

ARTICLE IX SPECIFIC PROVISIONS

SECTION 900: HOME OCCUPATIONS

Home occupations, where permitted, must meet the following special requirements. Any business, occupation, or profession, the operation of which does not meet the following requirements of a home occupation, shall not be interpreted to be a home occupation despite the fact that it might attempt to operate in a residence.

1. The owner of the business must be the owner of the property on which the home occupation is to be located, or must have written approval of the owner of the property if the business owner is a tenant.
2. The home occupation shall be operated only by the members of the family residing on the premises and shall involve the sale of only those articles, products, or services produced on the premises by members of the family in residence.
3. The home occupation may be located either within the main dwelling or within any accessory building customary for the district in which it is located. If located within the main dwelling, the home occupation shall not occupy more than twenty-five (25%) percent of the heated floor area within said building.
4. The home occupation shall be clearly secondary to the residential use.
5. There shall be no unhealthy or unsightly conditions. The home occupation shall not generate excessive traffic or produce smoke, dust, fumes, obnoxious odors, glare, heat, noise, vibrations, electrical disturbance, or radio-activity or other conditions detrimental to the character of the surrounding area.
6. Except as related to agriculture, horticulture, or the raising of farm animals, including horses, as permitted in this ordinance, there shall be no external display of products, open storage of materials or stock, storage of equipment, or other externally visible evidence whatsoever of the occupation, business, or profession except for one sign as specified herein.
7. There shall be no chemical, mechanical, or electrical equipment on the premises other than that normally found as part of any permitted use for that district.
8. No on-street parking of business-related vehicles shall be permitted at any time, and no parking problem or traffic hazard shall be created.
9. Any business sign placed on the premises shall comply with requirements specified in *Article XI, Signs*, in this Ordinance.

900.1 Permitted Home Occupations

The following uses are examples of allowable types of home occupations (not all-inclusive):

1. Family Day-care Home
2. Tutoring of all types, but limited to four (4) pupils at one time.
3. Arts and crafts, studios.
4. Small appliance repair.
5. Home offices, but not including outside storage of equipment, materials, or commercial vehicles, except as specified in *Article X, Off-Street Parking and Loading*, in this Ordinance.
6. Professional services (i.e. attorneys, accountants, real estate agents, insurance agents, counselors, therapists, etc).
7. Upholstery repair.

8. Alterations.
9. Home marketing (i.e. Amway, Mary Kay, Tupperware, etc.) and mail-order marketing of items.
10. Laundering services.
11. Sale of animals, vegetables, fruits, plants or other produce, grown or produced on the premises, as permitted for the district in which it is located, provided that in the R-1, R-2, R-3 districts, and in any AR district containing less than five (5) acres, there shall be no stands or booths for display of such produce.
12. Bed and Breakfast Facilities, provided the following restrictions shall apply:
 - a. A bed and breakfast facility shall be owner occupied and subordinate and incidental to the main residential use of the structure.
 - b. The maximum number of paying guests per day shall not exceed ten (10). Establishments providing more than five (5) bedrooms for paying guests shall be considered a hotel, and therefore must be located in a commercial district.
 - c. Guests shall not stay longer than twenty-one (21) consecutive days.
 - d. Meals served by the owner/manager shall be limited to those individuals lodging in the facility and their guests. Meals shall not be served to the general public.
 - e. There shall be a minimum of two (2) parking spaces for the owner and one (1) parking space for each bedroom intended to be rented. Parking areas shall be located to the side and rear of the building. Tandem parking shall be permitted, but the area shall be screened from adjacent uses.
 - f. Facility shall be located in existing structure(s). No new structures or additional dwelling units can be built or added for this purpose. No exterior alterations other than those necessary to assure the safety of the structure and guests shall be made to any building for the purpose of providing a bed and breakfast facility.
 - g. Only one sign, complying with the requirements specified in *Article XI, Sign Regulations*, in this Ordinance, may be erected on the property.
 - h. The operation shall not create noise, light, or traffic conditions or any other adverse impacts detrimental to adjacent property owners or the neighborhood in general.
 - i. The operation shall comply with all applicable health and safety codes.
13. Other similar uses as approved by the Maxeys Town Council.
14. Uses which are NOT allowable home occupations include: Medical doctors, or any practice of physical and/or medical/dental application, commercial vehicle repair/mechanics garages, commercial greenhouses or nurseries, or other uses interpreted to be not permitted by the zoning official(s).

900.2 Expiration

Whenever the applicant ceases to occupy the premises for which the home occupation was issued, the permit for home occupation shall expire and no subsequent occupant of such premises shall engage in any home occupation until he shall have been issued a new permit after proper application.

SECTION 901: MANUFACTURED HOUSING

It order to provide for uniform treatment of all housing classified as single-family dwellings and to encourage the provision of affordable housing in a general residential environment, the use of manufactured housing comparable to similar dwellings constructed on site shall be allowed in any zoning district permitting "single-family dwellings", subject to the requirements, compatibility standards, and procedures set forth herein to assure similarity in exterior appearance between such residentially designed Manufactured Homes and typical site-built dwellings which have been constructed on adjacent lots in the same district, zoning classification, or general area.

901.1 Manufactured Housing Classification

1. **"Class A" Manufactured Housing** – A dwelling unit fabricated in an off-site facility for installation or assembly at the building site, constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended June 15, 1976, 42 U.S.C. 5401, et seq., bearing an insignia or sticker of approval issued by the U.S. Department of Housing and Urban Development (HUD) that is usually found on a red label at the rear of the home near the tail light (the HUD standards are administered in Georgia by the Office of the State Fire Marshall). In addition, "Class A" Manufactured Housing shall be that which **DOES comply** with both the maximum age restrictions specified in the *Oglethorpe County Rules and Regulations for Manufactured Housing and Mobile Homes, Minimum, Standards for Installation Requirements*, and the minimum standards for compatibility with typical "stick-built" single-family dwellings constructed on site as specified in *Subsection 901.2, Minimum Compatibility Standards*, herein.
2. **"Class B" Manufactured Housing/Mobile Home** - A dwelling unit fabricated in an off-site facility for installation or assembly at the building site, constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended June 15, 1976, 42 U.S.C. 5401, et seq., bearing an insignia or sticker of approval issued by the U.S. Department of Housing and Urban Development (HUD) that is usually found on a red label at the rear of the home near the tail light (the HUD standards are administered in Georgia by the Office of the State Fire Marshall); and which **DOES comply** with the maximum age restrictions specified in the *Oglethorpe County Rules and Regulations for Manufactured Housing and Mobile Homes, Minimum, Standards for Installation Requirements*, but which **DOES NOT comply** with the minimum standards for compatibility with typical "stick-built" single-family dwellings constructed on site as specified in *Subsection 901.2, Minimum Compatibility Standards*, herein.
3. **"Class C" Manufactured Housing** – A dwelling unit fabricated in an off-site facility for installation or assembly at the building site, which **DOES NOT satisfy** the maximum age restrictions, construction, fire, or safety standards specified for either "Class A" or "Class B" Manufactured Housing. Any Manufactured Housing that does not meet the minimum requirements for "Class B" Manufactured Housing shall be prohibited from being moved into Oglethorpe County. Any existing "Class C" Manufactured Housing already located in Oglethorpe County prior to the adoption of this Ordinance may be relocated within Oglethorpe County subject to the conditions specified in paragraph #3 of *Subsection 901.3, Manufactured Housing as Single-Family Dwellings*, herein.
4. **Modular/Industrialized Housing** - A factory-fabricated, transportable building consisting of units mass produced in factories and designed to be incorporated at a building site on a permanent foundation into a permanent structure to be used for residential or commercial purposes. The building shall be manufactured in accordance with the Georgia Industrialized Building Act, and each unit must bear a seal of approval issued by the Commissioner of the Department of Community Affairs (DCA seal). The DCA sticker of approval is normally placed on the inside of the electrical panel or on the inside of kitchen cabinet doors.

901.2 Minimum Compatibility Standards

The following standards shall be used to determine compatibility of Manufactured Housing with permitted "stick-built" single-family dwellings constructed on site, including size, siding material, roof material, foundation, and general aesthetic appearance, as set out in *Subsection 901.1, Manufactured Housing Classification*, herein.

1. The length of the manufactured home shall not exceed three times its width, measured at the narrowest point, and it shall have a minimum floor area of nine hundred (900) square feet.
2. The pitch of the roof shall have a minimum vertical rise of five (5) inches for every twelve (12) inches of horizontal run, and the roof shall be finished with a type of shingle or standing seam metal that is commonly used in standard residential construction.

3. The exterior siding materials shall consist of siding made of wood, hardboard, aluminum, or vinyl, or other materials of like appearance, comparable in composition, appearance, and durability to the exterior siding materials commonly used in standard residential construction.
4. The manufactured home shall be placed on a permanent foundation, either slab or pier, meeting the requirements of the Standard Building Code. A masonry curtain wall, unpierced except for the required ventilation and access, must be installed so that it encloses the area under the manufactured home to ground level.
5. The tongue, axles, transporting lights, and towing apparatus shall be removed from the manufactured housing unit and from the lot after placement of the manufactured home on the lot and prior to occupancy.
6. Utility meters for the manufactured home shall be mounted to the structure rather than on a utility pole.

901.3 Manufactured Housing As Single-Family Dwellings

Manufactured Housing used as single-family detached dwellings shall be permitted as follows:

1. All "Class A" Manufactured Housing (as defined herein) shall be allowed in all zoning districts permitting single-family detached dwellings, and shall be regulated uniformly with other housing constructed on site, and shall be subject to all of the same requirements and limitations set forth in this Ordinance, including, but not limited to, lot size, setbacks, and all other requirements, specified in this Ordinance, for use and the district in which it is located.
2. All "Class B" Manufactured Housing/Mobile Homes (as defined herein) shall be permitted as single-family dwellings in any A-1 and A-2 districts, or in permitted Manufactured Housing/Mobile Home Parks within the R-3 district, provided they shall comply with the requirements, specified in this Ordinance, for the use and district in which they are located.
3. No "Class C" Manufactured Housing (as defined herein) shall be moved into the county. Any such "Class C" Manufactured Housing already existing in the county prior to the adoption of this ordinance shall be permitted as single-family dwellings in any A-1 or A-2 districts, provided they shall be inspected and approved by the Building Inspector and Zoning Official(s) prior to any relocation within the County and they shall comply with the requirements, specified in this Ordinance, for the use and district in which they are located. Any such "Class C" Manufactured Housing already existing in the county prior to the adoption of this ordinance, which is not located in the A-1 Intensive Agricultural or A-2 General Agricultural Districts, shall be permitted to remain as a nonconforming use, provided it is in compliance with Health Department and other applicable regulations.
4. All Modular/Industrialized Housing (as defined herein) meeting the minimum compatibility standards as specified in *Subsection 901.2*, herein, shall be allowed in all zoning districts permitting single-family detached dwellings, and shall be regulated uniformly with other housing constructed on site, and shall be subject to all of the same requirements and limitations set forth in this Ordinance, including, but not limited to, lot size, setbacks, and all other requirements of the district in which it is located.

901.4 Building Permit and Occupancy Permit Required

A Building Permit and Occupancy Permit, as specified in *Article XIII, Section 1300, Permits*, in this Ordinance, shall be required prior to the location or relocation of any manufactured housing within the county.

901.5 Installation Requirements

All Manufactured Housing locating or relocating within the County shall meet the following minimum requirements:

1. Each manufactured housing unit shall be installed according to the manufacturer's installation instructions (when available), or Appendix "H" of the Georgia State Building Code, whichever is stricter, and shall include the use of approved tie-downs and ground anchors sufficient to withstand winds of 100 miles an hour, so as to resist wind overturning and sliding;
2. The foundation must be enclosed by a curtain wall, manufactured skirting material, masonry construction, or other material manufactured for such purpose. Materials not manufactured for such purpose may be used if approved by the Moxeys Town Council or their designated official(s) prior to installation. Material not manufactured for such purpose must be installed to the same standards as materials manufactured for such purpose.
3. Each manufactured/mobile home must be provided with prefabricated or permanent stairs with landing, constructed from pressure treated lumber, masonry, or metal, sufficient to provide ingress and egress from two (2) exterior doors of the manufactured/mobile home unit. Loose stacked steps are strictly prohibited. Said Landing dimensions shall be a minimum of three (3') feet by three (3') feet. If over thirty (30") inches above the ground, handrails and guardrails shall be required.
4. Owners shall be allowed three (3) months after issuance of a building permit in which to complete underpinning and landings.
5. Where stricter standards or requirements are specified herein, or in the *Oglethorpe County Rules and Regulations for Manufactured Housing and Mobile Homes, Minimum, Standards for Installation Requirements*, those stricter standards or requirements shall apply.

901.6 Ad Valorem Taxes

A current decal, as required, from the Tax Assessor or Tax Commissioner shall be prominently displayed on all Manufactured Housing located in Oglethorpe County.

901.7 Accessory Use Prohibited

Manufactured Housing shall be prohibited as an accessory use in any district, except as otherwise specified herein.

901.8 Temporary Usage

A single Manufactured Housing Unit may be permitted in any district as a temporary building in conjunction with construction work only, as specified in *Article XII, Section 1203, Temporary Uses*, in this Ordinance, provided that:

1. At minimum, such structure shall conform to the American National Standards Institute (ANSI) 119.1 (1975), also cited as National Fire Protection Association (NFPA) Code 501(b) and shall be inspected and approved by Zoning Official(s)
2. Such structure shall be installed according to the minimum standards of the State of Georgia, the manufacturer's installation instructions (when available), or Appendix "H" of the Georgia State Building Code, and including the use of approved tie-downs and ground anchors able to withstand winds of 100 miles an hour, so as to resist wind overturning and sliding.

901.9 Hardship Manufactured Housing

A single Manufactured Housing Unit may be permitted as hardship manufactured housing in any residential district, as specified in *Article XII, Section 1203, Temporary Uses*, in this Ordinance.

901.10 Manufactured Housing/Mobile Home Parks

Manufactured Housing/Mobile Home Parks must comply with the Manufactured Housing Park Regulations of Oglethorpe County, and with the requirements of this Ordinance and the district in which it is located.

901.11 Manufactured Housing Transporters/Movers and Installers

The provisions herein shall apply to anyone who moves and/or sets up manufactured housing or a mobile home in the Town of Moxeys. Such a person must be registered with the Oglethorpe County Board of Commissioners or its designated official(s). An installer shall present a state license as an installer that has been issued by the State of Georgia. A transporter shall present a Motor carrier of Property Permit that has been issued by the State of Georgia. A license that is suspended or revoked will void the installer's and/or transporter's registration with the Moxeys Town Council.

The Oglethorpe County Board of Commissioners or its designated official(s) shall maintain a list of registered manufactured housing/mobile home installers and transporters. The Board of Commissioners shall establish registration fees. Mobile home installers and transporters shall be required to register at the beginning of each calendar year.

SECTION 902 UTILITY SUBSTATIONS

Substations for electrical transformers, gas regulators, and telephone subscriber carrier sites (excluding telecommunication/transmission towers/antennas) shall be permitted in any zoning district, if essential to the service of the district, provided that the following restrictions shall apply:

1. When located in a residential district, the use is permitted if it occupies a parcel that is one-quarter (0.25) acre or less and does not exceed the height limits of the district in which it is located, but shall be conditional if it occupies a parcel greater than one-quarter (0.25+) acre or exceeds the height limits of the district in which it is located.
2. The minimum lot area and width requirements for the zoning district shall not apply, but the utility substation shall comply with all yard setback requirements for the district in which it is located, which shall be in addition to the required buffers.
3. The substation shall be screened in a manner to hide it from view from the adjacent property. Required buffers/screening shall be installed and maintained as specified in *Article IX, Section 911, Buffer and Screening Requirements*, in this Ordinance.
4. Such use shall be secured within a building, or completely surrounded by a security fence or wall with locked gate(s), said fence/wall having a minimum height of eight (8) feet;
5. Such use shall not involve the storage of vehicles or service equipment;
6. All open areas shall be maintained and kept free of weeds and debris.
7. Any lighting on the property shall be of such type or installation that prevents direct view of the light source from adjacent residences and does not cause any glare to occur on adjacent properties or streets.
8. Where utility substations are a permitted use, a site development sketch shall be submitted to the Planning and Zoning Official(s) for approval to insure compatibility of the facilities with the surrounding property and compliance with this Ordinance. Where utility substations are a conditional use, a comprehensive site development plan shall be required as specified in *Article XII, Section 1202, Conditional Uses*, in this Ordinance.

SECTION 903 TELECOMMUNICATION/TRANSMISSION TOWERS AND ANTENNAS

The intent of this section is to balance the interests of the residents of Oglethorpe County, telecommunications providers, and telecommunications customers in the siting of telecommunication towers and antennas within Oglethorpe County; provide the appropriate location and development of telecommunications facilities; protect the environment by promoting compatible design standards for telecommunication facilities; minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape screening, and innovative camouflaging techniques; avoid potential damage to adjacent properties from tower or antenna failure through engineering and

careful siting of telecommunications towers and antennas; maximize use of any new and existing telecommunications towers so as to minimize the need to construct new towers and minimize the total number of towers throughout Oglethorpe County; maximize and encourage use of alternative tower structures and co-location of antennas as a primary option rather than construction of single use towers; provide for location of new telecommunications facilities within certain non-residential areas; and provide for the removal of all towers and antennas that are either abandoned or fail to meet the requirements set forth in this Ordinance.

903.1 Placement by Zoning District

Telecommunications towers and antennas shall be authorized in the zoning districts as specified herein.

1. **Permitted Uses** - The placement and installation of towers and antennas are specifically permitted by application for a building permit, without a conditional use permit, as follows, pursuant to the provisions and requirements specified in this Section.
 - a. Antennas attached to buildings in the Multi-Family (R-3) Residential District, provided that antennas shall add no more than twenty (20') feet to the height of the building and no building-mounted antenna shall extend more than four (4') horizontal feet from the building; and further provided that such antennas shall be installed on any building in such a way as to minimize the visual impact of the installation from public streets to the absolute minimum and to minimize visual impacts of the antenna from habitable living areas of residential units which directly face the antenna within one hundred (100') feet horizontal distance; and further provided that if back up equipment is installed on any roof, the back up facility shall be low-lying and set back or otherwise located to minimize visibility, especially from public places and from the street.
 - b. In any nonresidential district, installation of an antenna on any existing towers, buildings, alternative tower structures, or other existing structure such as a sign, light pole, water tower, or similar freestanding structure of any height, so long as the addition of the antenna adds no more than twenty (20') feet to the height of the existing tower, building, or structure, and provided the number and location of antennas, or other receiving or transmitting devices located on a single structure is not excessive and does not adversely affect adjacent properties and views. Such specific permitted use shall also include the placement of any accessory building, as specified herein, or other supporting equipment used in connection with the antenna; provided, however, the accessory building or equipment shall be consistent in type of exterior material and quality of design and construction with any other building on the premises.
 - c. Installation of a temporary telecommunications tower for a period not to exceed ninety (90) days shall be allowed in any nonresidential district provided height does not exceed the maximum height restrictions for the district and all setback requirements specified herein are met. A temporary permit shall be required prior to installation.
2. **Conditional Uses** - The placement and installation of certain towers and antennas within certain zoning districts, as listed below, may be permitted as a Conditional Use, if approved by the Moxeys Town Council, as specified in *Article XII, Section 1202, Conditional Uses*, in this Ordinance:
 - a. All towers and antennas in the Heavy Industrial District (HI).
 - b. All towers and antennas in the Intensive Agricultural (A-1) and General Agricultural (A-2) Districts.
 - c. Monopole towers and antennas up to one hundred (100') feet in height in the Highway Business (B-2), General Business (B-3), and Light Industrial (LI) Districts. It is the intent that all monopole towers in these areas as unobtrusive as possible; therefore alternative tower structures (stealth design) designed to camouflage with the surrounding area shall be preferred options.

3. **Prohibited Uses** – All telecommunications towers or antennas, except those specified in Subsection 903.9, *Exemptions*, herein, shall be prohibited within the following districts as defined by this Ordinance:
 - a. Single-Family (R-1)
 - b. Two-Family (R-2)
 - c. Agricultural/Residential (AR)
 - d. Local Business (B-1)
 - e. Scenic Preservation (SP)
 - f. River Corridor Protection (RCP)

903.2 Preferred Location Sites and Prohibitions

Any existing telecommunications towers being used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication and any such existing structure shall be a Preferred Location Site for antenna where such tower or structure is not located within a prohibited district; provided, however, that locations which meet these criteria shall be subject to the design and siting requirements specified herein.

No new cell may be established if there is a technically suitable space available on an existing tower within the search area that the new cell is to serve. For the purpose of this subparagraph, the search area is defined as the grid for the placement of the antenna.

903.3 General Provisions

The following provisions are applicable to all towers and antennas regardless of location:

1. **Tower/Antenna Height** - Tower and/or antenna height shall be calculated as the measurement from the base level of the antenna or tower to the highest point on the antenna or on the tower including the antenna.
2. **Setbacks and Separation Requirements** - All property necessary to satisfy the setback requirements set forth herein covering the total height of the tower shall be under the ownership or control of the applicant. The requirement for control may be satisfied by lease or easement approved by the local governing authority. Multiple towers on the same site may be allowed provided they meet all setback and separation requirements. The following setbacks and separation requirements shall apply to all towers:
 - a. Unless otherwise provided for herein, freestanding towers must be set back a minimum distance equal to the total height of the tower from adjacent property lines, as measured radially from the base of the tower to the property line of the subject property; and
 - b. Unless otherwise provided for herein, freestanding towers must also be set back a minimum distance equal to the total height of the tower plus five hundred (500') feet in all directions from any Residential Districts or uses, Scenic Preservation Districts, or Historic Districts or Landmarks (identified in the Oglethorpe County Comprehensive Plan), as measured radially from the tower base to the nearest applicable district boundary or property line;
 - c. Guy wires and accessory facilities associated with towers must satisfy the minimum setback requirements for the zoning district in which they are located.
 - d. All lattice or guy-wired towers constructed after the effective date of this ordinance shall conform to the following minimum tower separation requirements as set out in the following table:

Lattice or Guy-Wired Tower Height	Next Closest Tower Height 50 Feet	Next Closest Tower Height 50-100 Feet	Next Closest Tower Height 101-150 Feet	Next Closest Tower Height 150 Feet
50'	300'	500'	750'	1000'
50'-100'	500'	750'	1000'	1500'
101'-150'	750'	1000'	1500'	2000'
150'	1000'	1500'	2000'	2500'

- e. All Antennas mounted on rooftops, monopole towers, or alternative tower structures shall be exempt from the minimum separation distances as set out in the table above. Except in the Industrial District, monopole towers shall be separated from any other tower at least a distance equal to twelve hundred (1200') feet in all directions. In the Industrial District, the separation distance between monopole towers shall equal the height of the tallest tower adjacent to the monopole tower. All freestanding towers which are alternative in design (stealth design) shall be separated from any other towers a minimum distance of the height of the tallest tower to which it is adjacent.
3. **Buffer/Screening Required** – All towers and accessory structures shall be surrounded by a dense natural buffer strip, landscaped buffer strip, or landscaped wall/fence a minimum of eight (8') feet in height, sufficient to interrupt vision and shield the base and accessory structures from the view of adjacent properties and the general public during all months of the year. Existing mature tree growth, native vegetation, and natural landforms on the site shall be preserved to the greatest practical extent. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may provide a sufficient buffer. The buffer/screening requirement may be waived where towers and accessory structures/uses cannot be seen from adjacent properties and roads because of existing vegetation, topography, or distance. Required buffer/screening shall be installed and maintained as specified in *Article IX, Section 911, Buffers and Screening Requirements*, of this Ordinance.
 4. **Accessory Buildings and Uses** – Accessory buildings and uses shall not include offices, broadcast studios (except for emergency purposes) or other buildings, equipment, or uses that are not needed to send or receive transmissions, long-term vehicle storage or any outside storage of materials or equipment.
 5. **Parking** - No more than two (2) parking spaces per facility shall be allowed, and a ten (10') foot wide turnaround drive with an all-weather surface shall be required if parking spaces are provided.
 6. **Security Fence** - All towers shall have a security fence of not less than six feet in height with anti-climbing devices on the fence.
 7. **Signs** - A sign no larger than four (4) square feet in size shall be placed on the security fence or other outermost structural element of the telecommunication facility, which sign shall state the name and telephone number of a person responsible for the safety and maintenance of said facility. No other signs, symbols, or advertisements shall be allowed on the security fence or on any monopole, tower, or antenna.
 8. **Tower Color** - All towers, except those of alternative stealth design, shall be either painted gray or left in their natural gray metallic state unless otherwise required by the Federal Aviation Administration.
 9. **Lighting** - Towers and antennas shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding area and views, or the tower shall use a dual lighting system consisting

of a strobe light during the day and a slow flashing red light at night unless otherwise required by the Federal Aviation Administration.

10. **Noise** - The intensity level of sound from the wireless telecommunications facility, including temporary generators used during power outages, as measured at the property line of abutting property zoned for residential use, shall not at any time exceed 70 decibels from 7:00 a.m. to 10:00 p.m. and 55 decibels from 10:00 p.m. to 7:00 a.m.; and abutting property zoned for nonresidential use, the same shall not exceed 80 decibels at any time.
11. **Design for Shared Use** – Whenever feasible, telecommunication towers or structures shall be designed with the capacity for shared use with other potential tower users.
12. **Federal and State Requirements** - All towers and antennas must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government or state government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations with the compliance schedule mandated by the controlling federal or state agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall be reported to the appropriate state or federal agencies and shall constitute a violation of this ordinance.
13. **Building Codes and Safety Standards** - To insure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the latest edition of the Electronic Industries Association, as amended from time to time. The owner of a tower shall provide Oglethorpe County with certification by a professional engineer that all antennas, towers, and wireless telecommunications equipment are erected and installed so as to comply with said codes and standards.
14. **Fire Prevention** - All telecommunication facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end, all of the following measures shall be implemented for all telecommunication facilities when determined necessary by the Board of Commissioners or their designated official(s). Demonstration of compliance with the following requirements shall be evidenced by a certificate signed by the Board of Commissioners or their designated official(s) on the building plans submitted.
 - a. At least one-hour fire-resistant interior surfaces shall be used in the construction of all buildings.
 - b. Monitored automatic fire extinguishing systems shall be installed in all equipment buildings and enclosures.
 - c. Rapid entry (KNOX) systems shall be installed as necessary.
 - d. Type and location of vegetation and other materials within ten feet (10') of the facility and all new structures, including telecommunication towers, shall be reviewed for fire safety purposes by the Board of Commissioners or their designated official(s). Requirements established by the Board of Commissioners or their designated official(s) shall be followed.
 - e. All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to the building permit finalization or commencement of operation, whichever comes first.
15. **Maintenance of Telecommunication Facilities** - Towers must be properly and routinely maintained in good and safe conditions and in a manner that complies with all applicable federal, state, and local requirements. Estimated life of construction must be included in submittal information. The owner shall provide the governing authority of Oglethorpe County or their designated official(s) a certified copy of the engineer's inspection report, which shall include, but is not limited to, the condition of the grounding system, the structural integrity of the facility, any damage incurred over the past year, the

condition of the bolts, and a plan to correct any deficiencies. Tower owners shall conduct periodic inspections of communications towers at least once every three (3) years to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in Georgia. The results of such inspection shall be provided to the governing authority of Oglethorpe County or their designated official(s). If, upon inspection, Oglethorpe County officials conclude that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days from the date of the mailing of such notice, to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the governing authority may have such tower removed at the owner's expense. Any such removal by the governing authority shall be in the manner provided herein.

16. **Insurance** - Commercial General Liability Insurance shall be required with combined single limits of liability coverage of one million dollars (\$1,000,000.00) per occurrence, for bodily injury and property damages, with respect to the construction, use of the property, maintenance, operation, or other liabilities associated with a telecommunication tower. An adequately funded self-insurance program will be considered as a substitute for commercial insurance, if approved and subject to any condition imposed by the governing authority.
17. **Surety Required** - Prior to the issuance of a conditional use permit or building permit for tower construction, the applicant shall submit security for the cost of removal of the structure in an amount estimated by the applicant and approved by the Maxeys Town Council as sufficient to cover the costs of removal. Such security may be in the form of:
 - a. An eighteen month security bond from a surety bonding company authorized to do business in the State of Georgia, payable to Oglethorpe County; the security bond shall be renewed at the time the annual operating permit is renewed in an amount sufficient to cover the costs of removal at the time of renewal. Such renewal bond must be approved by the building official.
 - b. A deposit of cash with Oglethorpe County or an escrow of any other instrument readily convertible to cash at face value with a financial institution; and in case of an escrow account, the bank with which the funds are deposited, being subject to the approval of Oglethorpe County. In the case of an escrow account, the applicant shall file with Oglethorpe County an agreement between the financial institution and the applicant specifying the funds that are in the escrow account shall be held in trust until released by Oglethorpe County and may not be used or pledged by the applicant as security in any other matter during that period and that, in the case of the applicant's failure to remove the tower and antennas in accordance with the terms set forth above, then the bank shall immediately make the funds available to Oglethorpe County for the use of completion of the removal of the structure. Said deposit of cash shall be kept current to cover the actual costs of removal.
 - c. A letter of credit from a financial institution in a form approved by Oglethorpe County providing that the financial institution does guarantee funds in an amount equal to the aforementioned cost of removal and that in the event the applicant fails to remove the structure in accordance with the terms set forth above, the financial institution shall pay to Oglethorpe County immediately and without further action, such funds as necessary to finance the removal of the structure up to the amount specified in the letter of credit. Such amount shall be kept current to cover the actual costs of removal.
18. **Removal of Abandoned Towers and Antennas** - After a continuous period of twelve (12) months during which an antenna or tower is not used for its original purpose, it shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the Oglethorpe County notifying the owner of such abandonment. The owner may request a three-month extension prior to the end of the twelve-month period. Said three-month extension may be granted administratively by the Planning Department if the request is received in writing by the Planning Department prior to the end of the twelve-month period. If a three-month grace period is granted, then a notice of abandonment will be given to the owner at the end of the three-month period. If any abandoned antenna or tower is not removed by the owner within said

ninety (90) days after notice of abandonment, then the governing authority may have such antenna or tower removed at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective for the tower until all users cease using the tower. Within thirty (30) days of the owner's receipt of said notice of abandonment, any owner aggrieved by said notice of abandonment may file a written request for a hearing before the Maxeys Town Council pursuant to *Article XIII, Section 1302, Appeals*, in this Ordinance.

903.4 Building Permit Required

1. A building permit issued by the Planning and Zoning Official(s) is required in advance of the initiation of construction, erection, moving or alteration of any telecommunication/transmission tower or antenna permitted pursuant to *Subsection 903.1, Placement by Zoning District*, herein.
2. If not included as part of a rezoning or conditional use application, a building permit application shall include a copy of any environmental assessment required by the Federal Communications Commission (FCC), as well as documentation of the FCC's subsequent approval thereof. In addition, the applicant shall be required to submit documentation that the proposed wireless telecommunications facility complies with current Federal Communications Commission standards for radio frequency emissions, as adopted by the FCC at the time of application.
3. If not included as part of a rezoning or conditional use application, a building permit application shall include a landscape plan, including provisions for landscape maintenance. The applicant shall provide a site plan showing existing significant vegetation to be removed, vegetation to be replanted to replace that lost, and details of any additional plant materials to be added to meet the buffer/screening requirements. The landscaping maintenance set forth herein shall be a required condition for approval of the annual operating permit.
4. If substantial construction on the telecommunications facilities has not begun within six (6) months of the granting of a building permit, then said permit shall expire, and the applicant shall be required to resubmit an application for a building permit based on the latest technical and development requirements in the Zoning Ordinance.

903.5 Application and Review Process for Rezoning or Conditional Use Involving Telecommunication/Transmission Towers/Antennas

In addition to the requirements specified in this Section and in *Article XIV, Amendments* and *Article XII, Section 1202, Conditional Uses*, in this Ordinance, the following provisions shall also apply to applications for and consideration of a change in zoning district or for a conditional use permit involving telecommunication/transmission towers/antennas:

1. Any engineering information, whether civil, mechanical, or electrical that an applicant submits shall be certified by a licensed professional engineer.
2. The applicant shall be required to submit all documentation, including an environmental assessment if required by the Federal Communications Commission (FCC), that the proposed wireless telecommunications facility complies with all current Federal Communications Commission standards, as adopted by the FCC at the time of application.
3. Co-location requirements, as specified in *Subsection 903.2, Preferred Location Sites and Prohibitions*, and *Subsection 903.6, Co-location*, herein, shall apply.
4. A landscape plan, including provisions for landscape maintenance, shall be required. The applicant shall provide a site plan showing existing significant vegetation to be removed, vegetation to be replanted to replace that lost, and details of any additional plant materials to be added to meet the buffer/screening requirements. The landscaping maintenance set forth herein shall be a required condition for approval of the annual operating permit.

5. In addition to the requirements for public notice prior to a public hearing for a rezoning or conditional use permit, as specified in this Ordinance, the following additional public notice, shall be provided for towers more than one hundred fifty (150') feet in total height to be located within one thousand two hundred (1200') feet of any residential district:
 - a. At least fifteen (15) days and not more than forty-five (45) days prior to the required public hearing, the applicant shall cause to be floated from the proposed tower site a balloon of the standard size used in aerial line of sight surveys. Said balloon shall be floated to the height of the proposed tower for a period of three (3) days during a five (5) day business week period so that the visibility of the tower from locations surrounding the proposed tower site can be viewed by the public prior to the required hearing. In addition, the required legal notices shall explain the presence of and the purpose of said balloon.
 - b. The applicant shall also provide to the Maxeys Town Council or their designated official(s) the names and addresses on stamped envelopes of all abutting property owners and all owners of residentially zoned parcels lying in whole or in part within a distance of one thousand two hundred (1200') feet of the proposed tower as measured from the base of the tower radially to the subject property lines. The owners of record shall be as shown on the Oglethorpe County Tax Commissioner's records. The Maxeys Town Council or their designated official(s) shall use the addressed and stamped envelopes to send a letter by regular mail giving notice of the public hearing and of the purpose of the balloon.
 - c. After the three-day period required herein, the balloon shall be taken down permanently by the applicant. In addition, during the three-day period, the balloon shall be taken down every day at sunset and refloated at sunrise.
 - d. The Maxeys Town Council or their designated official(s), in addition to meeting the posting requirements for Conditional Use required herein, shall also post the purpose of the balloon. Said sign shall be erected in a conspicuous location, on or adjacent to the proposed tower site.
 - e. The applicant shall also provide, for inspection by the public at the Planning Department, a computer simulated study of any proposed tower more than one hundred (100') feet in total height, showing a view of the tower taken from any adjacent Residential (R-1, R-2, R-3, AR) Districts or Uses, Scenic Preservation (SP) Districts, or Historic Districts or Properties, from any adjacent roads, and from all sides of the tower at a distance of six hundred (600') feet as measured from the base of the tower.
6. The Maxeys Town Council reserves the right to require an independent evaluation of the impacts of the proposed use and any other aspects of the proposal. Where expert opinion and studies are deemed necessary for the County to fully evaluate the impacts of the proposed use, additional fees shall be charged to cover the actual cost to the local government of obtaining expert opinion and studies in reviewing applications for conditional use. The initial deposit for such additional fees shall cover a minimum of ten hours of an expert consultant's hourly rate to provide consultation to Oglethorpe County. The initial deposit, in cash or check, shall be submitted to the Maxeys Town Council or their designated Official(s). If the actual cost to the government is greater than the initial deposit, the applicant shall be billed for the difference and shall pay the bill in full prior to the regular meeting of the Maxeys Town Council at which at which final action is to be taken on the proposal. If the actual cost to the government is less than the initial deposit, the actual cost will be deducted from the initial deposit and the remainder of the deposit will be refunded to the applicant within ten working days following the regular meeting of the Maxeys Town Council at which final action is to be taken on the proposed.
7. The governing authority shall consider the following factors in determining whether to issue a conditional use permit; provided, however, the governing authority may consider additional factors if the governing concludes that the goals of this section are better served thereby:
 - a. Height and setbacks of the proposed antenna and tower;
 - b. Proximity of the antenna and tower to other structures and zoning district boundaries;

- c. Nature of the uses on adjacent and nearby properties;
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage;
 - f. Design of the antenna or tower, with particular reference to design features that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Availability of suitable existing antennas or towers or other structures for antenna co-location;
 - h. Proximity of the antenna or tower to other antennas or towers;
 - i. Impact of the tower and antenna upon scenic views and upon visual quality of surrounding areas;
8. Whenever the governing authority finds that the application of this Section would unreasonably discriminate among providers of functionally equivalent personal wireless telecommunications services, or prohibit or have the effect of prohibiting the provision of personal wireless telecommunication services, a conditional use permit waiving any of the provisions of this Section may be granted.
9. Any decision by the local governing authority to deny a request pursuant to this Section shall be in writing and supported by substantial evidence contained in the written record. No decision to deny a conditional use permit for a wireless telecommunications tower or antenna shall be based on the environmental effects of radio frequency emissions to the extent such facilities comply with the Federal Communications Commission's regulations concerning such emissions.

903.6 Co-location

Each telecommunications tower application shall be required by affidavit of the applicant to make a good faith effort to substantially demonstrate that no existing or planned towers can accommodate the applicant's proposed antenna/transmitter as described below:

- 1. The applicant shall contact the owners of all existing or planned towers of a height roughly equal to or greater than the height necessary to accommodate the applicant's antenna. Such contact shall be by certified mail/return receipt requested. The applicant shall provide a list of all owners contacted, the date of such contact, the form and content of such contact, and a copy of the return receipt of the certified mail.
- 2. The applicant shall request the following information from each owner contacted:
 - a. Identification of the site by location, tax map and parcel number, existing uses on or adjacent to the site, and tower height;
 - b. Whether each such tower could structurally accommodate the antenna proposed by the applicant without requiring structural changes be made to the tower. To enable the owner to respond, the applicant shall provide each such owner with the height, length, weight, and other relevant data about the proposed antenna;
 - c. Whether each such tower could structurally accommodate the proposed antenna if structural changes were made, not including totally rebuilding the tower. If so, the owner shall specify in general terms what structural changes would be required;
 - d. If structurally able, would shared use on such existing tower be precluded for reasons related to RF interference; if so, the owner shall describe in general terms what changes in either the existing tower or antenna(s) or the proposed antenna would be required to accommodate the proposed antenna, if at all; and
 - e. If shared use is possible, the fee an owner of an existing tower would charge for such shared use.

3. Such request shall be made at least one month prior to the filing of an application for a building permit or conditional use. Responses to such request shall also be included.
 - a. Failure of a listed owner to respond shall not be relevant if a timely, good faith effort was made to obtain one. However, where an existing or planned tower is known to have capacity for additional antennas of the sort proposed, that application for a new tower shall not be complete until the response of such owner is filed, or in the case of a failure to respond, proof of the applicant's attempted contact with the correct owner to the correct address by certified mail/return receipt requested is filed by the applicant.
 - b. The governing authority shall maintain and provide, on request, records of responses from each owner.
 - c. Once an owner demonstrates an antenna of the sort proposed by the application cannot be accommodated on the owner's tower, the owner need not be contacted by future applicants for antennas of the sort proposed.
4. The governing authority may consider expert testimony to determine whether the fee for shared use and the costs to adapt the existing and proposed uses to a shared tower are reasonable. Costs exceeding new tower development are presumed unreasonable. Shared use is not precluded simply based on fee and cost structures, unless found to be unreasonable by the local governing authority.
5. If the owner of an approved or pre-existing tower refuses to allow co-location, an affidavit shall be provided that states the reason for the refusal. An unreasonable refusal by the owner of a tower to allow for co-location not supported by the required engineering evidence shall be a reason for the governing authority to refuse to renew the annual operating permit of said approved or pre-existing tower.
6. In addition, evidence submitted by the applicant based on a report by a certified engineer to demonstrate that an existing tower or structure can accommodate the applicant's proposed antenna shall be required and shall consist of the following:
 - a. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements;
 - b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements;
 - c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure are in excess of the cost of new tower development and location to the extent that co-location would impose a significant financial burden on the applicant; and
 - f. The applicant demonstrates there are other limiting factors that render existing towers or structures unsuitable.
 - g. If co-location on an existing tower or structure is not possible as set forth above, and a new tower is deemed appropriate, then the new tower must be constructed to allow co-location of antennas and the applicant must agree to accommodate the co-location of other antennas on the new tower, according to the following: for towers up to one hundred (100') feet in height, the tower and fenced compound shall be designed to accommodate at least two (2) users; for towers up to one hundred twenty-five (125') feet in total height, the tower and fenced

compound shall be designed to accommodate at least four (4) users, unless the proposed tower is an alternative tower structure of stealth design.

903.7 Registration and Annual Operating Permit Required

In order to provide the governing authority with accurate and current information concerning the telecommunications providers who offer or provide wireless telecommunications services within Oglethorpe County or who own or operate telecommunications facilities within Oglethorpe County; to assist in the collection and enforcement of any fees or charges that may be due Oglethorpe County; and to assist the governing authority in monitoring compliance with local, state, and Federal laws, all owners of telecommunications towers and/or antennas located within Oglethorpe County shall be required to register with the County and obtain an annual operating permit, as specified herein. Failure to register and obtain an annual operating permit as required, or to truthfully report all information required shall constitute a violation of this Ordinance.

903.7.1 Registration – The required registration shall include the following information:

1. The identity and legal status of the registrant, including any affiliates;
2. The name, address, and telephone number of the officer, agent, or employee responsible for the accuracy of the registrant's information;
3. A description of the telecommunications service the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses, or institutions within Oglethorpe County;
4. Information sufficient to determine whether the registrant has applied for and received any construction permit, operating license, or other approvals required by the Federal Communications Commission to provide telecommunications services or facilities within Oglethorpe County;
5. A copy of the applicants tower construction plan for servicing the entire community as projected for at least five (5) years, and a copy of the proposed fees or rate formulas to be charged by applicant for co-location on applicant's towers. The information requested by this subsection shall be updated at any time that the information provided is no longer current;
6. A narrative and map description of the applicant's existing and proposed wireless telecommunication facilities towers that are within Oglethorpe County or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. The County may share such information with other applicants applying for administrative approvals or conditional use permits under this ordinance or with other organizations seeking to locate antennas within the jurisdiction of Oglethorpe County; provided, however, that the County is not, by sharing such information, in any way representing or warranting that such sites are available or suitable. Any loss of use, increase in use, or change in use of existing antennas or towers must be reported at the time the change occurs; and
7. Such other information as the Maxeys Town Council or their designated Planning and Zoning Official(s) may reasonably require.

903.7.2 Annual Operating Permit

1. All wireless telecommunication facilities must obtain an operating permit on or before April 1 of each calendar year. The operating permit shall be issued by the Maxeys Town Council or their designated official(s) after written application on a form to be supplied by the County.
2. A filing fee for the operating permit, as established by the Maxeys Town Council, shall be submitted with the application for the operating permit. The fee for the operating permit is intended to reimburse the local governing authority for costs in connection with reviewing, inspecting, and supervising performance in compliance with this Ordinance.

3. Any change in the five-year buildout plan or other registration information shall be submitted along with the application for the annual operating permit and reviewed by the Maxeys Town Council.
4. Within ninety (90) days of receiving a complete application for a renewal permit, the Maxeys Town Council or their designated official(s) shall issue a written determination granting or denying the operating permit in whole or in part, based on the applicant's compliance with the requirements of this code section. If the application is denied, the written determination shall include the reasons for denial.
5. No operating permit shall be renewed until any ongoing violations or defaults in the permittee's performance under the requirements of this Section have been remedied, or a plan detailing the corrective actions to be taken by the permittee has been approved by the Maxeys Town Council or their designated official(s).

903.8 Pre-existing Towers/Nonconforming Uses/Structures

All pre-existing towers that do not satisfy the requirements of this Ordinance shall be considered nonconforming uses and/or structures, according to the provisions of *Article XII, Section 1200, Nonconforming Uses/Structures/Lots of Record*, in this Ordinance.

1. In order to provide the local governing authority with current information concerning nonconforming towers and in order to enforce the provisions of this Section that will apply to nonconforming towers upon adoption of this Ordinance, the owners of non-conforming towers shall be required to register with the County and to obtain an annual operating permit at the time the structure becomes nonconforming by the adoption of this Ordinance.
2. Pre-existing nonconforming towers shall have one (1) year from the adoption of this Ordinance to comply with the standards set forth in this Section, excluding construction, location, setback, separation, and buffer/screening requirements.
3. Any unreasonable refusal by an owner of a nonconforming tower to allow for co-location as set forth herein shall be cause for revocation of the annual operating permit for the nonconforming tower.
4. If an additional antenna is co-located upon a pre-existing tower after the adoption of This Ordinance, then fencing and landscaping requirements as specified herein shall be met as part of the permitting process.
5. Notwithstanding any other provision of the Zoning Ordinance, for the purposes of this Subsection, abandonment of the nonconforming use or structure shall occur if the tower is not used for telecommunication purposes at any time for a period of twelve (12) months. Removal of such abandoned towers shall be required according to the provisions of this Section.

903.9 Exemptions

The following uses shall be exempt from the requirement of this section:

1. Any tower or antenna less than seventy (70') feet in total height, owned and operated by an amateur radio operator licensed by the Federal Communications Commission, or any antenna designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution services, or direct broadcast satellite service;
2. Antennas or towers located on property owned, leased, or otherwise controlled by the Town of Maxeys and used for governmental purposes, unless otherwise directed by the Maxeys Town Council, and further provided that a license or lease authorizing such antenna or tower has been approved by the Maxeys Town Council.

SECTION 904: AUTOMOBILE SERVICE STATIONS

Within the districts permitting automobile service stations, the following requirements shall apply:

1. **Safety Standards** – All petroleum derivatives must be stored in accordance with the safety requirements of all pertinent federal, state, and local laws.
2. **Setback Requirements** - All structures, including canopies, pumps, and underground storage tanks, shall be setback thirty (30') feet from any property line or street right-of-way line, excluding any required buffer/screening.
3. **Paving and Curbing** - All parking, storage, and service areas shall be paved and finished with a raised curb, at least six (6") inches in height. The remainder of the lot shall be landscaped and maintained.
4. **Off-Street Parking** - Off-street parking shall be provided as specified in *Article X, Off-Street Parking and Loading*, in this Ordinance.
5. **Exterior Lighting** - Exterior lighting shall be of such type or installation or shall be directed so as to reflect away from or prevent direct view of the light source from all residential dwellings on adjacent property, and shall be so situated as not to glare or reflect directly into any adjacent properties, public right-of-way, or street.
6. **Signs** - All signage must comply with the sign regulations as specified in *Article XI, Sign Regulations*, in this Ordinance.
7. **Buffer/Screening** - A dense landscape buffer/screen or solid landscaped fence/wall at least eight (8') feet in height shall be erected along all side or rear property lines, which abut an existing residential district or use. A front yard buffer shall be required where an automobile service station is directly across an adjacent street from an existing residential district or use. Required buffer/screening shall be installed and maintained as specified in *Article IX, Section 911, Buffers and Screening Requirements*, of this Ordinance.
8. **Storage of Inoperable/Junked Vehicles** - No vehicle parts and no inoperative/junked automobile, vehicle, or trailer of any kind or type, without a valid current license plate attached thereto, shall be parked or stored on the property except within a completely enclosed building.
9. **Motor Vehicle Sales Prohibited** - The display or offering of motor vehicles or trailers for sale or lease shall be prohibited.

SECTION 905: RESERVED

SECTION 906: JUNKED VEHICLES

906.1 Definition of Inoperative/Junked Condition

An inoperative/junked condition shall include any motor vehicle, trailer, automobile, contrivance, or part thereof (except farm equipment) which is either dismantled/partially dismantled and inoperative; or wrecked and inoperative; or abandoned/discarded; and which does not have a current Georgia State Motor Vehicle Tag, if required, attached thereto.

For the purposes of this section, abandoned/discarded shall mean any automobile, motor vehicle, trailer (except farm equipment) of any kind or type, or contrivance or part thereof, which does not have a valid current Georgia State Motor Vehicle Tag attached thereto and has not moved or been attended to for a period of six (6) months commencing from the date the tag expires.

906.2 Inoperative/Junked Vehicle Parking and Storage Restrictions

No motor vehicle, trailer, automobile, contrivance, or part thereof which is in an inoperative/junked condition as defined in *Subsection 906.1*, herein, shall be stored on property within any district except:

1. It shall be in an enclosed building; or

2. The vehicle is being repaired, refurbished, or restored for the personal use of the owner or his immediate family, and provided that there shall be no accumulation of inoperative/junked vehicles used as a source for parts, or
3. It shall be farm equipment or farm related vehicles, including trucks, as part of a permitted use located within any A-1, A-2 or AR district, or
4. It shall be on the premises of a business or industrial enterprise where a valid permit has been issued for the operation of an automobile repair garage, an automobile towing business, or auto crushing operation, junk/salvage yard as specified in *Section 905, Junk and Salvage Yards*, herein.

906.3 Public/Private Nuisance Prohibited

Nothing in this Section shall authorize the maintenance of a public or private nuisance as defined under the provisions of law.

SECTION 907: RESERVED

SECTION 908: RESERVED

SECTION 909: CEMETERIES

Within the districts permitting cemeteries as a permitted or conditional use, the following requirements shall apply to all new cemeteries:

1. All cemeteries except governmental-owned cemeteries, fraternal cemeteries, church and synagogue cemeteries or family burial plots, shall be constructed and operated in accordance with the Georgia Cemetery and Funeral Services Act of 2000.
2. Family burial plots may be located in A-1 and A-2 districts and AR district with lots of more than five acres.
3. A plat of family burial plots, fraternal cemeteries, church and synagogue cemeteries shall be recorded with the Oglethorpe County Clerk of Superior Court.
4. All structures, graves, and burial lots shall meet the minimum setback requirements for the district in which it is located. Buffers and screening may be located within the setback area.
5. The entire cemetery property shall be landscaped and maintained. Buffers shall be installed and maintained as specified in *Article IX, Section 911, Buffer and Screening Requirements*, herein.

SECTION 910: SWIMMING POOLS/POOLS/HOT TUBS/SPAS

No new public pool or private residential pool shall be constructed or installed except in compliance with this section.

910.1 Definitions

For the purposes of this section the following definitions shall apply:

1. **"Pool"** means any structure, chamber, or tank containing an artificial body of water having a minimum depth of eighteen (18") inches, and which has a closed-loop circulation of water through a water treatment or filtration system with a return to the structure and which is located in-ground or above-ground, either partly or entirely outdoors.
2. **"Private Residential Pool"** means any pool, permanent or non-portable, that is intended for noncommercial use by not more than one (1) owner family and their guests.
3. **"Public Pool"** means any pool, permanent or non-portable, used by the public for swimming, diving, wading, recreation or therapy, together with buildings, appurtenances and equipment used in connection with the body of water, regardless of whether a fee is charged for its use. The term includes, but is not limited to, municipal, school, hotel or motel pools, pools and spas operated by

or serving clubs, fraternal orders, veterans organizations, camps, churches, day care centers, group home facilities of twelve or more clients, institutions, parks, condominiums, apartment complexes, mobile home parks, recreational vehicle parks, associations, health clubs, special purpose pools and recreational water park attractions.

910.2 Building Permits Required

The construction or installation of any public pool or private residential pool shall require a building permit. The application for a building permit shall be accompanied by plans drawn to scale and specifications for the pool, decking, and required barriers.

910.3 Setback Requirements

Any public pool or private residential pool, including the decking and equipment associated with the pool, shall comply with all setback requirements for the district in which it is located.

910.4 Plumbing Requirements for All Pools

1. No single drain, single-suction outlet public pool or private residential pool shall be permitted without a properly installed protective cover for the drain or outlet.
2. If the water for any public pool or private residential pool is supplied from a private well, there shall be no cross-connection with a public water supply system.
3. If the water for any public pool or private residential pool is supplied from a public water supply system, the inlet shall be above the overflow level of the pool.
4. No building permit shall be issued for the installation of any public pool or private residential pool, unless the drainage of such pool is adequate and will not interfere with any public water supply system, with any existing sanitary facilities, or with a public road.

910.5 Public Pool Requirements

Any new construction or installation of a public pool, as defined in *Subsection 910.1, Definitions*, shall comply with the state regulations and requirements for public swimming pools, unless otherwise provided, herein.

910.6 Private Residential Pool Requirements

All newly constructed or installed private residential pools, hot tubs, or spas shall be completely surrounded with a barrier meeting the following requirements, unless otherwise provided, herein:

1. The exterior wall(s) of a dwelling house or accessory building may be incorporated as a part of the barrier.
2. The top of the barrier shall be at least forty-eight inches (48") above grade measured on the side of the barrier which faces away from the pool. The maximum vertical clearance between grade and the bottom of the barrier shall be four inches (4") measured on the side of the barrier which faces away from the pool.
3. Openings in the barrier shall not allow passage of a four-inch (4") diameter sphere.
4. Solid barriers that do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than forty-five inches (45"), the horizontal members shall be located on the pool side of the fence. Spacing between vertical members shall not exceed one and one-fourth inches (1 1/4") in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed one and one-fourth inches (1 1/4") in width.
6. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is forty-five inches (45") or more, spacing between vertical members shall not exceed four inches (4"). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed one and one-fourth inches (1 1/4") in width.
7. Maximum mesh size for chain link fences shall be one and one-fourth inches (1 1/4") square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to no more than one and one-fourth inches (1 1/4").
8. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be no more than one and one-fourth inches (1 1/4").
9. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four inches (4"). Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then the ladder or steps shall be capable of being secured, locked or removed to prevent access; or the ladder or steps shall be surrounded by a barrier which meets the requirements of this section. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a four-inch (4") diameter sphere.
10. All gates or doors opening through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. Where the release mechanism of the self-latching device is located less than fifty-four inches (54") from the bottom of the gate, then the release mechanism shall be located on the pool side of the gate at least three inches (3") below the top of the gate and the gate and barrier shall have no opening greater than one-half inch (1/2") within eighteen inches (18") of the release mechanism.
11. Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

910.7 Modifications and Exemptions

1. The chief building official may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity there for; provided, however, that the protection as sought under this section is not reduced thereby. The chief building official may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described in this section.
2. A spa with a safety cover that complies with ASTM F1346, "Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs" shall be exempt from the barrier requirements, herein.

SECTION 911: BUFFER AND SCREENING REQUIREMENTS

Buffers of natural or landscaped plant material, or man-made construction in conjunction with plant material, shall be required as specified in this Ordinance in the following instances:

1. Where any Non-Residential District or Use, other than Agricultural, is located adjacent to an existing Residential District or Use or Scenic Preservation District.
2. Where a Multi-Family Residential District or Use is located adjacent to an existing Single-Family or Two-Family Residential District or Use or a Scenic Preservation District.
3. Any Mobile/Manufactured Home Park.
4. Any Junk or Salvage Yard.
5. Any Solid Waste Disposal Facility.
6. Any Commercial or Industrial Use involving outdoor storage of materials, outdoor servicing activities, or any such operation not conducted within a building.
7. Where any off-street parking/loading for a Multi-Family Use or Non-Residential Use (excluding Agricultural Uses) is located adjacent to or visible from an existing Single-Family or Two-Family Residential District or Use, or Scenic District, or where such parking/loading areas will be visible from the public right-of-way.

911.1 Landscape Plan Required – Where buffer/screening or other such landscaping is required by this Ordinance, a Landscape Planting and Maintenance Plan, including details of proposed plant materials and/or walls, fencing or berms, and provisions for watering, maintenance and replacement, shall be submitted as part of any Rezoning, Conditional Use, or Building Permit application for the subject property and use, and must approved prior to the issuance of said permit.

911.2 Installation and Maintenance Requirements

1. **Installation** - Installation of plant materials shall have been completed or bonded prior to the issuance of a certificate of occupancy. If bonded, such plant materials shall be installed within 30 days of the bond date. Upon written request submitted by the owner/developer, a reasonable extension may be granted by the Zoning Official(s) due to weather conditions or other such unfavorable planting conditions outside the control of the owner/developer.
2. **Maintenance** - All required plantings shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required fences and walls shall be permanently maintained in good condition, and whenever necessary, repaired or replaced. Replacement of plant material shall be completed within the next spring or fall planting season, but no later than six (6) months from notification by the Maxeys Town Council or their designated official(s). Upon written

request submitted by the owner/developer, a reasonable extension may be granted by the Zoning Official(s) due to weather conditions or other such unfavorable planting conditions outside the control of the owner/developer.

- a. All landscaped areas shall be watered with underground sprinkler systems or be provided with a readily available water supply with at least one (1) outlet located within one hundred fifty (150') of all plant material to be maintained.
 - b. All plant growth in landscaped areas shall be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, interfere with vision clearance at street intersections or access drives, or otherwise constitute a traffic hazard.
 - c. All plant growth shall be maintained in a relatively weed-free condition and clear of undergrowth.
 - d. All plant growth shall be kept free from refuse and debris.
 - e. All plantings shall be fertilized and irrigated at such intervals as are necessary to promote optimum growth.
 - f. All trees, shrubs, groundcovers, and other plant materials must be replaced during the next suitable planting period, as specified herein, should they die or become unhealthy because of accidents, drainage problems, disease, weather, or other causes. Replacement plants must conform to all standards that govern the original installation of plantings.
3. **Responsibility** - The owner, tenant, and their agent, if any, shall be jointly and severally responsible for the maintenance of all required landscaping and buffers in good condition so as to present a healthy, neat, and orderly appearance. In the event that said owner, tenant, or agent fails to maintain said landscaping and buffers as required, the County may, if it deems necessary and after written notice to the owner, perform the necessary maintenance on the landscaping and buffers at the owner's expense, and assess the property owner in the same manner as for taxes.

911.3 Side and Rear Yard Buffers

Where buffering/screening is required as specified herein, one of the following shall be installed on the lot with the more intensive and least restrictive use, along the common lot lines, around the perimeter of off-street parking/loading areas, or as otherwise specified in this Ordinance. The width of the required buffer shall be in addition to the yard requirements for the district in which the use is located.

This Ordinance shall allow the requirement of any of these three buffers or a combination thereof to provide flexibility in design:

1. **Natural Buffer Strip** - A strip at least fifty (50') feet wide (unless otherwise specified herein), having an existing natural growth equivalent to a densely planted evergreen screen. Existing trees of six inch diameter or greater shall be retained within the fifty (50') foot natural buffer strip. A plan identifying the location of all existing trees to be retained and proposed plants to be incorporated in the buffer strip must be approved by the Board Maxeys Town Council or their designated Zoning Official(s) prior to any site construction. The Maxeys Town Council or their designated Zoning Official(s) may require additional planting of trees and shrubs to acquire a uniform buffer strip sufficient to mitigate the impact of sound, light transmission, and/or visual impact on adjacent properties.
2. **Landscaped Buffer Strip** - A uniform strip at least ten (10') feet wide (unless otherwise specified herein), densely planted with shrubs and/or trees at least three (3') feet high at the time of planting, of a type that will possess growth characteristics of such a nature as to produce a dense, compact evergreen planting screen capable of growing to a height of at least six (8') feet within five years. Spacing shall be the minimum required for mature plants, and two staggered rows shall be used if necessary to attain the required initial screening. The vegetation shall be planted far enough from the property lines to prevent encroachment over the property lines. Such landscaped buffer shall be

xericape tolerant, or irrigated. Growth during the five-year period shall be adequate to ensure compliance by the end of five years. Where the required interim growth has not been attained, the property owner is responsible for replacing the vegetation with new vegetation that will meet the buffer requirement within the remaining portion of the original five-year period. A plan identifying the location of all plants to be incorporated in the buffer strip must be approved by the Maxeys Town Council or their designated Zoning Official(s) prior to any site construction. The Maxeys Town Council or their designated Zoning Official(s) may require additional planting to acquire a uniform buffer strip sufficient to mitigate the impact of sound, light transmission, and/or visual impact on adjacent properties.

1. **Landscaped Wall/Fence** - A buffer strip at least ten (10') feet wide, containing an opaque wall, barrier, or solid fence at least six (6') feet in height. Buffer strips shall have five (5') feet of landscape plantings on the exterior side of the wall and shall be planted with appropriate trees, shrubs, and groundcover so as to provide a transition from the wall to both edges of the buffer strip. A plan identifying the location and construction of the wall or barrier, and all plants to be incorporated in the buffer strip must be approved by the Maxeys Town Council or their designated Zoning Official(s) prior to any site construction. The Maxeys Town Council or their designated Zoning Official(s) may require additional planting to acquire a uniform buffer strip sufficient to mitigate the impact of sound, light transmission, and/or visual impact on adjacent properties.

911.4 Front Yard Buffers

Unless otherwise specified, any B-1, B-2, B-3, OIP, LI, or HI district or use located directly across an abutting street from any R-1 or R-2 district or use, must abide by the following front yard buffer requirements:

1. A ten (10') foot minimum front yard landscaped buffer, containing trees, shrubs, and groundcover, planted in a uniformly distributed manner, shall be installed parallel to the front property line or the street right-of-way line. Selection of shrubs and groundcover should be such that no shrub or groundcover should grow higher than four (4') feet. [Having a maximum height of four (4') feet is to prevent a "walled effect" along the local street] (See Appendix 1 for suggested plant materials).
2. The front yard buffer may be part of and located within the required front yard setback for the district in which the use is located.
3. All front yard buffers shall comply with vision clearance requirements as specified in this Ordinance.
4. Property or business identification signs may be incorporated into the front yard buffers, provided they comply with signage regulations in this Ordinance.

911.5 Exceptions and Modifications to Buffering Requirements

The landscaping/buffering requirements set forth in this regulation shall be subject to the following exceptions:

1. Prescribed fences or walls may be waived if a building, fence, or wall of at least equivalent height, opacity, and maintenance, exists immediately abutting and on the opposite side of said lot line.
2. If approved by the county, an earthen berm may be incorporated in the buffer design and may count towards the prescribed height of any fence, wall, or dense landscaping, provided that the berm will not cause drainage or erosion problems.
3. Required buffers shall not encroach into designated rights-of-way. At no time shall a required buffer come closer than twenty (20') feet to any street line. No buffer shall obstruct vision clearance at street intersections, as specified in this Ordinance.
4. In some instances, this Ordinance or the Maxeys Town Council or their designated official(s) may require buffer/screening requirements other than those specified in this Section, however no such requirement shall have the effect of reducing corner visibility as provided for herein.
5. Required buffers may be incorporated into and counted toward required open space in Open Space and Planned Development Districts.