:** The ground surface in its original state before any grading, excavation or filling.

**Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.

**NOI:** A Notice of Intent form provided by EPD for coverage under the State General Permit.

**NOT:** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.

**Operator:** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.

**Outfall:** The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

**Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this article.

**Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

**Pervious area:** An area that is open to passage or entrance; permeable.

**Pollution control:** Preventing the contamination of the environment with materials that interfere with human health, the quality of life, or the natural functioning of ecosystems (living organisms and their physical surroundings).

**Phase or Phased:** Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

**Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.

**Properly Designed:** Designed in accordance with the design requirements and specifications contained in the “Manual for Erosion and Sediment Control in Georgia” (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.

**Refueling Station:** A place where the activity of supplying or taking on fuel is performed.

**Roadway Drainage Structure:** A device such as a bridge, culvert, or ditch, composed of a virtually non-erodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

**Sediment:** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.

**Sanitary Waste:** General household/lavatory waste that may be disposed of through the sanitary sewer system.

**Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

**Soil and Water Conservation District Approved Plan:** An erosion, sedimentation and pollution control plan approved in writing by the Soil and Water Conservation District.

**Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

**State General Permit:** The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.

**State Waters:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

**Structural Erosion, Sedimentation and Pollution Control Practices:** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

**Trout Streams:** All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at [www.gaepd.org](http://www.gaepd.org). Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

**Vegetative Erosion and Sedimentation Control Measures:** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

**Watercourse:** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

**Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(Ord. No. 2007-002, § II, 3-6-07; Ord. No. 2010-002, § II, 7-16-10)

### **Sec. 5-73. Exemptions.**

This article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- (4) The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum

requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;

- (5) Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in section 5-74 (c) paragraphs (15) and (16) of this article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
- (8) Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section;
- (9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit

shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

- (10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- (11) Any public water system reservoir.

(Ord. No. 2007-002, § III, 3-6-07; Ord. No. 2010-002, § III, 7-16-10)

**Sec. 5-74. Minimum Requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices.**

(a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the article and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this article shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of section 5-74 subsections (b) and (c) of this article. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this article and the NPDES General Permit.

(b) *Minimum requirements/BMPs:*

- (1) Best management practices as set forth in section 5-74 subsections (b) and (c) of this article shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).
- (2) A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
- (3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
- (4) The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
- (5) The LIA may set more stringent buffer requirements than stated in section 5-74 subsection (c) paragraphs (15) and (16) of this article, in light of O.C.G.A. § 12-7-6 (c).

(c) *The rules and regulations, ordinances, or resolutions* adopted pursuant to O.C.G.A. 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as

of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, re-grading and other development activities shall be conducted in a manner so as to minimize erosion;
- (2) Cut-fill operations must be kept to a minimum;
- (3) Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (6) Disturbed soil shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- (11) Cuts and fills may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude

sedimentation of adjacent waters beyond the levels specified in section 5-74 subsections (b) paragraph (2) of this article;

- (15) Except as provided in paragraph (16) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. A twenty-five-foot buffer shall also exist adjacent to all saltwater marsh as delineated by the Department of Natural Resources. The following requirements shall apply to any such buffer:
- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and natural canopy is left in sufficient quantity to keep shade on the stream bed; and
  - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
- (16) There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed ; provided, however, that small

springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

(d) *Nothing contained* in O.C.G.A. 12-7-1 et. seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in section 5-74 subsections (b) and (c) of this article.

(e) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

(Ord. No. 2007-002, § IV, 3-6-07; Ord. No. 2010-002, § IV, 7-16-10)

### **Sec. 5-75. Prohibition of Illicit Discharge and Illicit Connections.**

(a) *Prohibition.* It is unlawful for any person to throw, drain, run or otherwise discharge to any component of the city storm sewer system or to cause, permit, or suffer to be thrown, drained, run, or allow to seep or otherwise discharge into such system any matter of any nature excepting only such stormwater or surface water as herein authorized.

(b) *The commencement*, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this article: water line flushing performed by a government agency, potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools, firefighting activities, and any other water source not containing pollutants.
- (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(c) *In the event of an accidental discharge* or an unavoidable loss to the city storm sewer system of any material or substance other than stormwater runoff, the person concerned shall inform the county engineer within twenty-four (24) hours of the nature, quantity and time of occurrence of the discharge. The person concerned shall take immediate steps to contain, treat or other actions to minimize effects of the discharge on the county system and receiving streams. The person shall also take immediate steps to ensure no recurrence of the discharge.

(d) *Illicit connections*

- (1) It is unlawful for any person, company, corporation, etc. to connect any pipe, open channel, any other conveyance system that discharges anything except stormwater or unpolluted water which is approved by the county engineering department, based on the exemptions listed in subsection (1)b., hereinabove, to the county storm sewer system.
- (2) Improper connections in violation of this Code must be disconnected and redirected, if necessary, to a sanitary sewer system upon approval by the county engineering department.

(Ord. No. 2007-002, § V, 3-6-07; Ord. No. 2010-002, § V, 7-16-10)

#### **Sec. 5-76. Application/Permit Process.**

(a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal of the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it.

They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.

*(b) Application Requirements.*

- (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Liberty County without first obtaining a permit from the Liberty Consolidated Planning Commission to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
- (2) The application for a permit shall be submitted to the Liberty County Consolidated Planning Commission and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in section 5.75 subsections (c) of this article. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of section 5-74 subsections (b) and (c) of this article will be met. Applications for a permit will not be accepted unless accompanied by 3 copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.
- (3) A fee as published by the Liberty County Consolidated Planning Commission shall be charged for each acre or fraction thereof in the project area.
- (4) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
- (5) Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded

to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by section 5-74 subsection (c) paragraphs (15) and (16) of this article has been obtained, all fees have been paid, and bonding, if required as per section 5-76 subsection (b) paragraph (6) of this article have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the revised Plan submittal.

- (6) If a permit applicant has had two or more violations of previous permits, this article section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
- (7) The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

(c) *Plan Requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in section 5-74 subsections (b) and (c) of this article; or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. 12-7-20.

- (2) Data Required for Site Plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

(d) *Permits.*

- (1) Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- (2) No permit shall be issued by the Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this article, any variances required by section 5-74 subsection (c) paragraphs (15) and (16) of this article are obtained, bonding requirements, if necessary, as per section 5-76 subsection (b) paragraph 6 of this article are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this article, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the Local Issuing Authority.
- (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (5) The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- (6) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

(Ord. No. 2007-002, § VI, 3-6-07; Ord. No. 2010-002, § VI, 7-16-10)

**Sec. 5-77. Inspection and Enforcement.**

(a) *The Liberty County Joint Planning Commission* will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the Local Issuing Authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article.

(b) *The Local Issuing Authority* must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.

(c) *The Liberty County Consolidated Planning Commission* shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

(d) *No person shall refuse entry or access* to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(e) *The District or the Commission* or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.

(f) *The Division* may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

(Ord. No. 2007-002, § VII, 3-6-07; Ord. No. 2010-002, § VII, 7-16-10)

#### **Sec. 5-78. Penalties and Incentives.**

(a) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this article without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.

(b) *Stop-work orders.*

- (1) For the first and second violations of the provisions of this article, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
- (2) For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
- (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

- (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

(c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of section 5-76 subsection (b) paragraph (6) of this article. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) *Monetary penalties.* Any person who violates any provisions of this article, or any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this article shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this article, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this article under county ordinances approved under this article shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(Ord. No. 2007-002, § VIII, 3-6-07; Ord. No. 2010-002, § VIII, 7-16-10)

#### **Sec. 5-79. Education and Certification.**

(a) *Persons involved* in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the

process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

(b) *For each site* on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

(c) *Persons or entities involved in projects not requiring* a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.

(d) *If a state general permittee* who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(Ord. No. 2007-002, § IX, 3-6-07; Ord. No. 2010-002, § IX, 7-16-10)

#### **Sec. 5-80. Administrative Appeal Judicial Review.**

(a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sedimentation and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Liberty County Board of Commissioners within forty-five (45) days after receipt by the issuing authority of written notice of appeal.

(b) *Judicial review.* Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Liberty County.

(Ord. No. 2007-002, § X, 3-6-07; Ord. No. 2010-002, § X, 7-16-10)

#### **Sec. 5-81. Effectivity, Validity and Liability.**

(a) *Effectivity.* This article shall become effective on the sixth day of July, 2010.

(b) *Validity.* If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this article.

(c) *Liability.*

- (1) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.
- (2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.
- (3) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved there under or pollute any Waters of the State as defined thereby.

(Ord. No. 2007-002, § XI, 3-6-07; Ord. No. 2010-002, § XI, 7-16-10)

**Secs. 5-82, 5-83. Reserved.**

## **ARTICLE V. REMOVAL OR REPAIR OF UNSAFE OR DILAPIDATED BUILDINGS.**

**Sec. 5-84. Definitions.**

As used in this section the following words shall have the meanings as set forth below unless otherwise required by context:

(a) *Parties in interest* means persons in possession of the property and all individuals, associations and corporation who have interest or record in the county where the property is located in a dwelling, building or structure located on said property, said persons to include but are not limited to executors, administrators, guardian and trustees.

(b) *Public authority* means any housing authority or any officer who is in charge of any department or branch of the government of the municipality, county or state

relating to health, fire or building regulations or to other activities concerning dwellings, buildings or structures in the county or municipality.

(c) *Public officer* means the county administrator or his designee (e.g., building inspector, code enforcement officer, etc.) who shall exercise the powers prescribed by this article.

(Ord. No. 1998-003, § 1, 3-3-98)

**Sec. 5-85. Application of article to unsafe or unsanitary conditions creating a public health hazard or general nuisance.**

(a) All of the provisions of this article, including those pertaining to method and procedure, shall also be applied to private property where an accumulation of trash, junk, filth and other unsanitary or unsafe conditions create a public health hazard or a general nuisance to those persons residing or travelling in the vicinity thereof except:

(1) That portion of section 5-90 requiring the governing authority to order the public officer to effectuate the public officer's orders issued pursuant to this article with respect to any particular property; and

(2) That portion of section 5-96 establishing an administrative fee of six hundred dollars (\$600.00)

(b) As for the effectuation of orders issued by the public officer pursuant to this section, no such order shall be carried out without the written approval of the chairman of the board of commissioners and the zoning administrator of the county. As for the administrative fee due for a lien created as a result of the county's removal of trash, junk or rubbish from private property, or the county's remedying unsanitary or unsafe conditions constituting a general nuisance, it shall be two hundred dollars (\$200.00).

(c) A finding by any governmental health department, health officer or building inspector that any property is a health or safety hazard shall constitute prima facie evidence that the property is in violation of this article.

(Ord. No. 1998-003, § 1, 3-3-98)

**Sec. 5-86. Article cumulative.**

This article shall be cumulative of other ordinances and Code provisions applicable to property and improvements in the county and shall not repeal other ordinances and Code provisions pertaining to similar subjects and procedures.

(Ord. No. 1998-003, § 1, 3-3-98)

**Sec. 5-87. Inspection and notice of hearing.**

Whenever a written request for inspection is filed with the county by a public authority, by at least five (5) residents of the county or by the public officer charging that any dwelling, building or structure is unfit for human habitation or is unfit in its current commercial, industrial or business use or is vacant and dilapidated, or whenever it otherwise appears to the public officer that any dwelling, building or structure is unfit for human habitation or is unfit for its current commercial, industrial or business use or is vacant or dilapidated, the public officer shall, if preliminary investigation discloses a basis for such charge, issue and cause to be served upon the owner and any parties in interest of such dwelling, building, or structure a complaint stating the charges in that respect and containing a notice that a hearing shall be held before the public officer. The complaint shall state the conditions which exist and specify the violations of this article or any other provision of this Code, including, but not limited to, the building code, housing code and other provisions pertaining to the conditions of buildings, dwellings and structures, and shall contain a notice that a hearing will be held before the public officer pursuant to section 5-89.

(Ord. No. 1998-003, § 1, 3-3-98)

### **Sec. 5-88. Right to enter and inspect.**

(a) The public officer and any person authorized to enforce this article shall be empowered to enter any property and structure at reasonable times to inspect the condition thereof and determine the fitness and condition of said structure pursuant to section 5-87 hereof. If such entry is refused, such official may obtain an order ex parte from a judge of the superior court of the county pursuant to an affidavit setting forth:

- (1) The name and address of the property owner and any party in interest, and the person refusing entry;
- (2) The date and time entry was attempted;
- (3) The reason why entry was not effected;
- (4) The means by which and by whom entry is proposed; and
- (5) The reason why entry and inspection are necessary.

(b) The order shall specify a date and time for a hearing before the court to determine whether entry shall be permitted, unless the affidavit sets forth sufficient cause to justify immediate entry and inspection, whereupon such authority may then be granted. The order with a copy of the affidavit shall be served pursuant to the provisions applicable to service of subpoenas issued from the court or the provisions of section 5-97.

(Ord. No. 1998-003, § 1, 3-3-98)

### **Sec. 5-89. Hearing.**

(a) The hearing pursuant to sections 5-88 will be held at a place within the county as designated in the complaint on a day and time certain which shall not be less than ten (10) nor more than thirty (30) days after the service of this notice. The owner and any party in interest known to the public officer shall be given the right to file an answer to the complaint with the public officer and to appear in person or otherwise, to give testimony at the hearing at the place and time specified in the notice.

(b) The public officer shall preside at the hearing. The person conducting the hearing shall have authority to administer oaths or affirmations, examine witnesses, and receive evidence at the hearing. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing. The proceedings at the hearing shall be recorded or taken down or made by such other procedure as may be undertaken either in verbatim or summary form so as to be reasonably accurate.

(c) The public officer shall be the supervisor and custodian of the records with respect to each property against which a complaint is issued and any hearing held. Such records shall be public records and made available to any party in interest and copies thereof provided upon the payment of such reasonable cost as may be incurred in duplicating or otherwise providing them. The records shall be preserved for not less than four (4) years after the proceedings and action, if any, regarding the property are concluded.

(Ord. No. 1998-003, § 1, 3-3-98)

#### **Sec. 5-90. Orders for corrective action.**

(a) If, after the hearing, the public officer determines that the dwelling, building or structure under consideration is unfit for human habitation or is unfit for its current commercial, industrial or business use or is vacant and dilapidated, the public officer shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the property owner an order which shall provide:

(1) A determination that the dwelling, building or structure can be repaired, improved or altered either at a cost of one-half or less of the value of the dwelling, building or structure exclusive of foundation and lot after the improvements have been made, or at a cost of more than one-half of the value of such structure exclusive of the foundation and lot after improvements have been made. If the cost to repair, improve or alter such structure is more than one-half of the value of such structure exclusive of foundation and lot after the improvements have been made, the order may find that such structure be vacated and removed or demolished within a specified time frame. If the dwelling, building or structure can be repaired, altered, or improved at a cost that is less than one-half of the value of such structure or structures exclusive of foundation and lot after improvements have been made, the order may find either that the structure be rendered fit for human habitation or current commercial, industrial or business use

within a specified time or shall be vacated and closed and secured against entry.

(2) An enumeration of conditions which render the dwelling, building or structure unfit for human habitation or other uses and an enumeration of remedial action necessary to correct each of the conditions.

(3) That if the owner and/or parties in interest elect to undertake the necessary remedial action, the public officer shall establish:

a. A specific period of time, reasonably established in relationship to the remedial action, during which such action must be commenced, including, if necessary, separate commencement dates as to separate defects or work;

b. A specific period of time after the required commencement date of such remedial action, reasonably established in relationship to the necessary undertakings, within which such action shall be completed, including, if necessary, separate reasonable deadlines as to separate defects or work.

(4) That if the owner and/or the parties in interest do not notify the public officer of the intent to comply within fifteen (15) days of service of publication of the order for corrective action for a building, dwelling or structure which can be repaired at one-half or less of its value, the public officer shall subsequently commence and complete the vacating and closing of the dwelling, building or structure; or in case of a building or dwelling which cannot be repaired at one-half or less of the value, to commence and complete the vacating and removal or demolition of the building, dwelling or structure.

(5) A statement that failure to comply with the order within the required time set forth in this section is in violation of this article and shall subject the parties and property to the remedies of this article.

(b) Where a condition exists regarding any property which constitutes an immediate danger to persons or adjacent property, the public officer may shorten the time periods specified in this section.

(c) Prior to the effectuation of orders issued by the public officer pursuant to this section, the public officer shall submit such order(s) to the governing authority of the county, and such order(s) shall not be carried out without the written approval of the same.

(Ord. No. 1998-003, § 1, 3-3-98)

### **Sec. 5-91. Placarding.**

(a) When the owner and/or parties in interest fail to comply with an order to vacate and close the dwelling, building or structure, and the public officer causes such

dwelling, building or structure and premises to be vacated and closed, the public officer shall cause to be posted, on the main entrance of any dwelling or building or structure to be closed, a placard with the following words:

This building is unfit for human habitation or commercial, industrial or other use. The use or occupation of this building for human habitation or for commercial, industrial or other use is prohibited and unlawful.

(b) The placard shall bear the date posted, street number of the building involved, and the signature of the public officer. It shall thereafter be unlawful for such placard to be mutilated or removed or for such building to be occupied until the required corrective action is taken.

(Ord. No. 1998-003, § 1, 3-3-98)

### **Sec. 5-92. Filing of complaints and orders in real estate records.**

A copy of such complaint or orders shall also be filed in the office of the clerk of the superior court of the county with lis pendens notices, and such filing of the complaint or orders shall have the same force and effect as other lis pendens notices provided by law. Any such complaint or orders or an appropriate lis pendens notice may contain a statement to the effect that a lien may arise against the described property and that an itemized statement of such lien is maintained on a lien docket maintained by the county clerk.

(Ord. No. 1998-003, § 1, 3-3-98)

### **Sec. 5-93. Failure to comply with order.**

Should the owner and/or parties in interest fail to comply with an order to remove or demolish or vacate a dwelling, building or structure, the public officer shall cause such dwelling, building or structure to be vacated, demolished, removed or repaired; provided, however, that such duty shall not be exercised until the county, by resolution containing an appropriate legal description, has ordered the public officer to effectuate the purpose of this article with respect to the particular property.

(Ord. No. 1998-003, § 1, 3-3-98)

### **Sec. 5-94. Demolition.**

No person shall begin demolition until a county demolition permit for demolition has been obtained and all utilities have been cut off and capped at the street. The person who has secured the permit shall remove from the property all debris, trash, litter, rubbish and foundation exposed above the ground level; fill any excavation or other depressions to existing grade with clean dirt containing no more than twenty-five (25) percent stone or masonry; and adequately slope and drain all filled areas.

(Ord. No. 1998-003, § 1, 3-3-98)

### **Sec. 5-95. Lien on property.**

The cost of vacating, removing, closing, repairing, demolition, and/or the taking of any other action authorized hereunder by the county shall be a lien for such amount against the real property upon which the cost was incurred. The lien shall attach to the real property upon the payment of all costs of action against the property by the county and the filing of an itemized statement of the total sum of the costs by the public officer in the office of the county clerk on a lien docket maintained by the county clerk for such purposes. If the dwelling or building is demolished under a contract which results in payment by a contractor to the county, the proceeds of such sale shall be credited against the cost of the demolition and any balance remaining shall be deposited by the public officer in the superior court of the county and shall be secured and disbursed in such manner as may be ordered by such court.

(Ord. No. 1998-003, § 1, 3-3-98)

### **Sec. 5-96. Collection of amount due on lien.**

The county shall enforce the collection of any amount due on a lien arising under this article in the following manner:

(1) *Amount.* The amount of the lien shall be established as follows: There shall be an administrative fee of six hundred dollars (\$600.00) assessed against all liened properties together with the costs of serving all notices required by this article. The amount of the lien shall also include the cost of vacating, removal, closing, repairing, or demolition which shall be the cost paid or incurred by the county in effecting action against any property.

(2) *Notice of lien.* The owner and/or parties in interest, if they possess a recorded interest in the property, shall be served with a copy of the lien and shall be allowed to satisfy the amount due on such lien by paying to the county, within thirty (30) days after the perfection of such lien, a sum of money not less than twenty-five (25) percent of the total due on such lien, and by further paying the remaining balance due, together with interest at the rate of seven (7) percent per annum. In three (3) equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as prescribed in this section.

(3) *Transfer of property.* Should such property be sold, transferred or conveyed by the owner and/or parties in interest at any time prior to the termination of the three-year payment period, the entire balance due on such lien, with earned interest, shall be due and payable to the county.

(4) *Nonsatisfaction.* Should the amount due on the lien, or any portion thereof, be unpaid after it is due, the county may enforce the collection of any amount due on such lien in the same manner as provided in O.C.G.A. § 48-5-358 and other applicable statutes. This procedure shall be subject to the right of redemption by any person having any right, title or interest in or lien upon the property, all as provided by O.C.G.A. § 48-4-40.

(Ord. No. 1998-003, § 1, 3-3-98)

**Sec. 5-97. Service of notices and orders.**

Service of complaints shall be effected as provided in O.C.G.A. § 41-2-12.

1) *Costs.* The costs of service pursuant to this section shall be included in the sums otherwise due under this article.

(2) *Service.* Such person as designated by the county who is of legal age may be authorized to perform the service of all documents pursuant to this article in the manner usually performed by sheriffs, provided they follow the procedures established by statute for those officials, and a fee may be assessed against the property so long as it does not exceed the fee currently imposed by the sheriff of the county for that activity. Any notice pursuant to section 5-88, any order issued pursuant to section 5-90, or any other post-hearing action effecting the property may be served upon the owner and parties in interest by certified mail, return receipt requested, to the address specified in O.C.G.A. § 41-2-12, as applicable, and to the address of the property if it is occupied on the date of inspection, care or "occupant." If any party has specified to the public officer prior to or at the hearing an address for notice, that address shall be used for notices.

(Ord. No. 1998-003, § 1, 3-3-98)

**Secs. 5-98, 5-99. Reserved.**

**ARTICLE VI. WETLANDS PROTECTION**

**Sec. 5-100. Definitions.**

For the purposes of this article, the following terms shall have the following meanings:

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

*Wetland* means an area that is inundated or saturated by surface water or groundwater at a frequency and distribution sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophilic vegetation. Wetlands generally include swamps, marshes, bogs, and similar areas.

*Wetlands map* means the current U.S. Fish and Wildlife Service National Wetlands Inventory maps for Liberty County, Georgia.

*Wetland protection district* means all wetlands within the jurisdiction of Liberty County, Georgia, as indicated on the wetlands map; provided, however, that the wetlands map does not necessarily represent the boundaries of jurisdictional wetlands within Liberty

County and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this article does not relieve the landowner from federal or state permitting requirements.

(Ord. No. 2000-001, 1-4-2000)

### **Sec. 5-101. U.S. Army Corps of Engineers determination.**

An U.S. Army Corps of Engineers determination shall be required prior to the issuance of a permit for any regulated activity within the wetland protection district. If the Corps determines that wetlands are present and that a Section 404 permit or letter of permission is required, no permit for the regulated activity will be issued until the Corps has issued the Section 404 permit or letter of permission. If the Corps determines that there are no wetlands present on the proposed development site, Liberty County may proceed with its normal permitting procedures.

(Ord. No. 2000-001, 1-4-2000)

## **ARTICLE VII. LAND CLEARING AND TREE PROTECTION\***

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**\*Editor's note:** Ord. No. 2001-001, adopted July 10, 2001, enacted provisions designated as Art. VI, §§ 5-98--5-118. Inasmuch as there already exists an Art. VI, §§ 5-100 and 5-101, said new provisions have been redesignated as Art. VII, §§ 5-102--5-122.

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### **DIVISION 1. GENERALLY**

#### **Sec. 5-102. Title.**

This article shall be known and cited as the "Land Clearing and Tree Protection Ordinance for Liberty County, Georgia".

(Ord. No. 2001-001, § I, 7-10-2001)

#### **Sec. 5-103. Jurisdiction.**

The provisions of this article shall apply to all lands located within the unincorporated areas of Liberty County, Georgia.

(Ord. No. 2001-001, § I, 7-10-2001)

**Sec. 5-104. Purpose.**

The purpose of this Land Clearing and Tree Protection Ordinance is to:

- (a) Lessen air pollution and carbon dioxide levels in the air and promote clean air quality by increasing dust filtration;
- (b) Reduce noise, heat and glare;
- (c) Prevent soil erosion; prevent rivers, canals, ditches and other waterways from silting; prevent reductions in the drainage holding capacity of land; improve surface drainage and minimize flooding;
- (d) Minimize increases in temperatures on lands with natural and planted tree cover;
- (e) Maintain moisture levels in the air of lands with natural tree cover;
- (f) Reduce noise, heat and glare, and ensure that these and other distractions of movement in one area do not adversely affect activity within other adjacent areas;
- (g) Emphasize the importance of trees and vegetation as both a visual and physical buffer;
- (h) Protect and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values;
- (i) Minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters; and
- (j) Maintain, where possible, a minimum 50 percent canopy tree cover across the county.

(Ord. No. 2001-001, § I, 7-10-2001)

**Sec. 5-105. Exemptions.**

The following are exempted from compliance with the land clearing and tree protection provisions of this article; provided that such exemption shall in no way excuse compliance with any and all other applicable local, state, and federal statutes, regulations, ordinances, rules and other laws, and further provided, that when such exempt activities cause or result in land-disturbing or other activities otherwise governed by this article, no further land disturbing activities or future development or related construction, except for such exempt activities, shall be allowed on the entire property, or any portion thereof, upon which the exempt activities were conducted without first obtaining a clearing permit as provided in section 5-119 hereof and otherwise satisfying in full the requirements of this article, to include, without limitation, evidencing all necessary tree quality points and landscape quality points:

- (a) Forestry land management practices, including harvesting.

(b) Those portions of airports and heliports which require clear areas for safety purposes, including runways and taxiways, approach and departure clear zones.

(c) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, except where such activities involve tree easements, set-asides or other buffers provided for in this article.

(d) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion.

(e) Agricultural operations as defined in O.C.G.A. § 1-3-3 to include those practices involving the establishment, cultivation, or harvesting or products of the field or orchard; the preparation and planting of pasture land; farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings.

(f) Any and all other land-disturbing activities specifically exempted from operation of the Georgia Erosion and Sedimentation Act of 1975, as amended, by section 12-7-17 thereof.

(Ord. No. 2001-001, § I, 7-10-2001)

## **Sec. 5-106. Definitions.**

All words not defined herein shall be interpreted so as to give them the meaning they have in common usage and to give the provisions of this article their most reasonable application. All 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. The word "shall" is mandatory and not discretionary. The word "may" is permissive. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", and "occupied for". The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrator* shall be the Chief Building Official of Liberty County, Georgia or such other person as designated by the board of commissioners to enforce and oversee the enforcement of these regulations.

*Buffer* is defined as any visual buffer or screening required by any pertinent section of the Liberty County Code of Ordinances or the Zoning Ordinance of Liberty County, Georgia.

*Building* is defined as any structure having a roof supported by columns or walls that encloses a space and is intended for sheltering, housing or enclosing space for any

individual, animal, process, equipment, goods or materials of any kind or nature or as further defined in the building code of the county.

*Building permit applicant* shall be the person who applies for a building permit.

*Caliper* is defined as the diameter or thickness of the main stem of a young tree or sapling as measured at a point six (6) inches above ground level. This measurement shall be used for nursery-grown trees having a diameter of four (4) inches or less.

*Canopy trees* are defined as large, preferred trees, which provide canopy over streets and other paved areas. Upon reaching maturity, a canopy tree will achieve a canopy spread of in excess of forty (40) feet in diameter. Using a radius of twenty (20) feet for calculation purposes, the canopy cover area for one mature tree will be equal to  $3.1416 \times (20)^2$  or 1,257 square feet. Total canopy coverage for one acre of land would be equal to 43,560 divided by 1257, or thirty-five (35) large canopy trees.

*County arborist* (Reserved).

*Clearing* is defined as the removal of vegetation of two (2) inches DBH (as defined herein) or greater.

*Development* is defined as the act, process or state of erecting buildings or structures, or making improvements.

*Diameter, breast height (DBH)* is defined as the diameter or width of the main stem of a tree as measured 4.5 feet above the natural grade at its base. Whenever a branch, limb, defect or abnormal swelling of the trunk occurs at this height, the DBH shall be measured at the nearest point above or below 4.5 feet at which a normal diameter occurs.

*Exceptional tree* is defined as any tree determined by the board of commissioners, as provided for herein, to be of notable historic interest, high aesthetic value, or of unique character because of species, type, age, or size of the tree.

*Fifty percent canopy cover* is defined as a canopy expected to be achieved over a 30-year period by the planting of large, preferred trees or the retention of existing canopied trees which result in a minimum of fifty (50) percent cover across the unincorporated areas of the county. Fifty (50) percent canopy cover will be approximately eighteen (18) large, preferred trees per acre, quantified as one thousand six hundred (1,600) tree quality points per acre.

*Greenspace* is defined as any area retained as permeable unpaved ground and dedicated to supporting vegetation.

*Greenspace plan* is a map and/or other supporting documentation, which describes for a particular site where vegetation (greenspace) is to be retained or planted in compliance with these regulations.

*Landscape plan* is defined as a map and/or other supporting documentation which describes for a particular site where vegetation is to be retained or provided in compliance

with these regulations, the types of vegetation, and how such vegetation will be provided. The landscape plan shall also include any buffer elements.

*Landscape quality point* is defined as a unit of measurement, which quantifies the relative value of shrubs, groundcover and vines which are planted or retained on a given site. Landscape quality points are also given to small and medium trees planted on the site. A landscape quality point, like a tree quality point, quantitatively expresses the desirable qualities of the species with regard to the size, density and landscape attributions.

*Plot plan* is defined as a map and/or other supporting documentation describing for a particular site where the building(s), driveway, utility corridors and easements are to be located and where greenspace is to be retained or planted in compliance with these regulations.

*Pre-construction* is defined as that period of time prior to work being initiated to include but not be limited to clearing, grading, grubbing, or bush hogging the site.

*Pre-design* is defined as that period of time before a conceptual design plan is approved by the administrator.

*Preliminary plan* is defined as a map showing the proposed design for a subdivision, as specified in county subdivision regulations.

*Quality points factor* is defined as a decimal fraction that is assigned to each tree species in the tree lists and is used as a multiplier in calculating the tree quality points for any tree retained on a site. The factor allows for the translation of the diameter breast height (DBH) into the area of canopy cover for the tree.

*Set-asides* are defined as a piece of land dedicated to open space by the developer or owner. Examples of set-asides include, but are not limited to wetlands, parkland, recreation areas, or medians of boulevards.

*Sketch plan* is defined as a conceptual layout for a subdivision as specified in the county subdivision regulations.

*Species diversity* is defined as a planting or retention of diverse tree species on a site or within the community to prevent dominance by any single type of tree. Species diversity is intended to prevent the destruction of the entire urban forest in the event of disease or pestilence.

*Tree easement* is defined as an easement, not less than ten (10) feet in width, and such easement shall not be in conflict with any other planning requirements as set forth under the zoning and subdivision regulations, pertaining to the public planting and or maintenance of canopy street trees, exclusive of utility, drainage or other easements. Administrative approval is required for easements greater than ten (10) feet in width.

*Tree establishment plan* is defined as a map and supporting documentation, which describes for a particular site where existing trees are to be planted in compliance with the requirements of these regulations, the types of trees and their corresponding tree quality points.

*Tree fund* is defined as a fund maintained by Liberty County for the purpose of planting required trees. An owner, developer, and/or building permit applicant may contribute to such a fund.

*Tree protection plan* is defined as a map and supporting documentation which describes for a particular site where existing trees are to be retained in compliance with the requirements as set forth in these regulations, the types of trees and their corresponding tree quality points.

*Tree protection zone* is defined as the area surrounding a preserved or planted tree that is essential to that tree's health and survival, and is protected within the guidelines as set forth in these regulations.

*Tree quality point* is defined as a unit of measurement, which quantifies the relative value of trees that are planted or retained on a given site. Tree quality points quantitatively express the desirable qualities of the species with respect to size for each tree that is retained on a site. For planted trees, tree quality points are an expression of specie desirability and the expected mature size of each tree.

*Vegetative practices* is defined as the measures taken in an effort to stabilize erodible soil or sediment by producing areas by covering the soil with plantings such as:

(1) Permanent seeding, sprigging, or planting producing long-term vegetative cover;

(2) Short-term seeding, producing temporary vegetative cover; or

(3) Sodding areas with a turf of perennial sod-forming grass.

(Ord. No. 2001-001, § I, 7-10-2001)

## **Sec. 5-107. General provisions.**

(a) *Permit required for clearing.* Except as herein provided, a property owner shall not clear (as defined herein) or permit the clearing of property without first obtaining a clearing permit as provided for in section 5-119.

(b) *Tree/landscape quality points required.* Land cleared for development or land being proposed for development shall be provided with not less than one thousand six hundred (1,600) tree quality points per acre on a given site, excluding trees in existing right-of-ways. Commercial, industrial, office, institutional, and multifamily developments shall provide an additional four hundred (400) landscape quality points. When a commercial, industrial, office, institutional or multifamily development is to contain a parking area, then within the boundaries of such parking area, there shall be provided not less than one thousand two hundred (1,200) tree quality points per acre, exclusive of landscape quality points.

(c) *Land clearing and tree protection activities.* All land clearing, tree protection, tree establishment and landscaping shall be done in a manner consistent with good plant husbandry practices as approved by the administrator.  
(Ord. No. 2001-001, § I, 7-10-2001)

## **DIVISION 2. PRINCIPLES AND STANDARDS FOR GREENSPACES, TREE PROTECTION, TREE ESTABLISHMENT AND LANDSCAPING**

### Subdivision A. General

#### **Sec. 5-108. Tree protection and tree establishment.**

(a) *Protection of preserved or planted trees.* Tree protection zones shall be established and maintained on a site for all trees, reserved or planted, for which tree quality points are to be claimed. The following provisions apply to such zones and the trees within them:

(1) A tree protection plan and details shall accompany all applications for land clearing and/or land disturbing activities. The tree protection plan shall identify where and how existing trees are to be protected during clearing and construction of the project. Such tree protection plan and details shall be approved by the administrator upon a finding that the plan adequately addresses the problems of the site in protecting the existing trees.

(2) The area within any tree protection zone shall remain open and unpaved. The use of perforated pavers may be allowed subject to the approval of the administrator.

(3) No vehicles shall be parked, or construction material stored or substances poured or disposed of or placed, within any tree protection zone at any time during clearing or construction of the project.

(4) No change in grade within the tree protection zone shall be allowed around existing trees except for a maximum addition of two inches of mulch unless approved by the administrator.

(5) To protect preserved trees from grade changes, which result in changes of water supply to the tree protection zone, tree wells or tree walls (islands) shall be constructed as needed. Adequate means for drainage of excess moisture from the tree protection zone shall be provided where tree wells or tree walls are constructed.

(6) All retained or planted trees shall be protected or situated so as to prevent damage to the trees from environmental changes (such as a lower water table) or land disturbance(s) resulting from any building or facility construction within or immediately adjacent to the critical root zones of the tree(s).

(7) No artificial plants, trees, or like materials shall be counted toward meeting the standards of these regulations.

(8) For planted trees, the following tree protection standards and requirements shall apply:

a. The minimum size tree protection zone centered upon the planted tree shall be as specified in Table 1.

TABLE 1. MINIMUM TREE PROTECTION ZONE

Mature Tree Size	Square	Rectangular	Circular Diameter
Small (less than 25')	4'x4'	--	4.5'
Medium (25'--40')	6'x8'	6'x11'	9'
Large (40' +)	20'x20'	16'x25'	22.5'

b. No tree shall be planted closer to a building foundation or water, sewer, or natural gas line, than as follows:

1. Five (5) feet for a small tree species.
2. Ten (10) feet for a medium tree species.
3. Ten (10) feet for a large tree species.

c. No tree shall be planted under overhead utility distribution lines where the average mature height of the tree is greater than the lowest overhead wire.

(9) *Irrigation requirements.* Except as provided for herein, irrigation shall be provided for tree protection zones in the following manner:

a. A permanent water source shall be installed not less than one hundred (100) feet from each tree protection zone, but shall not encroach more than twelve (12) inches into any tree protection zone.

b. All trees within a tree protection zone must have (i) a permanent water source within one hundred (100) feet, or (ii) a permanent water source at the perimeter of the tree protection zone where that tree protection zone has a radius of greater than one hundred (100) feet.

c. The minimum permanent water source permissible under these provisions shall be a hose bib capable of delivering a minimum of three gallons per minute.

d. All irrigation systems connected to any potable water supply shall prevent contamination of the potable water supply according to county standards; provided however, irrigation shall not be required where (i) existing individual trees or clumps or groups of existing trees or wooded areas are to be preserved and grading, filling or other land disturbing activities have not disturbed the natural ground water supply to such trees, or (ii) for planted trees it is determined by the administrator that the natural condition is sufficient to sustain tree growth.

(b) *Standards and specifications--Tree quality points.*

(1) *Basis for assigning tree quality points to preserved or planted trees.*

a. All preserved trees must be greater than four (4) inches DBH to qualify for tree quality points.

b. All large trees, except for conifers, must be at least two-inch caliper to qualify for tree quality points when planted on the site.

c. All coniferous, including but not limited to pines, cedars, and cypress, trees and all medium or small trees must be a minimum of one-inch caliper to qualify for tree quality points when planted on the site.

d. If multi-trunk trees are planted or preserved the largest trunk only shall qualify for tree quality points.

e. All planted trees shall conform to the most recent edition of the American Standard for Nursery Stock (as written by the American Association of Nurserymen). Topped trees shall not be considered for tree quality points.

f. Lifting or moving trees without adequate support to the root ball shall be sufficient grounds to reject the trees for tree quality points award.

g. Greater than fifty (50) percent scaffold limbs per tree exhibiting included bark shall be cause for rejection of the tree.

(2) *Tree quality points for planted trees.* Tree quality points are assigned to newly planted trees as defined in Table 2. The species listed are contained in the tree quality points list published and maintained by the administrator.

TABLE 2. TREE QUALITY POINTS FOR PLANTED TREES

Species Quality Rating Mature Tree Size	Acceptable	Recommended	Preferred
Small (less than 25')	3	5	10
Medium (25'--40')	5	15	30
Large (40' +)	15	40	90

A listing of small, medium and large trees is found within the tree quality points list maintained by the administrator.

(3) *Tree quality points for preserved trees.* Tree quality points for trees preserved on the site are directly related to the tree species quality and the tree protection zone that must be provided for the tree. Tree quality points for preserved trees are calculated by squaring the tree's diameter at breast height (DBH) and multiplying this number by the applicable tree quality points factor. The mathematical formula is:

$$(DBH)^2 \times (\text{Quality Points Factor}) = \text{Tree Quality Points}$$

The tree quality points factor is found in Table 3.

TABLE 3. TREE QUALITY POINTS FACTOR

Tree Quality Rating	Quality Points Factor
Acceptable	0.5
Recommended	0.75
Preferred	1.5
Exceptional	2.5

(4) *Tree quality points for preserved stands of trees.* The preservation of mature native stands of trees and understory vegetation shall have the value of 0.25 Tree quality points and 0.10 Landscape quality points per square foot of preserved area. To determine if a stand of trees should be preserved and assigned tree quality points, the following specifications shall apply:

a. The administrator shall visit the site in order to verify that the stand contains native or extant trees of sufficient size, quantity and quality to warrant reservation as a stand. The administrator shall review the types of tree species located on the site, the quantity of trees within each species, the degree of crown closure and the trees' condition. Stands found by the administrator to contain an insufficient number of mature native trees shall not qualify for quality points under preserved stand calculations. Individual trees, found by the administrator to be unacceptable as a preserved stand, may qualify for tree quality points on an individual basis if the critical root systems of individual trees remain intact.

b. The stand shall be integrated into a tree protection, tree establishment and landscape plan.

c. All existing vegetation shall be left within the preserved stand with the exception of hazardous trees. No clearing of underbrush shall be permitted.

d. The preserved stand shall be protected during the construction period using the same standards and specifications as required for a tree protection zone.

e. Such preserved stand shall be considered a set-aside and shall be shown within a permanent, recorded tree conservation easement.

(5) *Tree quality points for palm-type trees.* Palm-type trees shall be assigned two (2) tree quality points per foot of stem height up to ten (10) feet, regardless of whether the tree is preserved or planted on the site.

(6) *Landscape quality points for small and medium trees, shrubs and ground cover and vines.*

a. Landscape quality points shall be given for planted medium and small trees, shrubs, ground cover and vines on new commercial, industrial, office, institutional, and multifamily developments. Tree quality points for preserved medium and small trees may also qualify towards the four hundred (400) landscape quality point per acre requirement. To qualify, shrubs shall be planted in a container of a minimum of three (3) gallons. If a shrub(s) is incorporated into a buffer, it must be capable of meeting the height requirements of the buffer within a 12-month period.

b. All planted trees shall conform to the most recent edition of the American Standard for Nursery Stock (written by the American Association of Nurserymen). Topped trees shall not be considered for tree quality points.

c. Lifting or moving trees without adequate support to the root ball shall be sufficient grounds to reject the trees for tree quality points.

d. Table 4 includes types of material acceptable for landscape quality points:

TABLE 4. LANDSCAPING QUALITY POINTS PER ACRE

Type	Points for Planted Material	Points for Preserved
Medium trees	30 points for preferred trees	1.50 factor
	15 points for recommended trees	0.75 factor
	5 points for acceptable trees	0.50 factor
Small trees	10 points for preferred trees	1.50 factor
	5 points for recommended trees	0.75 factor
	3 points for acceptable trees	0.50 factor
Evergreen shrubs:		
Large (6--12' high)	5.0 points each	
Medium (4--6' high)	2.5 points each	
Small (Under 4' high)	1.0 points each	
Deciduous shrubs:		
Large (6--12' high)	2.5 points each	
Medium (4--6' high)	1.0 points each	
Small (Under 4' high)	0.5 points each	
Evergreen ground cover	0.1 each in one gallon size or greater or 0.1 for 4 square feet of planted area where a small container is used.	
Evergreen vines when used as a ground cover	0.1 each in one gallon size or greater or 0.1 for 4 square feet of planted area where a smaller container is used.	
Evergreen vines when used as a shrub	Same as for evergreen shrub points, with a minimum of a 3-gallon container.	

(c) *Continuing obligation for maintenance.* The following maintenance standards apply to all trees, which are planted or preserved on a site in order to meet the

minimum tree and landscape quality point requirements as set forth in this section. Other trees on the site are exempt from these requirements.

(1) Any damage or injury occurring to a preserved tree, by determination of the administrator, sufficient to cause the tree to die within five (5) years or develop into an irreparable hazard tree, shall be removed and shall lose tree quality points. Any tree so removed from the site shall be replaced with a tree of equal or greater tree quality points.

(2) Damage not considered by the administrator to be fatal to a preserved tree or hazardous to the public shall be immediately repaired but shall result in a proportional decrease in tree quality points, where applicable.

(3) The property owner shall be solely responsible for watering and fertilizing trees in order to maintain tree health and vigor. Failure to maintain the required number of tree quality points on the property shall be a violation of this article.

(d) *Trees adjacent to county owned property.*

(1) A property owner responsible for any land disturbing activity within proximity to the critical root zone of a tree located on county property shall provide for the protection of such tree to the standards described in these regulations. All work on county rights-of-way requires a permit from the county, and violations are subject to an immediate stop work order.

(2) If a tree is recommended for removal from a county right-of-way by other county agencies the administrator shall participate in the review process. Any tree removal on county property shall be coordinated with the administrator, and issues of mitigation for the tree removal shall be addressed by the administrator.

(3) A property owner responsible for a land disturbing activity that causes damage to a tree on county property which affects the health or growth of such tree, or removes a tree, shall compensate the county for such tree loss or damage as set forth below.

a. The administrator shall assess tree quality points for the removed or damaged tree. The property owner responsible for the land disturbing activity, which caused the removal or damage to such tree(s) shall compensate the county for such tree loss or damage under one of the following options, subject to the approval of the administrator.

1. Plant or preserve additional trees on the development site which equal or exceed the value of the tree quality points previously assessed to the removed or damaged tree.

2. Plant trees on adjacent county rights-of-way that equal or exceed the value of the tree quality points that were assessed for the removed or damaged tree. The property

owner shall coordinate with the administrator to select the species, set up a plant acceptance date and to have the administrator observe the planting of the tree(s).

3. Donate a gift-in-kind to the county tree fund, for a tree whose value equals or exceeds the value of the tree quality points that were assessed for the removed or damaged tree.

4. Meet any equivalent combination of the above as approved by the administrator.

b. Once the administrator has approved a method for compensating the county for the damaged tree, the owner of the development shall submit to the administrator, for approval, a revised tree protection and tree establishment plan incorporating the approved tree compensation plan.

(e) *Designation of exceptional trees.* Trees designated exceptional shall thereafter be considered a public landmark and shall not be destroyed or endangered. The following procedures and criteria shall be applied in determining whether a tree shall be designated an exceptional tree.

(1) All nominations for exceptional tree designation shall be reviewed by the administrator who shall make recommendation on such nomination to the board of commissioners. The board of commissioners may, on their own initiative or upon a petition, designate a tree as "exceptional," as defined herein.

(2) The designation of an exceptional tree shall be based upon an evaluation of the tree in relation to one or more of the following criteria:

a. Sufficient facts have been presented to the board of commissioners to demonstrate that the tree has an association with a documented historical event, or is located on an historic site.

b. The tree has unusually high aesthetic value.

c. The tree possesses unique characteristics because of its age, species, variety, location, or the size and development of its crown, trunk, or main stem.

(3) All trees, at the time of designation, as an exceptional tree shall meet all of the following criteria:

a. The tree is free of disease, pests and other serious injury.

b. The tree has a life expectancy of more than ten (10) years.

c. The tree is free from structural defects, which would present a hazard to the public.

(4) *Protection.* Upon designation as an exceptional tree, the tree shall be protected from land-clearing activities, as provided in this section, and the tree quality points assigned to the tree shall be based upon a tree quality points factor of 2.5 (60 percent more tree quality points than a preferred tree of equal DBH).

(Ord. No. 2001-001, § I, 7-10-2001)

**Sec. 5-109. Reserved.**

**Sec. 5-110. Underbrushing procedures.**

On tracts of land containing twenty (20) or more acres not otherwise exempt from operation of this article, the administrator may approve underbrushing of greater than two-inch diameter trees upon finding that:

(a) Sufficient tree cover exists such that the removal of such trees will not impair the ability of the site to comply with the requirements of these regulations; and

(b) The removal of such trees is not in conflict with the purpose and intent of these regulations.

(Ord. No. 2001-001, § I, 7-10-2001)

Subdivision B. Commercial, Industrial, Office, Institutional, and Multifamily  
Developments

**Sec. 5-111. Applicability.**

Except as herein provided, a greenspace plan shall be submitted to the administrator for all proposed commercial, industrial, office, institutional, or multifamily development. Such greenspace plan shall include a tree protection, tree establishment and landscape plan and all such plans shall conform to the standards and requirements of these regulations.

(Ord. No. 2001-001, § I, 7-10-2001)

**Sec. 5-112. Greenspace design principles and standards.**

(a) A minimum of twenty (20) percent of the total land area of a development shall be devoted to greenspace.

(b) Sidewalks, curbing, or any other paved or impermeable surfaces within the greenspace area shall not be applied toward the twenty (20) percent minimum greenspace requirement.

(c) Existing clusters of trees shall be retained wherever possible.

(d) Locations for planting/preserving trees and landscaping:

(1) *Street trees.* Street trees may be planted or preserved within the front yard development setback, provided they can be placed within a tree easement established pursuant to the provisions of the county subdivision regulations, and such tree does not conflict with any existing utility, drainage or other easements. Street trees located within tree easements will be maintained by the county.

(2) *Front yard development setback.* Understory and canopy trees may be preserved and/or planted in this area. A portion of the four hundred (400) landscape quality points per acre may be planted in this area to correspond with county requirements for buffers so as to screen parking areas from adjacent roadways.

(3) *Parking areas.*

a. A minimum of one thousand two hundred (1,200) tree quality points per acre in canopy trees shall be planted and/or preserved within landscaped islands and medians located between parking bays. Vegetation qualifying for landscape quality points may also be planted in these areas.

b. Canopy trees planted in parking islands shall have four hundred (400) square feet of unpaved soil for root development. The standard tree island shall be 20' x 20'; provided, however, that where the islands are an extension of a ten-foot wide landscape median, the islands may be reduced in width to sixteen (16) feet. Islands shall not be separated by more than twelve (12) parking spaces, including the landscaped ends of drive aisles.

(4) *Buffers.* Existing and/or planted canopy trees, understory trees, and planted evergreen shrubs may be incorporated into buffer areas otherwise required pursuant to the Code of Ordinances of Liberty County and/or the Zoning Ordinance of Liberty County. Landscape and/or tree quality points shall be counted for planting in buffer areas provided such vegetation meets the principles and standards as set forth in this article.

(5) *Areas adjacent to buildings.* Plantings adjacent to buildings shall be eligible for tree and landscape quality points if it meets the principles and standards set forth in this article.

(6) *Set-asides and/or stands of trees.* Set-aside areas made up of existing stands of trees and understory vegetation shall be eligible for tree and

landscape quality points if they meet the principles and standards set forth in this article.

(e) Landscaping standards:

(1) The required four hundred (400) landscape quality points per acre shall be provided through the planting of medium trees, small trees, shrubs, ground cover and/or vines on the site.

(2) To qualify for landscape quality points such plantings may be located in the following areas:

- a. Front yard development setback.
- b. Parking area islands and medians.
- c. Buffers.
- d. Areas adjacent to buildings.
- e. Set-asides and/or stands of trees.

(f) Special cases:

(1) *Insufficient space for trees and/or landscaping on site.*

a. Where circumstances prevent locating the required one thousand six hundred (1,600) tree quality points per acre on the site, such trees shall either be located as close to the site as practicable, with approval from the administrator, or a contribution shall be made to the county tree fund for the planting and maintenance of such trees elsewhere in the community. However, before this provision shall apply, it must be demonstrated to the administrator that the trees and landscaping cannot be accommodated on the site.

b. Where circumstances prevent locating the required four hundred (400) landscape quality points per acre on the site, a contribution may be made to the county tree fund for the planting and maintenance of trees within the community.

(2) *Automobile, boat, trailer, and similar sales lots.* The requirement of canopy cover in the outdoor display, sales and storage areas may be waived for such uses only if the requirements have been met elsewhere on the site. The required four hundred (400) landscape quality points per acre, however, shall be provided in this area to break up large expanses of pavement.

a. Employee and customer parking areas shall be clearly delineated to separate them from outdoor display, sales, and storage areas. Such parking areas shall provide a minimum of one thousand two

hundred (1,200) tree quality points per acre in canopy trees and four hundred (400) landscape quality points per acre in landscaping.

b. Porous paving may be used within outdoor display, sales and parking areas to provide root growth area for new and existing trees.

(3) *Cellular phone towers.* Due to the size and location of many cellular tower sites, it is often impracticable to plant the required landscaping on the site, therefore, the administrator may approve any of the following three alternatives:

a. Planting large canopy trees within the front yard setback along the roadways if there are no conflicting utility locations. The required tree and landscape quality points may be combined together to provide tree quality points for the site.

b. When utilities or site constraints do not allow planting within the front yard setback, plantings may be approved off-site at other locations within the immediate neighborhood. Trees may be planted either in the county right-of-way where there are no utilities or in street tree easements on private property.

c. When there are no viable locations either on site or within the immediate vicinity, a contribution may be made to the county tree fund.

(4) *Storm water detention areas.* Where planting within a stormwater detention area will help it function more efficiently and help make the detention area more visually attractive, such plantings are permitted subject to the following conditions:

a. The centerline of the trough of a storm drainage easement shall remain free of debris and plantings, with the exception of grasses or ground cover material, which stabilizes the bare soil. This area shall be maintained so that the flow of water is not impeded. Plantings of shrubbery and trees shall be maintained at a distance of a minimum of ten (10) feet, or as approved by the administrator, from the centerline of the trough so as to keep the area clear for water flow.

b. The area immediately surrounding drainage structures, including but not limited to grates, inlets and weirs shall be kept free from plantings and mulch to keep debris from clogging the structures and impeding the flow of water. All trees and shrubs shall be maintained at a distance of a minimum of ten feet from such structures.

c. All trees in the immediately surrounding area of a storm detention area shall be kept a minimum distance of ten feet from the centerline of the basin, or one-third the width of the basin floor, whichever is greater.

d. Shrubbery shall be excluded from the basin floor and banks. Shrubs may be planted at the top of the basin where there is no likelihood of the rootballs lifting out of the ground when the basin is filled with water.

e. Vegetation for drainage basin areas. Species of vegetation to be planted in or near detention basins and drainage ways are to be reviewed and approved by the administrator.

(g) Development and expansion of existing property. One thousand six hundred (1,600) tree quality points per acre and four hundred (400) landscape quality points per acre shall be provided for that portion which is being developed.

(Ord. No. 2001-001, § I, 7-10-2001)

### **Sec. 5-113. Requirements for land clearing permit**

(a) A pre-design site visit shall be scheduled between the owner/developer and the administrator. This meeting may be waived by the administrator at the request of the owner if it is determined that there are no natural features on the site.

(b) The owner/developer shall submit the tree protection, tree establishment and the landscape plans, together with all other required drawings, for review by the administrator.

(c) For projects where lawn sprinklers or an irrigation piping system are to be installed, the landscape, tree establishment and tree protection plans shall be prepared.

(d) The owner/developer shall coordinate the location of utilities with the utility companies and the administrator prior to the issuance of a land clearing permit. If there is a potential tree and utility conflict, a new tree establishment plan and/or tree protection plan shall be submitted to the administrator showing the new, proposed utility locations or tree locations.

(e) A pre-construction meeting shall be scheduled among the owner, developer, contractors, appropriate county staff and the administrator prior to issuance of a land clearing permit(s). This meeting shall establish the location of temporary buildings or trailers, temporary utilities, installation of tree protection and erosion control devices, storage of materials and such other subjects deemed necessary by the administrator. Each participant in the site visit shall receive a minimum of 24-hours notice prior to the visit.

(f) Tree protection shall be installed by the owner/developer and inspected by the administrator prior to issuance of a land clearing permit.

(Ord. No. 2001-001, § I, 7-10-2001)

**Sec. 5-114. Land clearing and tree protection requirements for certificate of occupancy.**

(a) The registered professional or other person, who prepared the final tree protection, tree establishment and landscape plans shall provide a written certification that trees and landscaping have been properly installed and protected. The certification shall be submitted to the administrator as part of the close-out documents for a certificate of occupancy.

(b) The administrator shall do a final inspection of all trees and landscaping for completeness prior to the issuance of the certificate of occupancy.

(c) A temporary performance bond shall be posted by the owner/developer for tree and/or landscape installation which cannot be planted due to continued construction, improper planting season, or such other reasonable factor beyond the owner's immediate control. A bond or letter of credit equal to the amount necessary to complete the work shall be posted with the administrator. A deadline for completion of work shall be scheduled with the administrator in writing, prior to the issuance of a temporary certificate of occupancy.

(d) When the administrator makes a final inspection of the trees and landscaping on the scheduled day for the completion of work, if the work has been completed, the temporary performance bond shall be refunded or applied towards the two-year landscape establishment bond at the request of the owner. However, if the planting of trees and/or landscaping is not complete at the scheduled deadline, the temporary performance bond shall be withheld based upon the amount of incomplete work.

(e) Posting of a two-year landscape establishment bond shall take place prior to the issuance of a certificate of occupancy. The bond shall be submitted to the administrator for tracking purposes for closure of files and tracking of the two-year landscape bond release.

(Ord. No. 2001-001, § I, 7-10-2001)

**Sec. 5-115. Release of bond.**

At the end of the two-year landscape establishment period, the administrator shall inspect the site and shall make a determination of whether or not the required trees and landscaping are healthy and have a reasonable chance of surviving to maturity. Upon such a finding, the performance bond shall be released. In absence of such a finding, the bond or other posted security shall not be released and the owner/developer of the property shall be notified to replace the unhealthy trees and landscaping or take other appropriate action as approved by the administrator. Upon failure of the owner/developer to comply with the administrator's decision regarding such trees, the county shall use the bond to the extent necessary to bring the property into compliance with the provisions of these regulations. Final inspection shall be scheduled within ten working days' notice.

(Ord. No. 2001-001, § I, 7-10-2001)

## **Subdivision C. New Single-Family Residential Subdivisions**

### **Sec. 5-116. Applicability.**

These provisions shall apply to new single-family residential subdivisions, wherever developed hereafter within the unincorporated areas of the county and in whatever zoning district the same may be approved pursuant to the Zoning Ordinance of Liberty County.

(Ord. No. 2001-001, § I, 7-10-2001)

### **Sec. 5-117. Greenspace design principles and standards.**

(a) *Tree quality points required.* (Reserved)

(b) *Plans required.*

(1) *For rights-of-way and drainage and utility easements.* Except as herein provided, in order to obtain a land clearing permit for rights-of-way and easements, a greenspace plan shall accompany each preliminary plan for review. Such plan shall conform to the standards and requirements of these regulations.

(2) *For individual lots.* (Reserved)

(c) *Utilities crossing tree easement.* Utilities crossing the tree easement shall be located outside of the critical root zone of trees, unless otherwise approved by the administrator. Utility locations shall allow for the unobstructed planting of street trees at a separation of forty (40) to sixty (60) feet.

(d) *Tree requirements.*

(1) *Planted street trees.* Canopy street trees shall be planted within tree easements. Such trees shall be no less than four (4) inches in caliper at time of installation. Trees shall be planted forty (40) to sixty (60) feet apart, along all street frontages within or abutting the subdivision. Each planted street tree shall have a value of ninety (90) tree quality points.

(2) *Existing trees.* Existing trees, for which tree quality points are sought, may be protected within tree easements as street trees provided that they are protected prior to clearing, as demonstrated in this article.

(3) *Trees on individual lots (other than within street tree easements).* (Reserved)

(4) *Trees within set-aside areas.* (Reserved)

(Ord. No. 2001-001, § I, 7-10-2001)

**Sec. 5-118. Procedures for obtaining a land clearing permit for street rights-of-way and utility and drainage easements.**

A land clearing permit shall be obtained prior to clearing rights-of-ways and drainage and utility easements in a new residential subdivision. The following procedures shall apply:

(a) A pre-development site visit shall be scheduled between the owner/developer and the administrator. This meeting may be waived by the administrator at the request of the owner.

(b) After approval of the sketch plan, the centerlines and rights-of-way of the proposed roadways shall be staked at 50-foot stations to enable field review by the administrator.

(c) The owner/developer shall demonstrate how the required streetscape is to be met in the subdivision or phase of subdivision for which the land clearing permit is sought. This may be shown on a separate green space plan or on one of the other construction drawings, and shall be submitted to the administrator for review. The green space plan shall include any set-aside areas and trees to be protected and the number of required street trees to be provided.

(d) Tree protection for set-asides and/or for any tree proposed for street scape adjacent to rights-of-ways or easements where clearing is to occur shall be installed by the owner/developer and inspected by the administrator prior to issuance of a land clearing permit.

(e) The owner/developer shall contribute to the tree fund established by the county for the planting of new street trees. Where existing trees within the tree easement are acceptable and can be preserved, the amount of the contribution or the requirement for planted street trees shall be adjusted appropriately based upon the critical root zone and applicable tree quality points. The following provisions shall apply:

1. The owner/developer shall contribute a specified dollar amount for each linear foot of property frontage for the establishment of street trees as set in the fee schedule.

2. Planted street trees shall by large preferred trees a minimum of four-inch caliper in size. The administrator shall determine the species of street trees on each street and shall coordinate the species with the developers of private streets. The street trees planted by the county shall be installed at substantial completion of the subdivision so as to prevent such trees from construction damage.

3. Procedures for obtaining a land clearing permit for lots. (Reserved)

4. Certificate of occupancy:

a. The building permit applicant shall certify in writing that the existing trees were properly protected and are likely to survive, as per the requirements of this article.

b. The administrator shall issue the certificate of occupancy when the requirements under this provision are completed.

c. The certificate of occupancy shall be withheld if the required trees are not planted or preserved according to the provisions of these regulations.

d. Upon a showing of hardship by the building permit applicant, a certificate of occupancy may be issued even though all elements of the green space component of the plot plan have not been met. Applicant will be required to provide a certified check for the amount of money necessary to complete the work, plus any additional amount specified in the county's fee schedule; all monies shall be deposited with the administrator. The building permit applicant and the administrator shall agree upon a timeframe, not to exceed six months, for the completion date (hereinafter "completion date"). On the scheduled completion date, the administrator shall inspect the site for compliance. If the site complies, the deposit shall be refunded to the applicant; however, if the work remains uncompleted, the deposit shall be forfeited and the property brought into compliance with the provisions of these regulations.

(Ord. No. 2001-001, § I, 7-10-2001)

### DIVISION 3. ADMINISTRATION

#### **Sec. 5-119. Application for land-clearing activities permits.**

(a) *Submission requirements.*

(1) *Application.* The land owner(s) or authorized agent shall submit an application for a land-clearing permit(s) on a form provided by the county. Such application shall be submitted to the administrator along with all required supporting documents and fees. Each application shall include the data items, plans, and such other documents necessary to allow for clarity. Only complete applications shall be considered for review by the administrator. The administrator shall certify approved applications for the issuance of permits.

(2) *Project description and plans.* Such description shall include:

a. Purpose of the requested permit;

b. Map(s) showing existing and proposed land uses, buildings, parking, and other pertinent elements of development;

c. A boundary survey which shall include the location of all easements, building setback lines, nearby zoning district boundaries;

d. Anticipated starting and completion dates for each phase of the project; and

e. A location map at a scale of 1" = 1,500' or larger, showing the location of the property within the county.

(b) *Phasing of a project.* If a tract is to be developed in phases, then a separate permit shall be required for each phase as appropriate.

(c) *Time limit on approval.* A permit shall be valid for twelve (12) months. In the event that the permit holder has not begun the permitted work within twelve (12) months the permit shall lapse and a new permit must be obtained before work can begin. Once work is begun under a valid permit, the permit holder may continue work under the permit until the work is completed. Any permit, including grandfathered projects, will automatically lapse after twelve (12) months of inactivity, unless the developer has obtained an extension from the director of inspections.

(d) *Denial of permit.* If a permit is denied, the reason for denial shall be furnished to the applicant in writing.

(e) *Waiver of plan requirement.* The administrator may waive the requirement for one or more of the plans listing in subsection (a), upon finding that three (3) or fewer trees are being proposed for removal, no grading is to occur, and such removal will not be contrary to the purpose of these regulations.

(Ord. No. 2001-001, § I, 7-10-2001)

### **Sec. 5-120. Establishment of a tree fund, etc.**

There is hereby created a Liberty County Tree Fund for the purpose of establishing trees in public areas in lieu of compliance with requirements for commercial, industrial, office, institutional, and multifamily development; provided, however, that said contributions in lieu of compliance shall only be permitted in such circumstances where it is demonstrated to the administrator that the requirements of this article cannot be reasonably accommodated. The county will adopt and publish a fee schedule for (a) the bond and for contributions to the county tree fund in lieu of compliance; and (b) the fee per linear front foot in the subdivision; and a tree quality point index.

(Ord. No. 2001-001, § I, 7-10-2001)

### **Sec. 5-121. Appeals and variances.**

(a) *Appeals procedures.* Appeals from decisions of the administrator or requests for variances from the provisions of this article shall be made within thirty (30) days from the date of such decision to the county commissioners on the forms provided for such purpose by the administrator. All such appeals or requests shall be heard at a time consistent with the established procedure for placing items on the agenda of the county commissioners.

(b) *Variance.*

(1) Variances shall only be granted upon a determination that the variance is the minimum necessary to afford relief.

(2) Variances shall only be granted upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship; and

c. A determination that the granting of a variance will not adversely impact the intents and purposes of these regulations.

(3) In consideration of variances and appeals, and the purposes set forth for these regulations, the board of commissioners 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.

(Ord. No. 2001-001, § I, 7-10-2001)

### **Sec. 5-122. Penalties for violations.**

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall constitute a violation of this article. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be punished as a misdemeanor, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing contained in this article shall prevent Liberty County from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2001-001, § I, 7-10-2001)