

Article X - Administration, Enforcement, and Penalties

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

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

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

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

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

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

- 10-10-1 **Application Process.** Any amendment to the text of this Ordinance or the Zoning Map or any final action upon any other zoning decision shall begin upon an application form. Annexations shall begin on a form provided by the respective municipal governments and all other zoning decisions shall begin on a form provided by the Zoning Administrator. Such application forms shall include a listing of any and all requirements for consideration of any matter requiring a final zoning decision. Failure to comply with the requirements of the application shall constitute an incomplete application which will not be processed for conclusion of the requested final zoning decision. An application fee, which is established by the Governing Authority of the County or the municipalities, as applicable, may apply and be adjusted from time to time. Failure of the Zoning Administrator or City Clerks, as applicable, to collect a fee from the Governing Authority or the respective municipalities or from the Planning Commission (or equivalent), when they are initiating a proposed zoning decision, shall not void the validity of the application.
- 10-11 **Conflict with Other Laws.** Whenever the regulations of this Ordinance require a greater width or size of yards, building, or smaller number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other more restrictive standards than are required in or pursuant to any other statute, law, rule, or regulation, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.
- 10-12 **Separability.** Should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
- 10-13 **Repeal of Conflicting Ordinances and Validity of Prior Approvals and Actions.** All ordinances and parts of ordinances in conflict herewith are repealed.
- 10-13-1 This is the Unified Zoning Ordinance, and all other conflicting ordinances or resolutions are hereby repealed; provided, that nothing herein shall be construed as repealing or modifying the condition of operation or conditions of site development accompanying those zoning approvals or use permits issued under previous zoning ordinances or resolutions; however, modification or repeals of these past conditions of approval may be accomplished as provided by this ordinance.

- 10-13-2 Except as otherwise provided herein with respect to non-conforming uses, all variances and exceptions heretofore granted by the respective Planning Commission or Board of Zoning Appeals shall remain in full force and effect and all terms, conditions and obligations imposed by the respective Planning Commissions, Board of Zoning Appeals, or governing authority shall remain in full force and effect and be binding. Prior ordinances shall remain in effect insofar as required for the initiation of any proceedings against violations thereof and for the prosecution of any violations heretofore commenced.
- 10-13-3 Notwithstanding anything contained herein and notwithstanding any zoning classification change, all previous special stipulations, conditions, restrictions, agreements and terms contained in prior zoning ordinances shall remain in full force and effect and shall not be amended by this document and shall carry forward to any new zoning classification and shall be binding upon said property. Prior ordinances shall remain in effect and shall remain as such special stipulations, conditions, restrictions, agreements and terms, even though the zoning category itself may be changes hereunder.

10-14 Appeals.

- 10-14-1 To ensure that the public is afforded due process in seeking judicial review of the exercise of zoning, administrative, or quasi-judicial powers, as guaranteed by Article I, Section I, Paragraphs IX and XII of the Georgia Constitution, the following procedures set forth the manner by which such powers may be reviewed by the Whitfield County Superior Court, which shall have exclusive jurisdiction thereof:
- (a) Zoning decisions, as described herein, being legislative in nature, shall be subject to direct constitutional challenge regarding the validity of maintaining the existing zoning upon the subject property, or the validity of conditions imposed, or an interim zoning category other than what was requested, in the Whitfield County Superior Court, pursuant to its original jurisdiction over declaratory judgments, as set forth in Chapter 4 of Title 9, and pursuant to its equity jurisdiction, as set forth in Title 23. Any such challenge shall seek *de novo* review by the Whitfield County Superior Court, wherein such review shall consider the entire record from below, and all competent evidence shall be admissible in the trial thereof, whether adduced in the local government process or not. The Court shall employ the presumption that a governmental zoning decision is valid and can be overcome substantively by a petitioner only by clear and convincing evidence that the zoning classification is a

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

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

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

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

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

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

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

Article XI – Unified Board of Zoning Appeals

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 11-3-3 An appeal or variance request not received by the office of the Zoning Administrator on or before the 30th day following decision or determination shall be considered untimely and shall be automatically denied.
- 11-3-4 A timely filed appeal or variance request shall stay all legal proceedings in furtherance of the action from which the appeal is taken unless the Zoning Administrator or his/her agent shall certify by sworn affidavit, a copy of which shall be provided to the appellant, that a stay would cause imminent peril to life and/or property. In such circumstance, there shall be no stay unless ordered by any court of competent jurisdiction.
- 11-3-5 At least ~~fifteen (15)~~ **thirty (30)** days but not more than forty-five (45) days prior to the public hearing date, a written notice shall be published in a newspaper of general circulation within the territorial boundaries of the County, setting forth the time, place, and purpose of the hearing. In addition, a sign shall be placed in a conspicuous location upon the lot or parcel for which a variance is sought, setting forth the time, place, and purpose of the public hearing. Acts of vandalism or natural occurrences limiting the effectiveness of such notice shall not invalidate any proceeding or action taken upon the proposed variance.
- 11-3-6 The appellant may represent himself or herself before the Board or may be represented by an attorney at law, a registered land surveyor, and/or other engineers or professionals, as he or she deems appropriate or helpful. The appellant may not be represented by a layperson unless such person shall be the appellant's attorney-in-fact.
- 11-3-7 The order of proceeding shall be as follows: An authorized representative of the office of the Zoning Administrator shall first present all of his or her reasons for the order, requirement, decision, or determination being appealed or requested for a variance. In presenting said reasons, such representative shall present all of the findings of fact and conclusions of law that form the bases for said decision. Then the individual appellant shall present his or her grounds for requesting a waiver or variance, calling witnesses if desired. Any member of the Board may question any witness at any point during the proceeding. Following all witnesses, either side may present rebuttal testimony. At the conclusion of the evidence, the Chair may give both sides an opportunity to summarize briefly if the Chair shall deem it helpful.
- 11-3-8 Hearings before the Board shall not be governed by the strict rules of evidence as in a court of law, though the Chair shall be empowered to disallow any evidence or testimony deemed by him or her to be irrelevant, speculative, or otherwise inappropriate to the issues being

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

- 11-3-9 The deliberation and vote by the Board must be made in open session, either upon motion and second at the meeting at which the appeal or variance request is presented or at any subsequent regular or special called meeting of the Board. The Board shall make a decision not later than either thirty-five (35) days following the initial hearing upon any appeal or variance request or ~~ninety (90)~~ **one hundred eighty (180)** days from the time the application for Appeal or Variance is filed with the office of the Zoning Administrator, or said request shall be deemed granted.

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

- 11-3-10 ~~Should the individual appellant desire to appeal any decision of the Board, he or she must do so by Writ of *Certiorari* directly to the Whitfield County Superior Court within thirty (30) days of such decision.~~ **Any appellant seeking judicial review of any decision of the Board shall proceed in accordance with Section 10-14, Appeals, hereinabove.** There shall be no intermediate appeal to the applicable Governing Authority, or to any other administrative body.

- 11-3-11 Any appellant whose appeal or variance request shall be denied by the Board shall be required to wait not less than six (6) months before seeking an appeal or variance for the same real property and/or for the same or similar request. Such waiting period shall apply to any agent for appellant, co-owner with appellant, or successor in appellant's interest.

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

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

APPENDIX B

RECORD OF AMENDMENTS TO THE ORDINANCE

RECORD OF AMENDMENTS TO THE ORDINANCE

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

RECORD OF AMENDMENTS TO THE ORDINANCE, Cont.

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

APPENDIX C

RULES FOR WHITFIELD COUNTY HEALTH DEPARTMENT

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

(1) Lot Size

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

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

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

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

APPENDIX D

By-Laws of the Unified Board of Zoning Appeals

- a. At its first meeting of each calendar year, the Board shall elect a Chair and a Vice-Chair from its members, each of whom shall serve for one (1) year or until his or her successor is elected. The Vice-Chair shall preside at meetings in the absence of the Chair.
- b. The Chair or, in his or her absence, the Vice-Chair or other member designated to conduct an official meeting, may administer oaths and compel the attendance of witnesses.
- c. The Board may adopt such by-laws, rules or procedures as are appropriate and not in conflict with the Unified Zoning Ordinance.
- d. A meeting of the Board shall occur not more than forty-five (45) days from receipt by the Board of a properly completed appeal request. Notice of the meeting date shall be provided to the individual appellant not later than ~~fifteen (15)~~ **thirty (30)** days prior to the meeting date by regular United States Mail at the address shown upon the appeal request or by e-mail if an e-mail address is provided by an appellant.
- e. A special called meeting of the Board may be called by any member of the Board or the Zoning Administrator upon not less than forty-eight (48) hours' written notice to the other Board members and to the Zoning Administrator, with a brief explanation of the purpose of the special called meeting. If a special called meeting involves an individual appellant and is called at the request of such appellant, such individual shall receive not less than twenty-four (24) hours' written notice as well.
- f. A quorum of at least three (3) members of the Board must be physically present to hear any appeal and to render a decision. A majority of the quorum present shall be entitled to take action either to grant a variance hereunder or to deny such a request, even if such majority of the quorum present does not constitute a majority of the entire membership of the Board.
- g. Voting on all matters shall be by voice or by show of hands, as determined by the Chair.
- h. The conduct of the meeting shall be governed by Robert's Rules of Order, or the latest revision thereof.
- i. All meetings of the Board shall comply fully with the Georgia Open Meetings Act and shall be open to the public.
- j. All meetings of the Board shall take place within Whitfield County, Georgia at a public location as may be designated by the Chair.

- k. All Board members attending a meeting shall vote on each matter placed before it. A member may abstain from voting only in the instance of a conflict of interest, the nature of which must be stated for the record.

- l. The Zoning Administrator or his or her designee shall serve as secretary to the Board. The secretary shall cause minutes of the Board's proceedings to be kept, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall cause records of the Board's examinations and other official actions to be kept, all of which shall be of public record.

APPENDIX E

UNIFIED ZONING PROCEDURES AND STANDARDS ORDINANCE

SECTION 1-1 PREAMBLE AND ENACTMENT CLAUSE:

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

SECTION 1-2 SHORT TITLE:

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

SECTION 1-3 DEFINITIONS:

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

SECTION 1-3.1 "COMMISSION"

Commission shall mean the Dalton-Whitfield County Planning Commission.

SECTION 1-3.2 "BOARD"

Board shall mean the Unified Board of Zoning Appeals.

SECTION 1-3.23 "GOVERNING AUTHORITY"

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

SECTION 1-3.34 "GOVERNMENTAL ENTITY"

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

SECTION 1-3.45 "SPECIAL USE"

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

SECTION 1-3.56 "LOCAL GOVERNMENT"

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

SECTION 1-3.67 "TERRITORIAL BOUNDARIES"

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

SECTION 1-3.78 "ZONING"

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

SECTION 1-3.89 "ZONING ADMINISTRATOR"

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

SECTION 1-3.910 "ZONING DECISIONS"

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

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

SECTION 1-3.1011 "ZONING ORDINANCE"

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

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

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

SECTION 1-4.1

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

SECTION 1-4.2

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

SECTION 1-4.3

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

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

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

SECTION 1-5.1

At least ~~fifteen (15)~~ thirty (30) but not more than forty-five (45) days prior to the date set by the Dalton Whitfield Planning Commission for a public hearing, a written notice shall be published in a newspaper of general circulation within the territorial boundaries of Whitfield County, State of Georgia, setting forth the time, place, and purpose of the hearing.

SECTION 1-5.2

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

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

SECTION 1-5.3

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

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

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

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

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

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

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

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

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

SECTION 1-7.1

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

SECTION 1-7.2

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

SECTION 1-7.3

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

SECTION 1-7.4

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

SECTION 1-7.5

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

SECTION 1-7.6

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

SECTION 1-7.7

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

SECTION 1-7.8

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

SECTION 1-7.9

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

SECTION 1-8 ZONING STANDARDS:

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

SECTION 1-8.1 "FACTORS"

SECTION 1-8.1(A)

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

SECTION 1-8.1(B)

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

SECTION 1-8.1(C)

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

SECTION 1-8.1(D)

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

SECTION 1-8.1(E)

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

SECTION 1-8.1(F)

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

SECTION 1-8.1(G)

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

SECTION 1-8.1(H)

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

SECTION 1-8.2

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

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

SECTION 1-9.1 “FACTORS”

SECTION 1-9.1(A)

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

SECTION 1-9.1(B)

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

SECTION 1-9.1(C)

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

SECTION 1-9.1(D)

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

SECTION 1-9.1(E)

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

SECTION 1-9.1(F)

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

SECTION 1-10 OFFICIAL ACTION BY THE GOVERNING AUTHORITY:

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

SECTION 1-10.1

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

SECTION 1-10.2

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

SECTION 1-10.3

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

SECTION 1-10.4

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

SECTION 1-11 ANNEXATION OF UNINCORPORATED ISLANDS BY MUNICIPALITIES.

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

SECTION 1-11.1

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

SECTION 1-11.2

Notice of public hearing and notice of intent to annex an unincorporated island. A public notice of the date, time, place and purpose of any public hearing precedent to the enactment of an ordinance to annex an unincorporated island or any portion thereof shall be given not less than ~~15~~ 30 days but not more than 45 days prior to any public hearing upon the subject of the annexation of an unincorporated island or any portion thereof. Such public notice shall be published in the legal organ for Whitfield County, Georgia.

SECTION 1-11.3

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

SECTION 1-11.4

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

SECTION 1-12 DISTRIBUTION:

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

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