

TITLE 6

Planning and Development

- Chapter 1 General Provisions
- Chapter 2 Building Regulation and Code Enforcement
- Chapter 3 Subdivisions
- Chapter 4 Zoning
- Chapter 5 Signs
- Chapter 6 Trees
- Chapter 7 Wireless Communication Towers
- Chapter 8 Downtown Design Guidelines (Amended June 13, 2011)

CHAPTER 1

General Provisions

State Law Reference: Authority to plan, Ga. Const. 1983, Art. IX, Sec. II, Para. IV.

ARTICLE A

Coastal Georgia Regional Development Center

- § 6-1-1 Center created
- §§6-1-2 through 6-1-20 reserved

ARTICLE B

Municipal Planning Commission

- § 6-1-21 Planning commission created.
- § 6-1-22 Membership
- § 6-1-23 Organization, rules, staff, and finances.
- § 6-1-24 Powers and duties.
- § 6-1-25 through 6-1-30 reserved.

ARTICLE A

Coastal Georgia Regional Development Center

Sec. 6-1-1 Center created.

The City of Pembroke, in cooperation with the governing authorities of other area municipalities and counties in order to guide and accomplish a coordinated and harmonious development of the municipality and the coastal Georgia area which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, hereby creates and establishes the Coastal Georgia Regional Development Center, hereinafter referred to as "the center" as authorized by O.C.G.A., section 50-8-30 et seq., and adopts the Center's by-laws by ref. (Code 1974, Sec. 7-101)

Secs. 6-1-2 through 6-1-20 reserved.

## ARTICLE B

## Municipal Planning Commission

Sec. 6-1-21 Planning commission created.

In order to guide and accomplish a coordinated and harmonious development of the municipality which will, in accordance with existing and future needs, best promote the public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, the Pembroke Planning Commission, hereinafter referred to as the "planning commission," is hereby created and established. (Code 1974, Sec. 7-301)

Sec. 6-1-22 Membership.

The planning commission shall consist of five (5) members, who shall be residents of the city, appointed by the city council. The terms of the members shall be for four (4) years and such terms shall be staggered. Any vacancy in membership shall be filled for the unexpired term by the city council who shall also have the authority to remove any member for cause, on written charges, after a public hearing. All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties. (Code 1974, Sec. 7-302)

Sec. 6-1-23 Organization, rules, staff, and finances.

- (a) The planning commission shall elect its chairperson from among its members. The term of the chairperson shall be one (1) year with eligibility for reelection. The planning commission shall appoint a secretary, who may be an officer or employee of the municipality. The planning commission shall make its own rules of procedure, and determine its time of meeting. All meetings of the planning commission shall be open to the public except as otherwise provided by law, and all records of the planning commission shall be a public record.
- (b) The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with the state agencies and city planners and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council.

Sec. 6-1-24 Powers and duties.

- (a) From and after the time the planning commission shall have organized and selected its officers, and shall have adopted its rules of procedure, it shall be the function and duty of the planning commission to make such careful and comprehensive surveys and studies of existing conditions and probable future developments

and to prepare such plans for physical, social, and economic growth as will best promote the public health, safety, morals, convenience and economy in the development of the city. In particular, the planning commission shall have the power and duty to:

- (1) Prepare a master plan or parts thereof for the development of the city.
- (2) Prepare and recommend for adoption to the city council a zoning ordinance or resolution and map.
- (3) Prepare and recommend for adoption to the city council regulations for the subdivision of land within the city, and administer the regulations that may be adopted.
- (4) Prepare and recommend for adoption to the city council, a plat or plats of an official map showing the exact location of the boundary lines of existing, proposed, extended, widened or narrowed streets, public open spaces or public building sites, together with regulations to control the erection of buildings or other structures within such lines, within the city or a specified portion thereof.

Secs. 6-1-25 through 6-1-30 reserved.

CHAPTER 2

Building Regulation and Code Enforcement

ARTICLE A

Administration

- § 6-2-1 Office of Code Enforcement created
- § 6-2-2 Building permits
- § 6-2-3 Unfit buildings
- § 6-2-4 Water Conservation
- § 6-2-5 Wetlands Protection
- § 6-2-6 Well Head Protection
- § 6-2-7 Soil Erosion and Sedimentation Control (Updated 4-12-11)
- § 6-2-8 Flood Prevention
- § 6-2-9 through 6-2-10 reserved

ARTICLE B

Building

- § 6-2-11 Building code adopted.
- §§6-2-12 through 6-2-20 reserved.

ARTICLE C

Electrical

- § 6-2-21 Electrical code adopted.
- § 6-2-22 Applicability of provisions to homeowners.
- § 6-2-23 Permits.
- § 6-2-24 Permit fees.
- § 6-2-25 Inspections.
- §§6-2-26 through 6-2-30 reserved.

ARTICLE D

Plumbing

- § 6-2-31 Plumbing code adopted.
- §§6-2-32 through 6-2-40 reserved.

ARTICLE E

Gas

- § 6-2-41 Gas code adopted.
- § 6-2-42 Applicability of provisions to home-owners.
- §§6-2-43 through 6-2-50 reserved.

ARTICLE F

Housing

- § 6-2-51 Housing code adopted.
- §§6-2-52 through 6-2-60 reserved.

ARTICLE G

Mechanical

- § 6-2-61 Mechanical code adopted.

## ARTICLE A

## Administration

Sec. 6-2-1 Office of Code Enforcement created.

- (a) There is hereby created and established the office of Code Enforcement.
- (b) The Code Enforcement officer shall have the responsibility for the enforcement of the standard codes adopted by this chapter and shall perform other duties as may be prescribed by the city council.

Editorial Note: According to the intergovernmental agreement between the City and County, the County Code Enforcement officer performs all building inspection functions.

Sec. 6-2-2 Building permits.

*(Charter amendment 2/7/05)*

- (a) Before any construction shall be commenced, or before any mobile home shall be located upon any property within the city, where the cost or value of the improvements to be constructed exceeds \$1000, the owner of the premises, or the person or contractor which proposes to make the improvement or alteration shall secure a building permit from the city or its agent for such proposed construction, improvement, or alteration or the location of a mobile home and shall pay a fee to be determined by applying a rate to be determined by council.
- (b) The application shall state the owner of the proposed building or structure, the size, material and location and also whether the work is done under contract or by the day's work and if by contract the name of the contractor.
- (c) The Code Enforcement shall inspect the site of the proposed building or structure with reference to its encroachment on the streets and alleys; its danger to adjacent buildings or structures and other conditions and circumstances necessary; and shall report to the city council his approval or disapproval of the permit; and if he disapproves, he shall give in writing the reasons therefore. In the event of the disapproval of the Code Enforcement, the applicant shall have the right to appeal to the city council and upon the approval of that body the Code Enforcement shall issue the permit.
- (d) No person or corporation, contractor or builder shall begin the erection of any building or structure within the city, without a permit therefore as hereinbefore provided. Upon a violation of this section, the Code Enforcement may apply to the Superior Court of Bryan County for an injunction, and/or may issue citation directed to any violator requiring that person to appear before the municipal court which shall be empowered to impose such penalties as are

provided in section 1-1-5 for each violation. Each day's work without a permit shall be a separate offense.

- (e) Any person, contractor or builder who shall be in violation of this section, or who encroaches upon the streets and alleys or other public property of the city, shall in addition to the penalties for violation of this section, be compelled at his own expense to remove the obstructions and to repair the streets or alleys or other public property as directed by the Code Enforcement or the city council.
- (f) It shall be unlawful for any owner, contractor, builder or workman engaged in the building or repairing of any structure within the city, to close the streets of the city to the passage of persons or vehicles or in any way to endanger the life or limb of passersby.

Sec. 6-2-3 Unfit buildings.

**SECTION I. SHORT TITLE**

This Ordinance shall be known as and cited as "The Unfit Property Ordinance."

**SECTION II. PURPOSE**

It is found and declared that in the City of Pembroke there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and are inimical to the welfare and are dangerous and injurious to the health, safety, and welfare of the people of the city; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures. It is further found and declared that in the City of Pembroke where there are in existence conditions or uses of real estate which render adjacent real estate unsafe or inimical to safe human habitation, which such use is dangerous and injurious to the health, safety, and welfare of the people of this city and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. Therefore, it is the purpose of this Ordinance that whenever the city finds that there exist in the city dwellings, buildings or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and defects increasing the hazards of fire, accidents, or other calamities; lack of adequate ventilation, light, or sanitary facilities; or other conditions rendering such dwellings, buildings, or structures unfit, unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of this city, or vacant dwellings, buildings, or structures in which drug crimes are being committed, the city may exercise its police power to repair, close, or demolish the aforesaid dwellings, buildings, or structures in the manner provided in this Ordinance and Code Sections 41-2-7 through 41-2-17 of the Official Code of Georgia Annotated as amended

All the provisions of this Ordinance, including method and procedure, shall also be applied to private property where an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions shall create a public health hazard or general nuisance to the persons residing in the vicinity. A finding by any governmental health department, health officer, building inspector, or the code enforcement officer shall constitute prima-facia evidence that said property is in violation of this Ordinance and Sections 41-2-7 through 41-2-17 of the Official Code of Georgia Annotated.

**SECTION III. SCOPE AND APPLICABILITY**

(a) This Ordinance is enacted pursuant to the provisions of Title 41, Chapter 2, Sections 7 through 17, as amended, of the Official Code of Georgia Annotated (O.C.G.A.) and sometimes referenced herein as the "statute" or "code". O.C.G.A. §41-2-7 specifies the scope and purpose of this Ordinance. All powers and authorities granted to public officers and public authorities by the statute are hereby incorporated herein by reference so as to be assumed, delegated and granted pursuant to this Ordinance.

(b) The provisions of this Ordinance shall apply to both residential and non-residential property whether being occupied or not and whether being developed or not, within the City of Pembroke, pursuant to Georgia law.

(c) It is the duty of the owner of every dwelling, building, structure, or property within the City of Pembroke to construct and maintain such dwelling, building, structure or property in conformance with the laws of this state and with this Ordinance.

#### SECTION IV. DEFINITIONS

As used in this Ordinance, the following words, terms and definitions shall apply:

(a) **“Applicable Codes”** means (A) any optional housing or abatement standard provided in chapter 2 of Title 8 as adopted by ordinance or operation of law, or other property maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; (B) any fire or life safety code as provided for in Chapter 2 of Title 25; and (C) any building codes adopted by local ordinance prior to October 1, 1991 provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

(b) **“Closing”** means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

(c) **“Code Enforcement Officer”** means the officer or officers who are authorized by the City of Pembroke to exercise the powers prescribed by this Ordinance relating to the inspection for violations of the Ordinance's provisions and the issuance of complaints upon determining that a violation has occurred.

(d) **“Drug crime”** means an act which is a violation of Article 2 of Chapter 13 of Title 16, known as the "Georgia Controlled Substances Act."

(e) **“Dwelling, building, structure, or property”** means any building or structure or property, or part thereof, used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses and appurtenances belonging

thereto or usually enjoyed therewith and also includes any building or structure of any design. The term "dwelling, building, structure, or property" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

(f) **“Governing Authority”** means the Mayor and Council of the City of Pembroke.

(g) **“Owner”** means the holder of the title in fee simple and every mortgagee of record.

(h) **“Parties in interest”** means

(1) Persons in possession of said property and premises;

(2) Persons having of record in the county in which the dwelling, building, structure, or property is located any vested right, title, or interest in or lien upon such dwelling, building, structure, or property or the lot, tract, or parcel of real property upon which the structure is situated or upon which the public health hazard or general nuisance exists based upon a 50 year title examination conducted in accordance with the title standards of the State Bar of Georgia.

(3) Persons having paid an occupational tax to the City of Pembroke for a location or office at the subject building or structure; or

(4) Persons having filed a property tax return with Bryan County as to the subject property, building, or structure.

(i) **“Person”** shall mean any natural person, corporation, partnership (general or limited), limited liability company, estate, trust or other entity or artificial person, or combination thereof.

(j) **“Public authority”** means the governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the county or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the city.

(k) **“Repair”** means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes of the City of Pembroke and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, structure or property.

(l) **“Resident”** means any person residing in the City of Pembroke on or after the date on which the alleged nuisance arose.

(m) **“Undesirable Vegetation”** means plants, which due to natural growth characteristics constitute a negative effect on public safety, public health or public welfare by

promoting rodents or potentially dangerous wild animals, infestation of mosquitoes, fleas, insects or other vermin.

(n) **“Zoning Administrator”** means the officer or his designee who is authorized to exercise the powers prescribed by this Ordinance relating to determining whether a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use; or is vacant and being used in connection with the commission of drug crimes; or that property has such an accumulation of weeds, trash, junk, filth, or other unsanitary or unsafe conditions as to constitute a public health hazard or general nuisance to other persons residing in the vicinity.

#### SECTION V. AUTHORITY AND POWERS OF CODE ENFORCEMENT OFFICER AND ZONING ADMINISTRATOR

The following public officers have been designated with the responsibility to exercise the powers prescribed by this Ordinance:

(a) The Code Enforcement Officer is hereby authorized, pursuant to O.C.G.A. §41-2-11, to exercise such powers as may be necessary to carry out and effectuate the purpose and provisions of this ordinance, including but not limited to the following powers:

- (1) To investigate the conditions in the City of Pembroke in order to determine which dwellings, buildings, structures, or properties therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant and being used in connection with the commission of drug crimes;
- (2) To enter upon premises for the purposes of making examinations; provided, however, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession; and
- (3) To issue Citations and Complaints for violations of the provisions of this Ordinance.

(b) The Zoning Administrator is hereby authorized, pursuant to O.C.G.A. §§41-2-10 and 41-2-11, to exercise such powers as may be necessary to carry out and effectuate the purpose and provisions of this ordinance, including but not limited to the following powers:

- (1) To enter upon premises for the purposes of making examinations; provided, however, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession;
- (2) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- (3) To make a determination, under this Ordinance, that a dwelling, building, structure, or property is unfit for human habitation or is unfit for its current commercial, industrial, or business use; or is vacant and being used in connection with the commission of drug crimes; or that property has such an accumulation of weeds, trash, junk, filth, or other unsanitary or unsafe conditions as to constitute a

public health hazard or general nuisance to those persons residing in the vicinity;

(4) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this Ordinance and

(5) To delegate any of his functions and powers under the Ordinance to such officers and agents as he may designate.

#### **SECTION VI. UNFIT BUILDING AND STRUCTURE**

Any building or structure that has any of the following conditions, such that the life, health, property, or safety of its occupants or the general public are endangered are hereby declared illegal and shall be abated by repair or demolition. The complaint and inspection of an unfit building or structure shall be as set forth in Section VIII of this Ordinance. The Zoning Administrator may determine that a dwelling, building, structure or property is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of such county. Such conditions may include the following (without limiting the generality of the foregoing):

(a) Any means of egress or portion thereof which is not of adequate size or which is not arranged to provide a safe path of travel in case of fire or panic.

(b) Any means of egress or portion thereof, such as, but not limited to, fire doors, closing devices and fire resistive ratings, which is in disrepair or in a dilapidated or non-working condition such that the means of egress could be rendered unsafe in case of fire or panic.

(c) The stress in any material, member or portion thereof, due to all imposed loads, including dead load, which exceeds the stresses allowed by the Building Code adopted for use in the City of Pembroke for new buildings.

(d) The dwelling, building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to damage and is less than the minimum requirement established by the Building Code adopted for use in the City of Pembroke for new buildings.

(e) Any exterior appendage or portion of the building or structure that is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Building Code adopted for use in the City of Pembroke for new buildings.

(f) The structure or portion thereof, for whatever reason, is manifestly unsafe or unsanitary for the purpose for which it is being used.

(g) The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.

(h) The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Building Codes adopted for use in the City of Pembroke, or of another city Ordinance or state law.

(i) The building, structure or portion thereof is in such a condition as to constitute a public nuisance.

(j) The building, structure or portion thereof is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise a danger to human life, or, which in relation to its existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, uncleanness, dilapidation, obsolescence, abandonment, disrepair, structural defects, or lack of adequate ventilation, light or sanitary facilities.

(k) The dwelling, building or structure is vacant, dilapidated and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

(l) Defects in the dwelling, building or structure increasing the hazards of fire, accidents, or other calamities;

(m) Lack of adequate ventilation, light, or sanitary facilities;

(n) Stagnant water on the premises;

(o) The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the inhabitants of the City of Pembroke;

(p) Maintaining a dangerous or diseased animal or fowl;

(q) The external or outdoor storage or use of refrigerators, freezers, stoves, air conditioners, and any other appliances, except for those appliances held in connection with a licensed commercial establishment operated in an appropriately zoned district, or the residential use of one (1) such appliance operated externally by the residents of the premises. All such appliances permitted to be stored externally shall be of the type that does not close or lock automatically.

(r) Property where an accumulation of trash, junk, filth, or other unsanitary and unsafe conditions creates a public nuisance.

(s) Any other condition constituting a public nuisance.

## SECTION VII. UNDESIRABLE VEGETATION

It shall be unlawful for the owner and/or occupant of a lot or tract of land in the City of Pembroke, or for any agent or representative of any such occupant or owner, to permit or maintain on

such lot any growth of undesirable vegetation or an accumulation of weeds, trash, junk, filth, or other unsanitary, unsafe, or unfit conditions as to constitute an endangerment to public health or a general nuisance which renders adjacent real estate unsafe or inimical to safe human habitation. The complaint and inspection of undesirable vegetation shall be as set forth in Section VIII of this Ordinance.

#### **SECTION VIII. COMPLAINT AND INSPECTION; IN REM PROCEEDINGS**

(a) Whenever a request is filed with the Code Enforcement Officer by a public authority or by at least five (5) residents of the City of Pembroke that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; or that private property has an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions constituting a public health hazard or a general nuisance to those persons residing in the vicinity; or whenever it appears to the Code Enforcement Officer (on his own motion):

- (1) that any dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; or
- (2) is vacant and being used in connection with the commission of drug crimes; or
- (3) lacks adequate ventilation, light, or sanitary facilities; or
- (4) exhibits other conditions rendering it an endangerment to the public health or safety as a result of unsanitary or unsafe conditions; or
- (5) that private property has an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions constituting a public health hazard or a general nuisance to those persons residing in the vicinity, then, the Code Enforcement Officer shall make an investigation or inspection of said dwelling, building, structure, or property.

(b) The Code Enforcement Officer may, if his preliminary investigation discloses a basis for such charges, issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the owner and any parties in interest in such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner and parties in interest; state with particularity the factual basis for the action; and contain a statement of the action sought by the Code Enforcement Officer to abate the alleged nuisance. The summons shall notify the owner and parties in interest that a hearing will be held before a court of competent

jurisdiction at a date and time certain and at a place within the City of Pembroke. Such hearing shall be held not less than 15 days nor more 45 days after the filing of said complaint in the proper court. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for the hearing.

(c) If, after such notice and hearing, the Court determines that the dwelling, building or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; or is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions; or that the private property in question has an accumulation of weeds, trash, junk, filth, or other unsanitary or unsafe conditions constituting a public health hazard or general nuisance to those person residing in the vicinity, the court shall state in writing its findings of fact in support of such determination and shall issue and cause to be served upon the owner and any parties in interest that have answered the complaint or appeared at the hearing an order:

(1) If the repair, alteration, or improvement of the said dwelling, building, structure, or property can be made at a reasonable cost in relation to the present value of the dwelling, building, structure, or property, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, structure, or property so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that in cannot be used in connection with the commission of drug crimes;

or

(2) If the repair, alteration, or improvement of the said dwelling, building, or structure, in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with Georgia appraiser classification as provided in Chapter 39A of Title 43, qualified building contractors, or qualified building inspectors without actual testimony presented. Cost of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the City of Pembroke;

(d) If the owner fails to comply with an order to repair or demolish the dwelling, building, structure, the Zoning Administrator may cause such dwelling, building, structure to be repaired, altered, or improved or to be vacated and closed, or demolished; and the Zoning Administrator shall cause to be posted on the main entrance of any building, dwelling, or structure a placard with the following words:

**"This building is unfit for human habitation or commercial, industrial or business use and does not comply with the applicable codes (or has been ordered secured to prevent its use in connection with drug crimes) or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."**

(e) If the Zoning Administrator has the structure demolished, reasonable efforts shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any sale of such salvaged materials may be made without the necessity of public advertisement and bid. The Zoning Administrator and the governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials;

(f) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred;

(g) The lien provided for in paragraph VIII (f) of this Ordinance shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the clerk of the superior court of Bryan County, and shall relate back to the date of filing of the lis pendens notice required under subsection (g) of O.C.G.A. §41-2-12. The clerk of superior court shall record and index such certified copy of the order in the deed records of Bryan County and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a certified copy of the order with the clerk of superior court, the Zoning Administrator shall forward a copy of the order and a final statement of costs to the county tax

commissioner. It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collecting real property ad valorem taxes, including specifically Chapter 4 of Title 48; provided, however, that the limitation of Code Section 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. The tax commissioner shall remit the amount collected to the governing authority of the county. Thirty days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.

(h) The governing authority may waive and release such lien imposed on property upon the owner of such property entering into a contract with the county agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

(i) Where the abatement action does not commence in the superior court, review of a court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A §5-23-29.

(j) In addition to the procedures and remedies outlined above, the Code Enforcement Officer may issue citations for violations of state minimum standard codes, optional building, fire, and life safety codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may enforce such citations in a court of competent jurisdiction prior to issuing a complaint in rem as provided in this Ordinance.

(k) Nothing in this Ordinance shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

#### **SECTION IX. SERVICE OF COMPLAINTS AND ORDERS**

(a) Complaints issued by the Code Enforcement Officer or other public officer under this Ordinance shall be served in the following manner. A copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, or structure within three business days of filing of the complaint and at least ten days prior to the date of the hearing. A copy of the complaint and summons shall be served in one of the following ways:

(1) Personal service upon each owner and party in interest if such parties are residents of the county. Service shall be perfected at least ten days prior to the date of the hearing. Service may be made by the Code Enforcement Officer or by any

law enforcement officer of the City of Pembroke or Bryan County; and a return of service, filed with the clerk of superior court of Bryan County, shall be deemed sufficient proof that service was perfected;

(2) Pursuant to the provisions of Article 5 of Chapter 4 of Title 48; or

(3) Statutory overnight delivery.

(b) If any owner or party in interest is a resident of this state but resides outside of the Bryan County, service shall be perfected by certified mail or statutory overnight delivery, return receipt requested, to the most recent address shown in county tax filings and mailed at least 14 days prior to the date of hearing.

(c) Nonresidents of this state, whose mailing address is known, shall be served by certified mail or statutory overnight delivery, return receipt requested, mailed at least 14 days prior to the date of the hearing. For nonresidents whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in Bryan County once a week for two consecutive weeks prior to the hearing.

(d) In the event either the owner or any party in interest is a minor, an estate, an incompetent person, or person laboring under disabilities, the guardian or other personal representative of such person shall be served and if such guardian or personal representative resides outside Bryan County or is a nonresident of this state, he or she shall be served as provided for in subsection IX(c) of this Ordinance. If such owner or party in interest has no guardian or personal representative, service shall be perfected by serving the judge of the probate court of Bryan County at least 30 days prior to the date of the hearing which judge shall stand in the place of and protect the rights of such minor, estate, or incompetent person or appoint a guardian ad litem for such person.

(e) In the event of unknown persons or unborn remaindermen who are likely to have any rights in the property or interest in the proceeds thereof, the judge of the probate court of Bryan County shall be personally served at least 30 days prior to the date of the hearing, and it shall be the duty of the judge of the probate court to stand in the place of and protect the rights of such unknown parties or unborn remaindermen.

(f) In the event the whereabouts of any owner or party in interest is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence or if any owner or party in interest cannot, after due diligence, be served as provided in this Ordinance, the public officer shall make an affidavit to that effect and serve by publication in the manner provided in subsection IX(c) of this Ordinance, and such publication shall be sufficient proof that service was perfected.

(g) A notice of lis pendens shall be filed in the office of the clerk of superior court of

Bryan County at the time of filing the complaint. Such notice shall have the same force and effect as other lis pendens notices provided by law.

(h) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this Ordinance on the owner and any party in interest who answers the complaint or appears at the hearing. Any party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

#### **SECTION X. DEMOLITION**

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

#### **SECTION XI. RIGHT TO ENTER AND INSPECT**

The Code Enforcement Officer or Zoning Administrator, or their designee, or any other person authorized to enforce this Ordinance, and any sworn officer of the Pembroke Police Department or the Bryan County Sheriff's Department shall be empowered to enter any property and structure at reasonable times to inspect the condition or work being performed thereon or therein.

#### **SECTION XII. EMINENT DOMAIN**

Nothing in this Ordinance shall be construed to prevent the owner of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of the State of Georgia, or to permit any property to be condemned or destroyed except in accordance with the police power of this State. Procedures under this Ordinance shall not constitute the exercise of the power of eminent domain by the City of Pembroke.

#### **SECTION XIII. OTHER REMEDIES**

This Ordinance shall not be construed to impair or limit in any way the power of the city to define and declare nuisances and to ensure their removal or abatement by summary proceedings or otherwise.

**SECTION XIV. RECORDS**

The Zoning Administrator shall be the supervisor and custodian of the records on each property against which a complaint is issued, including but not limited to the investigative findings, course of action required, and, if applicable, citations and court findings. Such records shall be public records and made available to any party in interest and copies thereof provided upon the payment of such reasonable cost as may be incurred in duplicating or otherwise providing them. The records shall be preserved for not less than four years after the proceedings and action, if any, regarding the property are concluded.

**SECTION XV. CODE OF GEORGIA**

Any reference to the Official Code of Georgia Annotated or O.C.G.A. shall include any amendment to a cited section as subsequently adopted.

**SECTION XVI. REPEALER**

The Ordinances in conflict with this ordinance are hereby repealed; provided however, that it is expressly not the intent of this Ordinance to repeal, limit or amend other Ordinances and codes previously adopted and in force and effect including, but not limited to, those pertaining to building codes, housing codes, property maintenance ordinances, nuisance ordinances, fire codes, health and sanitation codes or the Zoning Ordinance of the City of Pembroke.

**SECTION XVII. SEVERABILITY**

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

**Sec. 6-2-4 Water Conservation; purpose.**

To impose water conservation restrictions; to provide definitions; to provide for exemptions; to provide for penalties; to provide for related matters; to repeal conflicting ordinances and for other purposes.

1. Definitions.
  - (a) "Commercial" means any type of building other than residential.
  - (b) "Construction" means the erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with making an addition to an existing building and shall include the replacement of a malfunctioning, unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.
  - (c) "Residential" means any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.
2. Effective Date.
  - (a) On or after July 1, 1991, no construction may be initiated within the City of Pembroke for any residential building of any type which:
    - (1) Employs a gravity tank-type, flushometer valve, or flushometer-tank toilet that uses more than an average of 1.6 gallons of water per flush; provided, however, this paragraph shall not be applicable to one-piece toilets until July 1, 1992;
    - (2) Employs a shower head that allows a flow of more than an average of 2.5 gallons of water per minute at 60 pounds per square inch of pressure;
    - (3) Employs a urinal that uses more than an average of 1.0 gallons of water per flush;
    - (4) Employs a lavatory faucet or lavatory replacement aerator that allows a flow of more than 2.0 gallons of water per minute; or
    - (5) Employs a kitchen faucet or kitchen replacement aerator that allows a flow of more than 2.5 gallons of water per minute.
3. On or after July 1, 1991, there shall be no construction of any commercial building initiated within the City of Pembroke for any commercial building of any type which does not meet the requirements of subparagraphs (1) through (5) of Section 2 of this ordinance.
4. The requirements of Section 2 of this ordinance shall apply to any residential construction initiated after July 1, 1991 and to any commercial construction initiated after July 1, 1992, which involves the repair or renovation of or addition to any existing building when such repair or renovation of or addition to such existing building includes replacement of toilets or showers or both.
5. Exemptions.
  - (a) Exemptions: New construction and the repair or renovation

of an existing building shall be exempt from the requirements of Sections 2, 3 and 4 of this ordinance when:

- (1) The repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets or showerheads within such existing buildings; or,
  - (2) When such plumbing or sewage system within such existing building, because of its capacity, design, or installation would not function properly if the toilets, faucets or showerheads required by this ordinance were installed; or,
  - (3) Such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence; or,
  - (4) Units to be installed are:
    - a. Specifically designed for use by the handicapped,
    - b. Specifically designed to withstand unusual abuse or installation in a penal institution; or,
    - c. Toilets for juveniles
- (b) The owner, or his agent, of a building undergoing new construction or repair or renovation who is entitled to an exemption as specified in subparagraph (a) (2), (3) or (4) of this section shall obtain the exemption by applying at the office of the Code Enforcement for the City of Pembroke.

6. Enforcement; Penalty.

- (a) This ordinance shall be enforced by the office of the Code Enforcement of the City of Pembroke. Citations for violations may be issued by the City Clerk of the City of Pembroke.
- (b) Any person, corporation, partnership or other entity violating this ordinance shall be tried before the municipal court of the City of Pembroke. Upon conviction, a violation of this ordinance may be punished by a fine not to exceed Fifty Dollars (\$50.00) or imprisonment not to exceed five (5) days. (Ord. 2/13/1991)

Sec. 6-2-5 Wetlands Protection

- (a) Definitions: for the purposes of this Section, the following terms shall have the following meanings:  
**"Regulated activity"** means any activity, which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the United States excepting those activities exempted in section 404 of the Federal Clean Water Act.  
**"Wetland"** means an area that is inundated or saturated by surface

water or groundwater at a frequency and distribution sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions commonly know as hydrophytic vegetation.

**"Wetlands Map"** means the current U.S. Fish and Wildlife Service National Wetlands Inventory maps for Pembroke, Georgia.

**"Wetland Protection District"** means all wetlands within the jurisdiction of Pembroke, Georgia as indicated on the Wetlands Map. Provided, however, that the Wetlands Map does not necessarily represent the boundaries of jurisdictional wetlands within the City of Pembroke and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this ordinance does not relieve the landowner from federal or state permitting requirements.

- (b) Purpose: The purpose of this ordinance is to promote the wise use of wetlands and protect them from alterations that will significantly affect or reduce their primary functions for water quality, flood plain and erosion control, groundwater recharge, aesthetic natural areas and wildlife habitat areas.
- (c) District delineation: These regulations shall apply to all lands within wetlands located within the city of Pembroke. The wetland map, adopted as part of this ordinance, shows the general location of wetlands and should be consulted by persons contemplating activities in or near wetlands before engaging in a related activity.
- (d) Wetland Development Permit Requirements: No activity or use shall be allowed within the Wetland Protection District without written permission from the City in the form of a local government permit. Issuance of a local government permit is contingent on full compliance with the terms of this ordinance, and other applicable regulations and zoning requirements. A U. S. Army Corps of Engineers determination shall be required prior to the issuance of a local government permit for any regulated activity within the Wetland Protection District. If the Corps determines that wetlands are present and that a Section 404 Permit or Letter of Permission is required, no permit for the regulated activity will be issued until the Corps has issued the Section 404 Permit or Letter of Permission. If the Corps determines that there are no wetlands present on the proposed development site, Pembroke may proceed with its normal permitting procedures.
- (e) Permitted Uses: The following uses are permitted by right within the Wetland Protection District to the extent that they are not prohibited by any other ordinance or law and provided they do not require structures, grading, fill drainage or dredging except as provided herein.

1. Forestry Practices applied in accordance with Best Management Practices approved by the Georgia Forestry Commission.
  2. Conservation or preservation of soil water, vegetation, fish or other wildlife, provided they do not affect waters of the state of Georgia or of the United States in such a way that would require an individual 404 permit.
  3. Outdoors passive recreational activities including fishing, bird watching, hiking, boating, horseback riding and canoeing.
  4. Natural water quality treatment or purification.
  5. Normal agriculture activities including the planting and harvesting of crops and pasturing of livestock. Such activities shall be subject to best management practices approved by the Georgia Department of Agriculture.
- (f) Prohibited Uses: The following uses are prohibited in a Wetland District.
1. Receiving areas for toxic or hazardous waste or other contaminants.
  2. Hazardous or sanitary landfills. (Ord. 11/9/1999)

## Sec. 6-2-6

Wellhead Protection

1. Purpose: To ensure the provision of a safe and sanitary drinking water supply for the City by the establishment of wellhead protection zones surrounding the wellhead/springs for all wells/springs which are the supply sources for the City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.
2. Definitions. When used in this Ordinance, the following words and phrases shall have the meanings given in this section:
  - (a) Hazardous waste or material: any waste or material which because its quantity, concentration or physical, chemical or infectious characteristics may:
    1. Cause or significantly contribute to an increase in mortality or an increase in the serious irreversible or incapacitating reversible illness;
    2. Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported disposed of or otherwise managed.
  - (b) Sanitary landfill: A disposal site where solid wastes, including putrescible wastes, or hazardous wastes, is disposed of on land by placing earth cover thereon.
  - (c) Wellhead: The upper terminal of a well, including adapters, ports, seals, valves and other attachments.
2. Establishment of Wellhead Protection Zone. There is hereby

established a use district known as a Wellhead Protection Zone, identified and described as all the area within a circle, the center of which is the center of any city water supply wellhead and the radius of which is 100 feet.

3. Permitted uses. The following uses shall be permitted within Wellhead Protection Zones:
  - a. Any use permitted within existing agricultural or single family residential districts, except that the minimum residential lot size for a lot any portion of which lies within the Wellhead Protection Zone shall not be less than one acre; and
  - b. Any other open land use where any building located on the property is incidental and accessory to the primary open land use.
4. Prohibited uses. The following uses of conditions shall be and are hereby prohibited within Wellhead Protection Zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 4 of this Ordinance:
  - a. Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;
  - b. Septic tanks or drain fields appurtenant thereto;
  - c. Impervious surfaces other than roofs of buildings, streets, driveways and walks serving buildings permitted under Section 4 of the Ordinance;
  - d. Sanitary landfills;
  - e. Hazardous waste disposal sites;
  - f. Storm water infiltration basins;
  - g. Underground storage tanks;
  - h. Sanitary sewer lines within 150 feet of a wellhead.
5. Administration. The policies and procedures for administration of any Wellhead Protection Zone established under this Ordinance, including without limitation those applicable to non-conforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the City of Pembroke, as the same is presently enacted or may from time to time be amended. (Ord. 9/10/2001)

**SECTION I - TITLE**

This ordinance will be known as "The City Of Pembroke Soil Erosion, Sedimentation and Pollution Control Ordinance." This ordinance shall also be known as Sec. 6-2-7 Soil Erosion and Sedimentation Control and will replace the existing Sec. 6-2-7 Soil Erosion and Sedimentation Control in Title 6, Planning and Development portion of the Pembroke Code of Ordinances in its entirety.

**SECTION II – ORDINANCE**

The Soil Erosion and Sedimentation Control Ordinance shall read as follows:

**Sec. 6-2-7 Soil Erosion and Sedimentation Control****1. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Erosion, Sedimentation and Pollution Control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in section 3.C. of this ordinance.

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

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

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

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

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

**Land-Disturbing Activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 2, Paragraph 5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
- b. Temporary seeding, producing short-term vegetative cover; or
- c. Sodding, covering areas with a turf of perennial sod-forming grass.

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

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

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

## 2. Exemptions.

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

- A. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".

- B. Granite quarrying and land clearing for such quarrying;
- C. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- D. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;
- E. Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- F. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs xv. and xvi. of Section 3.C. of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
- G. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
- H. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs A, B, C, D, E, F, G, I, or J of this section;
- I. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or

maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

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

### **3. Minimum Requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices.**

#### **A. GENERAL PROVISIONS**

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Section 3. B. & C. of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.

#### **B. MINIMUM REQUIREMENTS/ BMPs**

- i. Best management practices as set forth in Section 3.B. and Section 3.C. of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the

"Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).

- ii. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
  - iii. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
  - iv. The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
  - v. The LIA may set more stringent buffer requirements than stated in C. xv. and xvi., in light of O.C.G.A. § 12-7-6 (c).
- C. The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
- i. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
  - ii. Cut-fill operations must be kept to a minimum;
  - iii. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
  - iv. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
  - v. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
  - vi. Disturbed soil shall be stabilized as quickly as practicable;
  - vii. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
  - viii. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
  - ix. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed

area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;

- x. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- xi. Cuts and fills may not endanger adjoining property;
- xii. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- xiii. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- xiv. Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 3. B. ii. of this ordinance;
- xv. Except as provided in paragraph (xvi) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:
  - a) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
  - b) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

- xvi. There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed ; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- a) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
  - b) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.
- D. Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section 3. B. & C. of this ordinance.
- E. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

#### **4. Application/Permit Process**

##### **A. GENERAL**

The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.

**B. APPLICATION REQUIREMENTS**

- i. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Pembroke without first obtaining a permit from the City of Pembroke to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
- ii. The application for a permit shall be submitted to the City of Pembroke and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section 4 C. of this ordinance. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section 3 B. & C. of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by 3 copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.
- iii. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
- iv. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 3 C. xv. & xvi. has been obtained, all fees have been paid, and bonding, if required as per Section 4 B. vi., have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the revised Plan submittal.
- v. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
- vi. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited

and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

### C. PLAN REQUIREMENTS

- i. Plans must be prepared to meet the minimum requirements as contained in Section 3 B. & C. of this ordinance, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. 12-7-20.
- ii. Data Required for Site Plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

### D. PERMITS

- i. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- ii. No permit shall be issued by the Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section 3 C. xv. & xvi. are obtained, bonding requirements, if necessary, as per Section 4 B. vi. are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- iii. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
- iv. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- v. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

- vi. The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

## 5. Inspection and Enforcement

- A. The City of Pembroke will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the Local Issuing Authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance.
- B. The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- C. The City of Pembroke shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- D. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- E. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
- F. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take

necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

## **6. Penalties and Incentives**

### **A. FAILURE TO OBTAIN A PERMIT FOR LAND-DISTURBING ACTIVITY**

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

### **B. STOP-WORK ORDERS**

- i. For the first and second violations of the provisions of this ordinance, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five calendar days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
- ii. For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
- iii. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
- iv. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

### **C. BOND FORFEITURE**

- i. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 4 B. iv. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

### **D. MONETARY PENALTIES**

Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided

in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

## **7. Education and Certification**

- A. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.
- B. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
- D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

## **8. Administrative Appeal and Judicial Review**

### **A. ADMINISTRATIVE REMEDIES**

The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before Pembroke's Zoning Appeals Board within thirty (30) days after receipt by the Local Issuing Authority of written notice of appeal.

### **B. JUDICIAL REVIEW**

Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Bryan County.

**9. Effectivity, Validity, and Liability****A. EFFECTIVITY**

This ordinance shall become effective on the 12<sup>th</sup> of April, 2011.

**B. VALIDITY**

If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.

**C. LIABILITY**

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

Sec. 6-2-8 Flood damage Prevention (Amended 11/17/2008)

**ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

**SECTION A. AUTHORIZATION**

Article IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Council of Pembroke, Georgia, does ordain as follows:

**SECTION B. FINDINGS OF FACT**

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

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

**SECTION C. STATEMENT OF PURPOSE**

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

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

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

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

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

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

**SECTION D. OBJECTIVES**

The objectives of this ordinance are:

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

**ARTICLE 2. GENERAL PROVISIONS****SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of Pembroke, Georgia.

**SECTION B. BASIS FOR AREA OF SPECIAL FLOOD HAZARD**

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated August 1, 1986 with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance.

For those land areas acquired by a municipality through annexation, the current effective FIS Dated October 16, 1992, with accompanying maps and other supporting data and any revision thereto, for Bryan County are hereby adopted by reference.

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

**SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any Development activities.

**SECTION D. COMPLIANCE**

No structure or land shall hereafter be located, extended, converted or altered without

full compliance with the terms of this ordinance and other applicable regulations.

#### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **SECTION F. INTERPRETATION**

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

#### **SECTION G . WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

#### **SECTION H. PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent City of Pembroke from taking such other lawful actions as is necessary to prevent or remedy any violation.

### **ARTICLE 3. ADMINISTRATION**

#### **SECTION A. DESIGNATION OF ORDINANCE ADMINISTRATOR**

The City Planner or designee is hereby appointed to administer and implement the provisions of this ordinance.

#### **SECTION B. PERMIT PROCEDURES**

Application for a Development Permit shall be made to the Building Inspector or designee on forms furnished by the community PRIOR to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of

existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

(1) Application Stage -

- (a) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Section B (2);
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;

(2) Construction Stage -

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

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

The City Planner or designee shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

### **SECTION C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the City Planner or designee shall include, but shall not be limited to:

- (1) Review proposed development to assure that the permit requirements of this ordinance have been satisfied;
- (2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.

- 3) Review all permit applications to determine whether proposed building sites will be reasonable safe from flooding.
- (4) When Base Flood Elevation data or floodway data have not been provided in accordance with Article 2 Section B, then the City Planner or designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of Article 4.
- (5) "Review" and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with Article 3, Section B(2).
- (6) "Review" and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 3, Section B (2).
- (7) When flood-proofing is utilized for a structure, the City Planner or designee shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4(B)(2) or (D)(2).
- (8) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
- (9) Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (10) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (11) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the City Planner or designee shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (12) All records pertaining to the provisions of this ordinance shall be maintained in the office of the City Planner or designee and shall be open for public inspection.

#### **ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION**

##### **SECTION A. GENERAL STANDARDS**

In ALL Areas of Special Flood Hazard the following provisions are required:

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

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

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

(4) Elevated Buildings - All New construction or substantial improvements of existing structures that include ANY fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

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

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

(ii) The bottom of all openings shall be no higher than one foot above grade; and,

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

(b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area, and

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

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

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

forces.

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

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

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

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

## **SECTION B . SPECIFIC STANDARDS**

In ALL Areas of Special Flood Hazard, the following provisions are required:

(1) New construction and substantial improvements - Where base flood elevation data are available, new construction or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of Article 4, Section A(4), "Elevated Buildings".

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

(2) Non-Residential Construction - New construction or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C.(6).

(3) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:

(a) All manufactured homes placed or substantially improved on: (1)

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

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

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

(c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (ref. Article 4(A)(6) above)

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

- (i) Be on the site for fewer than 180 consecutive days.
- (ii) Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
- (iii) the recreational vehicle must meet all the requirements for "New Construction", including the anchoring and elevation requirements of Article 4, Section B (3)(a)(c), above.

(4) Floodway - Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights.

Therefore, the following provisions shall apply:

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

(b) ONLY if Article 4 (B)(4)(a) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood

hazard reduction provisions of Article 4.

**SECTION C. BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAY (A-ZONES) -**

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no base flood data have been provided (A-Zones), OR where base flood data have been provided but a Floodway has not been delineated, the following provisions apply:

(1) When base flood elevation data or floodway data have not been provided in accordance with Article 2(B), then the City Planner or designee shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. ONLY if data are not available from these sources, then the following provisions (2&3) shall apply:

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

(3) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. (Note: Require the lowest floor to be elevated one foot above the estimated base flood elevation in A-Zone areas where a Limited Detail Study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 4, Section A (4) "Elevated Buildings".

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

The City Planner or designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

**SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES) -**

Areas of Special Flood Hazard established in Article 2, Section B, may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and non-

residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet (3) above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A (4), "Elevated Buildings".

The City Planner or designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(2) New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Articles 3(B)(1)(c) and (3)(B)(2).

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

#### **SECTION E. STANDARDS FOR SUBDIVISIONS**

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

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

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

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

#### **SECTION F. STANDARDS FOR CRITICAL FACILITIES**

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

floodplain.

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

#### **ARTICLE 5. VARIANCE PROCEDURES**

(A) The Mayor and Council of the City of Pembroke, as established by electorate of the City of Pembroke, shall constitute a board of appeals and shall hear and decide requests for appeals or variance from the requirements of this ordinance.

(B) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the City Planner or designee in the enforcement or administration of this ordinance.

(C) Any person aggrieved by the decision of the Mayor and Council of the City of Pembroke may appeal such decision to the Superior Court of Bryan County, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.

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

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

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

(G) In reviewing such requests, the City Planner shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.

(H) **Conditions for Variances:**

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

- (i) a finding of good and sufficient cause,
- (ii) a determination that failure to grant the variance would result in exceptional hardship, and;
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(2) The provisions of this Ordinance are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed

carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

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

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

(l) Upon consideration of the factors listed above and the purposes of this ordinance, the Mayor and Council of the City of Pembroke may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

#### **ARTICLE 6. DEFINITIONS**

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

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

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

**"Appeal"** means a request for a review of the City Planner's interpretation of any provision of this ordinance.

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

**"Area of special flood hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

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

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

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

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

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

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

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

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

**"Existing construction"** means for the purposes of determining rates, structures for which the "start of construction" commenced before August 1, 1986.

**"Existing manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before December 10, 1985.

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

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

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

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

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

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

**"Floodplain"** means any land area susceptible to flooding.

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

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

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood height greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

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

**"Historic Structure"** means any structure that is;

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been

- approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

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

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

**"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

**"New construction"** means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced after August 1, 1986 and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction commenced after December 10, 1985 and includes any subsequent improvements to such structures.

**"New manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after December 10, 1985.

**"Recreational vehicle"** means a vehicle, which is:

- a. built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projection;
  - c. designed to be self-propelled or permanently towable by a light duty truck;
- and

- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

**"Subdivision"** the division of a single lot into two or more lots for the purpose of sale or development.

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

**"Substantial improvement"** means any reconstruction, rehabilitation, addition, or improvements of a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure prior to the "start of construction" of the improvement. *The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.* This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include (1) those improvements of a building required to comply with existing violations of state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions and which have been identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project, or (2) any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

the repair, reconstruction or improvement commenced.

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

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

#### ***ARTICLE 7. SEVERABILITY***

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Secs. 6-2-9 through 6-2-10 reserved.

## ARTICLE B

## Building

Cross Reference: Fire limits defined, Sec. 3-2-22.

Sec. 6-2-11 Building code adopted.

For the purpose of establishing rules and regulations for the construction, alteration, use, demolition and removal of buildings or other structures, or any appurtenances connected or attached thereto, there is hereby adopted the Standard Building Code, being particular the edition enforced by the State of Georgia and subsequent editions and revisions thereof, as published by the Southern Building Code Congress International, Inc., and the whole thereof, except the portions as are hereafter deleted, modified or amended, a copy of which has been and is now filed in the office of the city clerk and which is hereby adopted and incorporated by reference as fully as if set out at length herein, and the provisions thereof shall be controlling as to all subjects therein contained, within the corporate limits, except that in the event that any of the provisions are in conflict with other provisions of this code, state law or ordinances, rules or regulations, the provisions of this code, state law or ordinances, rules or regulations shall prevail and be controlling.

Secs. 6-2-12 through 6-2-20 reserved.

## ARTICLE C

## Electrical

Sec. 6-2-21 Electrical code adopted.

The edition enforced by the State of Georgia and subsequent editions and revisions of the National Electrical Code, Standard of the National Board of Fire Underwriters, as recommended by the National Fire Protection Association, and approved by the American Standards Association, being NFPA No.70, is hereby adopted as the minimum standard for the installation of all electrical wiring, devices and equipment in the city, except as otherwise specifically provided in this article, and is hereby made a part of this article as fully and to the same extent as if copied herein in full. A copy of the code is on file in the office of the city clerk. In the event of any conflict between the provisions of the electrical code and the provisions of this code, state law or ordinances, rules or regulations, the provisions of this code, state law or ordinances, rules or regulations shall prevail and be controlling.

Sec. 6-2-22 Applicability of provisions to homeowners.

Nothing contained within this article shall prevent any homeowner from

installing or maintaining electrical wiring within his own property boundaries; provided the electrical work is done by himself and is used exclusively by him or his family. This privilege does not convey the right to violate any of the provisions of this article, neither is it to be construed as exempting any property owner from obtaining a permit and having the work inspected nor from paying the required fees therefore.

Sec. 6-2-23 Permits.

Before any electrical wiring, devices or equipment are installed, repaired or altered in any building or structure within the city, the person making the installation, repair or alteration shall obtain a permit therefore from the Code Enforcement.

Sec. 6-2-24 Permit fees.

Before any permit for electrical work shall be issued under the provisions of this article, the applicant therefore shall pay the permit fees as shall be determined by the city council from time to time.

Sec. 6-2-25 Inspections.

- (a) It shall be unlawful for any person controlling any electrical wiring in or of houses or buildings within the city to allow any electrical current to be turned on or consumed in any building without having first had an inspection thereof made and a certificate of approval thereof being issued.
- (b) Any person who fails to correct any defects in his work after notification thereof by the Code Enforcement shall not receive any further electrical permits until the defect is corrected.

Secs. 6-2-26 through 6-2-30 reserved.

## ARTICLE D

### Plumbing

Sec. 6-2-31 Plumbing code adopted.

The Standard Plumbing Code as published by the Southern Building Code Congress International, Inc., being particularly the edition enforced by the State of Georgia thereof, together with all subsequent editions and amendments thereto, is hereby adopted as the code of the city relating to the installation of all plumbing, including the pipes for distributing the water supply, the fixtures for using water and the drainage pipe for removing waste water and sewage, together with fittings and appurtenances of various kinds, all within or adjacent to the buildings within the city or where connected to the city's water or sewerage system, and the whole thereof, except the portions as are hereafter deleted, altered or amended, is incorporated herein as fully as if set out at length, and all

plumbers shall be required to make installations contained therein, a copy of which code is on file in the office of the city clerk. In the event of any conflict with the provisions of the plumbing code and the provisions of this code, state law or ordinances, rules or regulations, the provisions of this code, state law or ordinances, rules or regulations shall prevail and be controlling.

Secs. 6-2-32 through 6-2-40 reserved.

## ARTICLE E

### Gas

Sec. 6-2-41 Gas code adopted.

There is hereby adopted by and for the city, a gas code known as the Standard Gas Code, the edition enforced by the State of Georgia, which code is published by the Southern Building Code Congress International, Inc., and which is referred to, incorporated herein, and made a part hereof for all purposes, a copy of which code is on file in the office of the city clerk. In the event of any conflict between the provisions of the gas code adopted by this section and any provisions of this code, state law or ordinance, rule or regulation, the provisions of this code, state law or ordinance, rule or regulation shall prevail and be controlling.

Sec. 6-2-42 Applicability of provisions to homeowners.

Nothing contained within this article shall prevent any home owner from installing or maintaining gas piping or gas appliances within his own property boundaries; provided the gas work is done by himself and is used exclusively by him or his family. This privilege does not convey the right to violate any of the provisions of this article, neither shall it be construed as exempting any property owner from obtaining a permit and having the work inspected nor from paying the required fees therefore.

Secs. 6-2-43 through 6-2-50 reserved.

## ARTICLE F

### Housing

Sec. 6-2-51 Housing code adopted.

There is hereby adopted by and for the city the Standard Housing Code, the edition enforced by the State of Georgia, as recommended by the Southern Building Code Congress International, Inc., which code is published in book form, which is referred to, incorporated herein and made apart hereof for all purposes, a copy of which code is filed of record

in the office of the city clerk, the provisions of which shall be controlling in the use, maintenance and occupancy of all dwellings, dwelling units and/or structures within the city. In the event of any conflict between the provisions of the housing code and the provisions of this code, state law or ordinance, rule or regulation, the provisions of this code, state law or ordinance, rule or regulation shall prevail and be controlling.

Secs. 6-2-52 through 6-2-60 reserved.

## ARTICLE G

### Mechanical

Sec. 6-2-61 Mechanical code adopted.

The Standard Mechanical Code, as published by the Southern Building Code Congress International, Inc., being particularly the edition enforced by the State of Georgia thereof, together with all subsequent editions and revisions thereto, is hereby adopted as the code of the city relating to the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy-related systems and the whole thereof, except the portions as are hereafter deleted, altered or amended, is incorporated herein as fully as if set out at length, and all persons related to the mechanical business shall be required to make installations in conformity with the code and the regulations contained therein, a copy of which is on file in the office of the city clerk. In the event of any conflict with the provisions of the mechanical code and the provisions of this code, state law or ordinances, rules or regulations, the provisions of this code, state law or ordinances, rules or regulations shall prevail and be controlling.

## CHAPTER 3

## Subdivisions

State Law Reference: Authority to plan, Ga. Const. 1983, Art. IX, Sec. II, Para. IV.

§ 6-3-1 Subdivision regulations incorporated by reference.

Sec. 6-3-1 Subdivision regulations incorporated by reference.  
The subdivision regulations of the city, adopted by an ordinance of March 12, 2001, as amended, are incorporated into this code by reference and made a part of this chapter as though set out in full herein. A current copy of the subdivision regulations shall be maintained on file in the office of the city clerk where it shall be available for public inspection.

## CHAPTER 4

## Zoning

State Law Reference: Authority to zone, Ga. Const. 1983, Art. IX, Sec. II, Para. IV: zoning procedures act, O.C.G.A., Sec. 36-66-1 et seq.

Sec. 6-4-1 Zoning ordinance incorporated by reference.  
The zoning ordinance of the city, adopted by an ordinance of September 2003, as amended, is incorporated into this code by reference and made a part of this chapter as though fully set out herein. A current copy of the zoning ordinance shall be maintained on file in the office of the city clerk where it shall be available for public inspection.

## CHAPTER 5

## Signs

Sec. 6-5-1 Sign ordinance incorporated by reference.  
The sign ordinance of the city, adopted by an ordinance of April 10, 2000, as amended, is incorporated into this code by reference and made a part of this chapter as though fully set out herein. A current copy of the sign ordinance shall be maintained on file in the office of the city clerk where it shall be available for public inspection.

## CHAPTER 6

## Trees

- Sec. 6-6-1 Tree ordinance incorporated by reference.  
The tree ordinance of the city, adopted by an ordinance of September 9, 2002, as amended, is incorporated into this code by reference and made a part of this chapter as though fully set out herein. A current copy of the tree ordinance shall be maintained on file in the office of the city clerk where it shall be available for public inspection.

## CHAPTER 7

## Wireless Communications

- Sec. 6-7-1 Wireless ordinance incorporated by reference.  
The wireless ordinance of the city, adopted by an ordinance of November 4, 2002, as amended, is incorporated into this code by reference and made a part of this chapter as though fully set out herein. A current copy of the wireless ordinance shall be maintained on file in the office of the city clerk where it shall be available for public inspection.