Grady County, Georgia

REGULATIONS FOR SPECIFIC LAND USES

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Grady County, Georgia

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ARTICLE I

GENERAL PROVISIONS

1.1 Short Title. These Regulations shall be known and may be cited as the Regulations for Specific Land Uses of Grady County, Georgia.

1.2 Authority. These Regulations are adopted under the authority of Sections II of Article IX of the Constitution of the State of Georgia.

1.3 Jurisdiction. These Regulations shall govern all land uses described herein within the borders of the unincorporated portions of Grady County, Georgia.

1.4 Purpose. The purpose of these regulations shall be to promote public health, safety, morals and general welfare of the citizens of Grady County as well as protect the community from negative impacts on aesthetics and nuisances created by certain land uses. These regulations shall serve to mitigate the negative impacts on the community as a whole by separating potentially incompatible land uses through the establishment of minimum requirements for specific uses of land. In furtherance of this goal, these Regulations are adopted for the following purposes:

A. To establish minimum setbacks from property lines for certain potentially harmful uses;
B. To establish permissible hours of operation for certain potentially harmful uses;
C. To establish minimum buffer zones, lighting and noise restrictions for certain potentially harmful uses;

D. To establish minimum access requirements for certain potentially harmful uses;

E. To assure that negative side effects common to certain potentially harmful uses, such as stray light, noise, etc, do not become nuisances to adjacent properties.

1.5 Registration. Each individual or entity that owns property in Grady County upon which one or more regulated uses are conducted must register with Grady County, prior to conducting such use or uses, by completing a registration form approved by the Grady County Board of Commissioners and by submitting the completed form to the Grady County Code Enforcement Department. The registration form shall include the identity of an individual (the "Manager") who will manage the regulated use(s) conducted on the property and who will be personally responsible for any violation of the provisions of the Regulations for Specific Land Use, as amended.

Following initial registration, any individual or entity that owns property in Grady County upon which a regulated use is being conducting may amend a previously submitted application form to substitute another individual as Manager.

ARTICLE II

DEFINITIONS

Except as specifically defined herein, all words used in these Regulations have their customary dictionary definitions. The following words shall have the meaning herein indicated.

Adult entertainment facility: Any business such as motion picture theaters, mini-motion pictures theaters, erotic dancing, escort services, book stores, video stores, adult toy stores, etc., characterized by an emphasis on sexual activities or products associated with or depicting sexual activities.

Airport: A place where aircraft can take off and land and which is equipped with hangers, facilities for refueling and repair, and various accommodations for commercial passengers.

Airstrip: A long, flat piece of land intended for noncommercial, private use from which trees, rocks, etc. have been removed so that aircraft can take off and land. Airstrips may have several of the amenities commonly found at airports, except for those designed to accommodate commercial passengers.

Automotive wrecking yard: See junkyard.

Business: Any facility, building or structure used for a for profit or not for profit commercial venture; or owned, occupied, or leased by a school system (public or private), municipality, county, state or federal government entity.

Church: A building or structure or groups of building or structures that by design and construction are primarily intended for conducting organized religious services, including temples, synagogues, and other places of worship and their associated accessory uses including but not limited to: schools, meeting halls, indoor and outdoor recreational facilities, day care, counseling, homeless shelters, and kitchens.

Communication tower: A structure that is intended to send and/or receive communications either aurally or visually.

Explosive: Any substance determined by the Georgia State Fire Marshall or any other state or federal agency to be an explosive.

Extractive industry: Any facility engaged in the extraction of earth products, such as sand, oil gravel, rock, stone, clay, or other mining operations.

Flea market: A commercial market, usually outdoors, with individual stalls selling various kinds of merchandise, for example, antiques, used household items, and cut-rate goods to the public.

Habitable dwelling: A structure or portion thereof that is used primarily for human habitation that meets County adopted I.C.C. standards and/or the International Residential code and all carports, garages and outbuildings within 50 feet of this structure.

Junkyard: Any area, lot land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

Kennel: Any facility, including but not limited to buildings and animal runs used for the purpose of commercial boarding or sale of animals (excluding horses, swing, goats, and geese) or pets on any other customarily incidental treatment of the animals such as grooming, cleaning, selling of pet supplies, or otherwise.

Landfill: A disposal site in which refuse and earth, or other suitable cover material, are deposited and compacted in alternative layers of specified depth in accordance with an approved plan.

Lot: Any undivided portion or tract of land, which may be designed as a distinct and separate tract, identified by tract number or lot number on a plat, or otherwise identified by public record as a tract of land which is, or may in the future, be offered for sale, conveyance, transfer, or improvement.

Lot line: See "property line."

Major Streets and Highways: All paved county roads which are not part of a subdivision and all roads maintained by the State of Georgia's Department of Transportation.

Mini-warehouse: A structure or group of structures containing separate spaces/stalls that are leased or rented on an individual basis for the storage of goods.

Opaque Buffer: A natural or enhanced vegetated area so thick as to not be seen through, usually intended to screen and separate incompatible uses.

Property line: A line of public record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

Public and private gathering places: A lodge, lounge, fairground or the like that facilitates the gathering of a group of persons. Single-family dwellings are exempt

from these regulations as well as temporary, non-commercial events lasting less than eight days. Church properties and areas where church events are scheduled are exempt from these regulations as well.

Race tracks: Any premises designed, intended, or used for a commercial, competitive event, or any non-commercial competitive event or the practice thereof, between motorized vehicles and/or animals over a predetermined course; or any premises designed, intended, or used for any contest of speed, pulling power, or similar activity in which motorized vehicles or animals are used. This definition shall include all such face facilities that do not met the definition of family race tracks below.

Race tracks, family: Any premises, less than one acre in area, designed, intended, or used by family members for motorized vehicle or animal racing practice. This facility is not used for commercial use and no more than one facility may be located on a lot.

Service Stations: Any commercial service or fuel filling stations including any convenient store with gasoline pumps, that is not intended solely for personal and/or agricultural use.

Security Lighting: Exterior lights that illuminates on area within 50 feet of a building or structure only.

Setback: The distance between a building, structure or improvement and any designated building, structure, improvement or lot line.

Shooting Ranges: Any area designated for the sport shooting of firearms and not available for use by the general public without payment of a fee, membership contribution, or dues.

Site plan: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot once a specific use is completed.

Subject property: The property for which and applicant makes an application to conduct a regulated use under the terms of these regulations.

ARTICLE III
REQUIREMENTS FOR SPECIFIC USES

3.1 Purpose. This Article sets out the regulations imposed on the following land uses in Grady County, Georgia: Adult Entertainment Facilities, Airports, Airstrips, Amphitheaters, Automobile Wrecking Yards and Junkyards, Communication Towers, Extractive industries, Flea Markets, Golf Driving Ranges, Helicopter Landing Facilities, Kennels, Landfills, Mini-Warehouses, Public and Private Gathering Places, Race Tracks, Family Race Tracks, Shooting Ranges, Storage of Explosives, and Signs. These uses may collectively be referred to as "the regulated uses" throughout this ordinance.

3.2 Setback Requirements. Each of the regulated uses shall be located a distance setbacks from the property line of said lot and from any habitable dwelling, church or business, as specifically described below unless waived as provided in Article 5 below. These setback requirements shall include all buildings, structures, outbuildings, or vehicle parking areas incidental to the regulated use. Excluded from these setback requirements are all habitable dwellings, access roads for ingress and egress, and RV parking areas as regulated in other sections of the Grady County Code of Ordinances.

A. Property Line Setbacks. The distance from the property lines of the subject property required as a setback for each regulated use shall be as follows:

1. The following regulated uses shall be setback a minimum of 35 feet from all property lines:

a. Communication towers

b. Flea markets

c. Golf driving range

d. Service stations

2. The following regulated uses shall be setback a minimum of 50 feet from all property lines:

a. Public and private gathering places

b. Mini Warehouses

3. The following regulated uses shall be setback a minimum 100 feet from all property lines:

a. Kennels

4. The following regulated uses shall be set back a minimum of 250 feet from all property lines:

a. Automobile wrecking yards and junk yards, and this use may only take place outside of the 100 year flood plane.

b. Race tracks

c. Extractive Industries

d. Helicopter landing facility

e. Shooting ranges

5. The following regulated uses shall be set back a minimum of 500 feet from all property lines:

   a. Airport

   b. Airstrips

6. The following regulated uses shall be set back a minimum of 2,500 feet from all property lines:

a. Adult entertainment facilities

b. Landfills

B. Habitable Dwelling Church or Business Setback. The following regulated uses shall be set back from a habitable dwelling, church or business the following distances:

1. The following regulated uses shall be set back a minimum of 300 feet from any habitable dwelling, church or business:

a. Flea markets

b. Golf driving range

c. Mini warehouses

2. The following regulated uses shall be set back a minimum of 500 feet from any habitable dwelling, church or business:

a. Airstrip

b. Amphitheaters

c. Helicopter landing facilities

3. The following regulated uses shall be set back a minimum of 1,000 feet from any habitable dwelling, church or business:

a. Airport

b. Extractive industrials

c. Family race track

d. Kennels

e. Storage of explosives, except those used solely for agricultural purposes

4. The following regulated uses shall be setback a minimum of 1,500 feet from any habitable dwelling, church or business:

a. Automobile wrecking yards and junkyards
b. Race tracks (for animals only)

5. The following regulated uses shall be setback a minimum of 5,000 feet from any habitable dwelling, church or business:

a. Adult entertainment facility
b. Race tracks (on which all, or a portion of, the facility is used by motor vehicles)
c. Landfills
d. Shooting ranges

3.3 Hours of Operation. The following regulated uses shall only be conducted during the hours described below:

A. Adult entertainment facilities shall limit its hours of operation to Monday through Saturday from 5:00 p.m. to 12:00 a.m.
B. Amphitheaters and Golf driving ranges may be operated any day of the week and its house of operation shall be limited to 8:00 a.m. to 11:00p.m.
C. Race tracks and Family race tracks shall limit their operations to Monday, Tuesday, Thursday and Friday from 8:00 a.m. to 8:00 p.m.; Wednesday from 8:00 a.m. to 6:00 p.m.; Saturday from 10:00 a.m. to 10:00 p.m.; and Sunday from 1:00 to 6:00 p.m.

D. Landfills may be operated any day of the week and its hours of operation shall be limited to 8:00 a.m. to 9:00 p.m.

E. Shooting ranges hours of operation shall be limited to Monday, Tuesday, Friday and Saturday from 8:00 a.m. to 8:00 p.m.; Wednesday from 8:00 a.m. to 6:00 p.m.; Thursday from 8:00 a.m. to 10:00 p.m.; and Sunday from 1:00 p.m. to 6:00.

3.4 Opaque Buffers. The following specifically listed regulated uses shall have an opaque buffer having a width of the lessor of the property line setback of said regulated use as stated in Section3.2 (A) above or 100 feet, and having a height or no less than 8 feet, and running at least the length of all property lines in which any portion of said property line is located within 1,000 feet of a habitable dwelling, church or business, and the owner of which has not executed a waiver as contemplated by Article 5 below. Except as specifically provided below, no buffer shall be required along a property line bordering a public street right of way or on or across a utility easement:

A. Adult entertainment facility

B. Amphitheater

C. Automobile wrecking yards and junkyards. This facility must also be completely enclosed by a fence having a height of at least six feet.

D. Extractive industries

E. Flea markets

F. Golf driving ranges

G. Landfills, landfills shall also have an opaque buffer not less than 50 foot wide adjacent to any public road right of way.

H. Public and private gathering places

I. Race tracks

3.5 Lighting. With the exception of Security Lighting and light emitted from a light source situated inside a Habitable Dwelling or other building, property on which a regulated use has been conducted within the preceding thirty (30) days may only illuminate the exterior portion of the property during the hours of operation permitted by Section 3.3 of this Ordinance.

3.6 Accessing requirements. The following uses shall be located so that their public vehicular access to the lot is by major street or highway:

A. Adult entertainment facility
B. Airport
C. Amphitheaters
D. Flea markets
E. Golf driving ranges
F. Landfills
G. Race tracks

3.7 Noise Restrictions.

A. No regulated use shall cause a sound level of 60 dBA or more for a continuous period of 10 minutes or more, or a maximum peak sound level of 75dBA or more.
B. The noise caused by a regulated use may be measured by an agent or employee of the County or by a law enforcement officer.

C. In measuring the noise caused by a regulated use to determine whether that noise is in compliance with Section A, above, the measure shall be taken from the property of the person making the complaint or request for measurement contemplated by Section B, above.

D. The measurement of sound or noise shall be made with a sound level meter (the "Meter") and that Meter shall be calibrated within seventy-two (72) hours prior to the utilization of the Meter to determine whether a noise caused by a regulated use is in compliance with Section A, above, and that calibration shall be documented. A windscreen shall be used for the Meter as required. Traffic, aircraft, and other transportation and background noise shall not be considered in taking measurements with the Meter

3.8 Additional Regulations for Communication Towers. Lots on which a communication tower is located shall also be subject to the following regulations:

A. Any communication tower and its accessory structures shall be enclosed by a fence not less than six feet in height and shall be equipped with an anti climbing device.

B. Communication towers shall not be artificially lighted except as required by the Federal Aviation Administration, State or Federal Law.

C. Communication providers must co-locate their signaling devices on existing communication towers if possible. A permit for construction of a new tower will only be granted when it is shown by the applicant that no other tower location exists to service the area in which the new tower will provide communication signals. Additionally, newly constructed communication towers must be designed to accommodate multiple users.

3.9 Additional Regulations for Extractive Industries. Extractive industry facilities shall also be subject to the following regulations:

A. Product piles, spoil piles, and other accumulations of by-products resulting from the extractive process shall not be created to a height more than 35 feet above the original contour of the land.

3.10 Additional Regulations for Golf Driving Ranges. Golf driving range facilities shall also be subject to the following regulations

A. The driving range shall be at least 1,050 feet from the tee box to the back of the range and at least 600 feet wide at a distance of 1,050 feet from the tee box.
B. The driving range shall be bordered on all sides, except immediately behind the tee box, by safety netting at least 50 feet in height if any portion of the range is located within 1,500 feet of a public street right of way.

3.11 Additional Regulations for Signs and Billboards. The maximum height of any sign or billboard, including its supporting structure, shall be 36 feet. Signs and billboards shall have a maximum of two sign faces. The maximum surface area of any sign face shall be 300 square feet. The lighting for signs shall illuminate the sign only and the lighting shall be white light only. Signs and billboards of a state or county government are exempted from these regulations.

3.12 Additional Regulations for Shooting Ranges. Shooting ranges for high powered rifles and pistols shall have an earth embankment not less than 15 feet in height, 100 feet in length, and 10 feet in width at the end of the range to serve as a back stop.

ARTICLE IV
NONCONFORMING USES AND STRUCTURES

4.1 Exemptions. Specifically exempted from these regulations are those facilities specifically exempted by state or federal law. Further, these regulations shall not require any use existing at the time of the adoption of this ordinance to change or alter its facility or operation except as it related to the hours of use, lighting, or noise. Any expansion of an existing use shall be subject to these regulations as if it were a new use, except as exempted by state law or federal law.

4.2 Existing Uses. Except as specifically restricted above, a use of land, building, or structure which, at the time of the enactment of these regulations, does not comply with these regulations for specific uses may be continued even though such use does not conform to the requirements for the specific uses regulated, except that the use of land, building, or structure shall not be:

A. Changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged;
B. Re-established after discontinuance for one year. Vacancy and/or non-use of land or building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision;
C. Expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure; or,

ARTICLE V

WAIVER OF HABITABLE DWELLING OR COMMERCIAL BUILDING DISTANCE REQUIREMENT FOR EXISTING AND PROPOSED DEVELOPMENT

5.1 Waiver of Setback from Habitable Dwelling, Church or Business. The Grady County Board of Commissioners may waive the setback requirements from habitable dwellings, churches, or businesses as contemplated in Section 3.3 above for any specific land use provided al the owners of the affected habitable dwellings, churches, or business within the designated setback area sign and have notarized a potential nuisance adjacency from (waiver). *Waivers are not required for structures owned by the applicant seeking approval for a specific use.* The waiver(s) shall be submitted at the time application is made with the Building Official. All other requirements may only be waived or amended by the Grady County Board of Commissioners through the variance procedure described below.

5.2 Waiver Form. Potential nuisance adjacency forms can be obtained through the Building Official and shall state the following:

A. That the effected property owner(s) understands that an application for a building permit is for a use that may create a potential nuisance;
B. That the proposed use may produce odors, noise, dust and/or other negative effects which may be incompatible with land uses on the property; and
C. That nevertheless, understanding the potential negative externalities associated with the proposed potential nuisance, the owner (s), by signing the potential nuisance adjacency form, waives any objection to those

potential negative effects and understands that permits will only be issued and processed on reliance on his agreement not to bring any action against the local government and /or the owner (s) of the potential nuisance use should it constitute a nuisance.

D. That potential nuisance adjacency forms are required to be completed and filed with the Building Official by anyone seeking to develop in areas that would constitute and encroachment on specific land use setbacks.

ARTICLE VI

ADMINISTRATION, ENFORCEMENT, APPEALS, COMPLAINTS, VARIANCE AND AMENDMENT

6.1 Administration and Interpretation. It shall be the duty of the duly appointed Building Official to administer and interpret all the terms of this Ordinance (hereinafter referred to as the Regulations). To this end, the Building Official appointed by the Board of Commissioners, is authorized to prepare administrative procedures, guidelines, application forms, to tend to other administrative details not inconsistent with the provisions of these Regulations, and to implement the provisions of these Regulations. The Building Official may delegate administrative functions, powers and duties assigned by these Regulations to other staff as may be appropriate, without the need to reflect such delegation by formal action.

6.2 Enforcement. Any citation issued pursuant to this Ordinance shall be issued to the Manager identified on the registration form submitted in accordance with section 1.5, above. Regardless of the foregoing, if any individual or entity that owns property in Grady County conducts one or more regulated uses on that property prior to compliance with the registration requirements of section 1.5, above, a citation may issue to any individual who maintains an ownership interest in the property or to any individual who maintains an ownership interest in any entity that has an ownership interest in the property, or an officer of any such entity.

6.3 Building Permit Required. Unless specifically exempted or otherwise provided by this Regulation, no building, sign, or other structure relating to a regulated use

shall be erected, moved, added to, or structurally altered without a Building Permit issued by the Building Official. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure, land, water, or premises, for which a Building Permit is required. Unless specifically exempted or otherwise provided by these Regulations, no land use activity including land disturbance shall be initiated without a Building Permit issued by the Building Official, and except in conformity with said Building Permit. It shall be unlawful to erect, move, add to or structurally alter any building or structure, to use or occupy or to permit the use or occupancy of any building, structure, land, water, or premises, or to initiate any land use activity that is in violation of an approved Building Permit.

6.4 Certificates of Occupancy. It shall be unlawful to use or permit the use of any land, building, or structure for which a building permit is required, and to use or permit to be used any building or structure hereafter altered, extended, erected, repaired, or moved until the Building Official has issued a certificate of occupancy stating that the provisions of this ordinance have been complied with.

A. Certificate validity. The certificate of occupancy as required for new construction of, or renovation to, existing buildings and structures, in the building code, shall also constitute certificates of occupancy as required by this chapter.
B. Certificates for existing buildings. Certificates of occupancy may be issued for a part of a building or structure or parts thereof, or such use of land, that are in conformity with the provisions of this ordinance.
C. Temporary certificates. Temporary certificates of occupancy may be issued for a part of a building or structure prior to occupation of the entire building or structure provided that such temporary certificates or

occupancy shall remain in force for a time period consisting of the lesser of six months or five days after the building or structure is fully completed and ready for occupancy and, provided further, that such portions of the building or structure are in conformity with the provisions of this ordinance.

D. Records of certificates. A record of all certificates of occupancy shall be kept in the office of the building official, and copies of such certificates of occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.

E. Certificates for accessory buildings to dwellings. Accessory building or structures to dwellings shall not require a separate certificate of occupancy, but rather may be included in the certificate of occupancy for the principal dwelling, building or structure on the same lot when such accessory buildings or structures are completed at the same time as the principal use.

F. Application for certificates. Certificates of occupancy shall be applied for coincident with the application for a building permit and shall be issued within ten days after the owner provides notice to the Building Official that the erection or alteration of such building shall have been completed in conformity with the provisions and requirements of this chapter. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and the cause thereof within ten days of the same notice being given by the applicant to the Building Official.

6.5 Fees. Fees in connection with the enforcement of these regulations shall be collected by the Building Official and may include the following: fees for application reviews and the issuance of permits or certificates; fees for the

advertisement of variance requests; and fees for compliance inspection (s). Fees for the preceding activities shall be collected by the Building Official before such services are rendered. The amount of such fees shall be established by the Grady County Board of Commissioners, from time to time.

6.6 Application Procedures. Following the registration contemplated by Section 1.5, above, and before any work is begun on property upon which a regulated use is conducted, a complete application, including a detailed site plan depicting the project's compliance with these regulations, shall be submitted and approved by the Building Official. The project's approval shall be based upon said site plan. Any changes to the site plan must conform to these regulations and will require separate approval by the Building Official before construction pursuant to the amended plan may commence.

6.7 Refusal of Permits or Permission. The Building Official is hereby authorized and directed to deny and withhold permits, certificates or permissions on any new project or application pursuant to these Regulations or other Regulations of the County where the applicant, applicant's business, or agent has failed or refused to comply with these Regulations.

6.8 Appeal of an Administrative Decision or Interpretation. Any applicant or property owner materially affected by an administrative decision issued by the Building Official pursuant to the terms of this ordinance who alleges that there has been an error in administration or interpretation of these regulations by the Building Official shall have the right to appeal the decision of the Building Official to the Grady County Board of Commissioners (herein after referred to as the Board) by filing an appeal with the County Clerk using forms provided in the

Clerk's Office. Such appeal shall be filed with the County Clerk by filing a notice of appeal in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such notice of appeal shall be filed within thirty days after the date the alleged error in administration or interpretation is said to occur. The Board shall then conduct a hearing within forty five days of the filing of the appeal allowing the appellant and the Grady County Building Official to present such evidence as is relevant to the facts and circumstances surrounding the administrative decision appealed. Within ten days of the hearing the Board shall render a finial decision regarding said appeal. If the appellant deems this final decision to be an abuse of discretion then he may appeal the final decision made by the Board under this standard of review by filing an application for appeal in this Court within thirty days of the issuing of the final decision by the Board.

6.9 Complaints. Whenever a violation of these regulations occur, or is alleged to have occurred, any affected property owner may file a written complaint. Such complaint shall state clearly and fully the causes and basis of the complaint and shall be filed with the Building Official. The Building Official shall record properly such complaint, investigate, and take action thereon as may be appropriate to enforce these regulations.

6.10 Stop work Order. The Building Official is hereby authorized to issue written "stop work" and "cease and desist" orders that shall take effect immediately for any activity that fails to comply with the provisions of these regulations. Such "stop work" ore cease and desist" orders may be lifted at such time as the Building Official is satisfied that a good faith effort is being made to comply with applicable provisions of these Regulations. Nothing shall prevent the Building Official from reissuing "stop work" or "cease and desist" orders where warranted.

6.11 Injunction. If any land is used, or building, structure, or other activity is established or maintained in violation of these Regulations, the Building Official is authorized to and may institute, in addition to other remedies an injunction or undertake other appropriate action to cause the violation to cease or to be corrected.

6.12 Variance. The Grady County Board of Commissioners shall have the power to authorize upon petition such variance from the terms of these regulations such as will not be contrary to the public interest, where a literal enforcement of the land use requirements would result in undue hardship. Application for a variance shall be filed by the owner, with the Building Official, thirty days before the next scheduled meeting of the Board of Commissioners on forms provided by the Building Official. Public notice of the consideration of a variance shall be given no less than fifteen days or more than forty-five days prior to the meeting of the County Commissioners when such request will be considered and action may be taken. Public hearing notices will be published within a newspaper of general circulation within Grady County. Additionally, a sign containing the public notice information shall be placed in a conspicuous location on the subject property not less than 15 days prior to the date of the hearing. The public notices will state the time, place and purpose of the requested variance hearing.

6.13 Criteria for the Consideration of a Variance. The following criteria shall be utilized when considering specific cases where the granting of a variance from the terms of these regulations will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in unnecessary hardship so that the sprit of these

regulations shall be observed, public safety and welfare assured and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon the finding of the Board of Commissioners that:

A. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question and because of its size, shape or topography; and,
B. The application of these Regulations to this particular piece of property would create an undue hardship; and,
C. Such conditions are particular to the particular piece of property involved and not the making of the applicant; and,
D. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of these Regulations, provided, however, that not variance may be granted for a use of land or building or structure that is prohibited by these Regulations or State and/or Federal Laws; and,
E. The proposed use will be such location, size, and character that it will be in harmony with the appropriate and orderly development of surrounding properties.

6.14 Appeal of Variance. If a variance application is denied by the Grady County Board of Commissioners, the Board of Commissioners shall send the applicant by mail, with receipt confirmation by the post office, a written decision on the final action including the appellate procedure within ten days of the decision being made. The applicant whose applicant whose application was denied may appeal said final decision to the Superior Court of Grady County, Georgia. Such appeal shall be filed with the Clerk of said court by filing a notice of appeal in writing setting forth plainly, fully and distinctly herein the

reason(s) such decision is contrary to law. Such notice of appeal shall be filed within thirty days after the decision of the Board of Commissioners is rendered. A copy of the notice of appeal shall be served on the Grady County Clerk and filed in the Grady County Superior Court and within thirty days from the time of such notice, the Grady County Clerk shall file with said Clerk of Superior Court, a duly certified copy of the minutes of the proceedings of the Board of Commissioners Public Hearing and the decision rendered by the Board of Commissioners.

6.15 Amendments. These Regulations for Specific Land Uses may be amended at the discretion of the Grady County Board of Commissioners. A public hearing will be set and held prior to the adoption of any amendment by the Board of Commissioners and public notice will be given no less than fifteen days or more than forty-five days prior to the official public hearing date. Public hearing notices will be published within a newspaper of general circulation within Grady County. The public notice will state the time, place and purpose of both hearings.

ARTICLE VII

VIOLATIONS AND PENALTIES, CONFLICTIONG REGULATIONS, VALIDITY AND SEVERABILITY, AND ADOPTION AND EFFECTIVE DATE

7.1 Penalties for Violation of Ordinances. Any person violating any of the provisions of these Regulations shall be punished by a fine or imprisonment, or both. Each day that a violation is permitted to exist shall constitute a separate offense. In no case shall the maximum punishment for any single violation of any provisions of these Regulations exceed a fine of $1,000.00 or imprisonment for 60 days or both.

7.2 Conflict with other Laws. Whenever the provision of these Regulations require or impose more restrictive standards than are required in or under any other County Regulations, the requirements of these Regulations shall govern. Whenever the provisions of any state or federal statute requires more restrictive standards than are required by these Regulations, the provisions of such state or federal statute shall govern.

7.3 Validity and Severability. Should any section or provision of these Regulations be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Regulations as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

7.4 Repeal of Conflicting Regulations. All Regulations and parts of Regulations in conflict herewith are repealed to the extent necessary to give these Regulations full

force and effect, except that any regulations repealed by this provision shall not limit or impair the county's authority to enforce such Regulations to the extent that violations thereof occurred prior to repeal.

7.5 Codification. It is the intention of the Board of Commissioners, and is hereby resolved that the provisions of this Ordinance shall become and be made part of the official code of County of Grady, and the sections of this Ordinance may be renumbered or reorganized to accomplish such intention. Any ordinances in conflict with any of the provisions adopted herein are herby repealed.

7.6 Adoption and Effective Date. This Ordinance was originally adopted November 16th, 2004, and amended October 6th, 2009. The Ordinance as amended shall be effective immediately upon its adoption, the public welfare demanding it.

Robert Burns

Chairman, Grady County Board of Commissioners

ATTEST:

Carrie K. Kines

County Clerk

APPENDIX

GRADY COUNTY CODE ENFORCEMENT
250 N. BROAD ST. BOX 6 ~ CAIRO, GEORGIA 39828
Phone 229/377-8857 ~ Fax 229/377-6947

SPECIFIC LAND USE REGISTRATION APPLICATION

Land Owner _____

Address _____ City _____ State _____ Zip _____

Phone _____ Fax _____ Cell _____

Manager's Name _____ Phone _____

Business
Name _____

Tax Location: Land lot _____ Land dist _____ Map _____ Parcel _____

Business
Address _____ City _____ State _____ Zip _____

Business
Phone _____ Fax _____ Cell _____

Mailing
Address _____ City _____ State _____ Zip _____

Type of Business _____

Owner's Signature _____ Date _____

Manager's Signature _____ Date _____

WAIVER FOR HABITABLE DWELLING, CHURCH OR BUSINESS SETBACK DISTANCE REQUIREMENTS FOR EXISTING AND / OR PROPOSED DEVELOPMENT IN GRADY COUNTY, GEORGIA

(Attach legal description of tract for which a variance is applied for as "Exhibit A")

This waiver form is required to be completed and filed with the Grady County building official by anyone seeking to develop in areas of Grady County, Georgia that would constitute an encroachment on specific land use setbacks to habitable dwellings or commercial buildings and is drafted in compliance with Article 5 of Grady County, Georgia's Regulations for Specific Land Uses titled Waiver of Habitable Dwelling, Church or Business Distance Requirement for Existing and Proposed Development.

In consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, the sufficiency of which is herein acknowledged by the undersigned; the undersigned, being of sound mind and legal capacity, herein acknowledges that he / she is the owner of a habitable dwelling, church or business located at:
_____ (insert street address)
as defined by the land use regulations of Grady County, Georgia, and is executing this waiver to assist the variance application of:
_____ (insert owner of neighboring tract),
the owner of the neighboring tract described on the attached exhibit "A" and more particularly identified as **parcel** _____ of **map** _____ of the Grady County Tax Assessors maps for the year in which this waiver is executed (said tract is hereinafter referred to as the "neighboring tract").

The undersigned requests that the Grady County Board of Commissioners issue a variance to its land use regulations allowing the owner of the neighboring tract to erect and / or construct improvements constituting a regulated use as defined by the land use ordinance of Grady County, Georgia on his/her property without any regard or requirement for a setback from the habitable dwelling, church or business owned by the undersigned. In executing this waiver, the undersigned acknowledges:

(Initial next to each number)

1. _____ That he/she is executing this document freely and voluntarily and has had the opportunity to read and review this document and understands its terms and has had the opportunity to review it with his/her attorney if he/she so chooses;

2. _____ That the undersigned herein waives any objections to any use(s) or development, now existing or hereinafter created, on the tract described in the exhibit "A". This waiver includes, but is not limited to, the protections of any statutes or local ordinances of Grady County, Georgia in effect at the time of execution of this waiver or adopted hereafter, and is not limited to the protections provided by the setback

requirements for habitable dwellings, church or business but includes all the protections of all the ordinances provided by Grady County, Georgia. The undersigned herein forever releases Grady County, Georgia, from any and all liability as a result of the use(s) or the real property described in the exhibit "A" and further waives any claim of private or public nuisance against Grady County, Georgia or the owner of the neighboring tract, whether said claim is known or unknown at the time of execution of this agreement.

3. _____ That he/she understands that the terms of this waiver shall bind all the undersigned's successors, heir and/or assigns to their property and as such is irrevocable. The waiver shall act as a covenant running with the land and may be recorded in the Deed Records of Grady County, Georgia to provide the public notice of its terms.

4. _____ The proposed use on the neighboring tract may produce odors, noise, dust and/or other negative effects which may be incompatible with land uses on the undersigned's property;

5. _____ Nevertheless, understanding the potential negative externalities associated with the proposed potential nuisance, the undersigned, by signing this waiver, waives any objection to those potential negative effects and understands that Grady County may issue permits and/or grant variances to its ordinances in reliance on this agreement.

This _____ day of _____20_____.

_____ (Seal)
(Sign here)

_____
(Print Name)

_____
_____
_____
(Street Address)

Signed, sealed and delivered in the presence of:

_____
(unofficial witness)

_____
Notary Public: _____County, My Commission Expires: _____
(AFFIX SEAL)

CK #_____
REC # _____

GRADY COUNTY VARIANCE APPLICATION
LAND USE REGULATIONS

250 N. Broad St. Box 6 ~ Cairo, GA 39828
229/377-8857 ~ Fax 229/377-6947

File # _____ Permit # _____ Date _____

Name of Applicant: _____Phone: _____

Address of Applicant: _____

In order that the general health, safety and welfare of the citizens of Grady County may be preserved, and substantial justice maintained, I (we) the undersigned respectfully request in connection with the property hereinafter described:

The subject property is described as follows: _____

_____

_____

(Attach copy of deed)

Characteristics of the subject property, which prevent compliance with the requirements of this Regulation: _____

_____

_____

The particular hardship, which would result if the specified requirements of this Regulation were applied to the subject property: _____

_____

_____

A site plan depicting the variance requested and any pertinent information necessary for the Board of Commissioners to render a decision: _____

_____

The property is presently used for: _____

_____

CK #_____
REC # _____

The current use has existed since: _____

Property Location: Tax Map: _____Tax Parcel: _____

Land Lot: _____District: _____

Total Acreage: _____

I hereby certify that I am the owner, or legal agent of the owner, in fee simple of the above-described property.

WITNESS: _____ SIGNED: _____

DATE: _____ _____