

**MOTION TO AMEND ARTICLE 10 OF THE RUSSELL COUNTY
SUBDIVISION REGULATIONS**

Motion having been duly made and seconded to amend the Russell County Subdivision Regulations on February 22, 2011, to delete the current Article 10 and substitute the below language, and vote having been taken with Gary Head motioned to approve; Bill Friend, seconded; majority members present voting in the affirmative to amend Article 10; J.C. Batcheldor abstained; only one no vote, David Ellis; no other vote(s) to the negative; said motion passed to amend:

NOW THEREFORE, BE IT RESOLVED BY THE RUSSELL COUNTY PLANNING COMMISSION that Article 10 of the Subdivision Regulations is hereby deleted and the following is substituted therefore;

Article 10: Sanitary Sewer System Requirements.

SECTION 1: DEFINITIONS

1.1 Available Public Sewer means a public or privately owned sanitary sewer provider is within 500 feet of property to be served, without crossing another property to make the new connection, or such other conditions of availability as are established by administrative rule. In cases of onsite conveyance or disposal system failure, sewer shall be deemed available if within 500 feet; State Health Department Laws and Regulations.

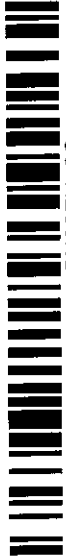
1.2 Branch is a public sewer service lateral.

1.3 Common Private Sewer System (also called Party Sewer) means that portion of a building sewer not owned by the City of Phenix City that serves more than one building with different ownerships and conveys sanitary sewage to a sewer service lateral, public sewer, private sewage disposal system, or other point of disposal. Common private sewers are found on private property and in private and public rights of way, including easements.

1.4 Connection means the connection of all sanitary waste and drainage disposal lines from all development on a property to the privately or publicly owned sewer system, and the disconnection and/or removal of all other waste disposal systems such as cesspools or septic systems.

1.5 Development means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping paved or graveled areas, and areas devoted to exterior display. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.

1.6 Building Official means the Russell County Building Official or designee.



STATE OF ALA. RUSSELL CO.
I CERTIFY THIS INSTRUMENT WAS FILED ON
MISC 00022 PG 0340-0347 2011 May 04 01:53PM

Alford M. Harden Jr.
JUDGE OF PROBATE

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1.7 Immediately Available Public Sewer means a public or private owned sanitary sewer provider system to which a property can connect without further extension of the sewer lines or within 500 feet of the structure to an existing sewer line.

1.8 Nonconforming Sewer means a private sanitary sewer that is:

a. Located on public or private property that is not on the same property as the structure or structures being served by the sewer; and

b. Not located within a recorded sewer easement or subject to a recorded covenant for easement regarding use of the sewer meeting the standards specified in administrative rules, or

c. An onsite sewer system which has failed as determined by the Health Officer with the Russell County Health Department.

1.9 Onsite Sewage Disposal System means a cesspool or a septic tank or other treatment unit and/or effluent sewer and absorption improvement.

1.10 Private Sewer Service Lateral means a sewer pipe that:

a. Has been designated as private by a developer's Engineer or has not been accepted as a public improvement by the County Engineer and/or sewer utility and

b. Serves as a conveyance system for individual or common private sewer systems.

1.11 Public Sewer means all pipes, manholes, and other appurtenances:

a. Constructed by a publicly or privately owned sewer service; or

b. A sewer provider permitted under an agreement with Russell County Commission collecting and transporting sewage received from sewer service laterals and common sewer systems for treatment.

SECTION 2: SEWER CONNECTION MANDATED

2.1 Applicability. Properties having development or being subdivided or with a failed onsite sewage disposal system that generates or may generate sanitary waste must decommission onsite sewage disposal systems and/or connect to the public sewer when:

a. The development is not completely connected to a sanitary sewer system;

b. A publicly or privately owned sewer treatment provider is immediately available as defined herein without the need for further sewer extension; and/or

c. A sewer line has been provided to curb or property line

d. The property's on site system has failed as determined by the Russell County Health Officer employed with the Russell County Health Department.

2.2 Timing. Properties that meet these criteria must be connected to a public sewer within three (3) years of notice being sent to the property owner or legal title holder of the immediate availability of the public or privately owned sewer system, the requirement to connect, and the time limit for connection. Four additional notices of the connection requirement will be sent at least 360, 180, 90 and 30 days prior to the date of the connection deadline.

2.3 Location. All connections shall be made along a route of service approved by the sewer system providing service.

2.4 Any Construction for which a building or other permit is required under The Russell County Subdivision Regulations shall connect to the public or privately owned sewer system prior to the issuance of a final Inspection report or Certificate of Occupancy by the authorized agency.

2.5 Proof of the sewer connection shall be by a Sewer Affidavit provided to the property owner, or development. A copy of said affidavit is attached hereto. The sufficiency or adequacy of any proof presented shall be solely the affidavit form provided by sewer provider.

2.6 One (1) year from notification of the requirement to connect, a property that has not connected becomes connection delinquent and is subject to proceedings to compel connection to the public or privately owned sewer system.

2.7 If property subject to the requirement imposed by this Section is sold and has less than 180 days remaining in one (1) year connection period referred to above is sold, the new owner may enter into an agreement with the sewer service to extend the time to connect to the public or privately owned sewer system for 180 days from the date of the sale of the property. In the event a new owner elects to enter into an agreement, said election shall constitute a waiver of any objection to connect. As used herein, the term sale includes every disposition or transfer including the transfer of equitable title or legal title to real property, but excluding Real Estate Mortgages.

SECTION 3: MANDATED SEWER SERVICE CONNECTION CHARGES.

3.1 Property owners shall be charged the rate and fees in place at their time of payment or at the time of connection, whichever is sooner. Only one agreement per property may be entered into under the terms of this subsection. As used herein, the term sale includes every disposition or transfer including the transfer of equitable title or legal title to real property, but excluding Real Estate Mortgages.

SECTION 4: CONVERTING NONCONFORMING SANITARY SEWER CONNECTIONS.

4.1 Applicability. Properties using nonconforming failed on-site sewer systems shall be required to convert to conforming sewer connections when public sewer is available within 500 feet of the structure(s) being served by the nonconforming system. All connections shall be made along a route of service approved by the County. Regardless of distance from available sewers, the sewer service may notify property owners along routes identified for sewer extension of the requirement that they participate in the Nonconforming Sewer Conversion Program as required by this resolution.

4.2 Exemption. The Building Inspector may exempt properties with nonconforming sewer connections from the requirement to convert or a conforming public sewer connection in the following circumstances: a. The Building Inspector determines that conversion of a nonconforming connection to a conforming connection would have detrimental effects on public health or safety.

4.3 Timing. If this ordinance requires property owners to convert or abandon a on nonconforming sanitary sewer connection within 180 days of the date on the notice of sewer availability, then all sewer connections shall be made in conformance with Utility's and Russell County regulations and ordinances. The County Building Inspector and/or designee will provide written notice to all affected property owners at 180 days prior to the conversion deadline.

SECTION 5: SANITARY SEWER CONVERSION CHARGES

5.1 Property owners shall pay the sanitary sewer conversion charges at the time they request a permit for a new conforming sewer connection. A property owner shall pay or finance conversion charges and connection construction costs.

SECTION 6: DEFERRALS OF REQUIRED SEWER CONNECTIONS:

6.1 Deferrals for making the actual connection to public sewers shall be limited to five (5) years and may not be renewed any deferral shall not transfer with the property.

6.2 Property-related criteria: These criteria are based on hardship

conditions related to the property and the work required to complete the sewer connection.

SECTION 7: DECLARATION OF NUISANCE

7.1 Any property not connected to a public sewer system as required by this resolution is hereby declared a nuisance and subject to abatement or correction as provided herein. The Russell County Building Official is authorized to take steps necessary to abate such a nuisance, including authority to order remediation or to expend funds to bring suit in law or equity to abate the nuisance. In the latter case, the Russell County Building Inspector is further authorized to charge the responsible parties for all costs of the abatement effort. The sewer provider shall establish the procedures and forms to be used to notify property owners about sewer system availability and connection delinquencies. Costs of nuisance abatement may be assessed as a lien against property.

SECTION 8: ABATEMENT BY OWNER

8.1 The owner of a connection delinquent property shall have at least 30 days from the date of the Notice to Remove Nuisance to file documentation of the removal or abatement of the nuisance or to file a written request for an administrative review of the nuisance abatement requirement. Following notification of the administrative review and determination by the Russell County Building Inspector, any extension shall be determined by the Russell County Building Inspector but in no case shall be longer than 30 days and may not be renewed.

SECTION 9: CONNECTION ENFORCEMENT

9.1 The County Building Inspector and the Health Department shall attempt to resolve issues with affected property owners and sewer provider to the extent possible. The following enforcement steps shall be used:

9.2 Administrative Review. Affected property owners shall be offered the opportunity for administrative review with the applicable sewer provider representative to determine if agreement can be reached concerning the timing and actions to achieve a conforming connection to the public or privately owned sewer. If an affected property owner does not pursue an administrative review, the Russell County Building Department shall issue its final determination setting forth the requirements and deadline to connect and finance or pay for fees. Failure of the property owner to meet this deadline shall be deemed a violation of this resolution.

9.3 Final determination. The Russell County Building Department's along with the Health Department's final determination shall be the substantive decision for Russell County Code compliance proceedings. The building official or his designee shall submit information addressing the following facts:

a. The subject property has *one* or more onsite structures with plumbing facilities that require sanitary waste disposal pursuant to this resolution.

b. The subject property is not fully connected or has a nonconforming connection to the public or privately owned sewer system.

c. The subject property has direct access via an intended route of service to a sewer lateral or other component of the sewer system abutting a property line or a permanent easement acquired for the benefit of the property, or is within 500 feet of same.

d. The deadlines described in the sewer availability notice, notice of connection deferral and/or the Notice to Remove Nuisance have expired without full compliance with the sewer connection requirement.

e. The property owner does not have a current sewer connection deferral.

9.4 If the nuisance described in the notice has not been removed or information is not provided establishing that such nuisance does not exist, Russell County may apply for an order authorizing the County to abate the nuisance, consistent with the terms and requirements of this resolution. The Building Inspector shall have discretion to modify connection dates, required actions by property owners and types and timing of abatement activities consistent with this resolution only.

9.5 Any sewer provider shall maintain an accurate record of all expenses incurred, including an overhead charge of 26 percent, an administration fee for each occurrence sewer user charges, attorney fees, court costs and permit fees for which the sewer provider will have a lien on the property of the owner in accordance with this resolution. The sewer provider shall file said lien with the Probate Judge and shall enforce the same by filing suit on the lien with the appropriate court in Russell County, Alabama.

9.6 It shall be unlawful for any person to attempt to obstruct, impede, or interfere with any officer, employee, contractor, agent or authorized representative of Russell County whenever such officer, employee, contractor, agent, or authorized representative of Russell County is engaged in the work of connecting a property to the public or privately owned sewer or removing or abandoning an existing failed sewage disposal system under the authority of this resolution.

9.7 Neither Russell County nor any of its officers, employees, contractors, agents, including elected officials or authorized representatives shall be liable for any damage to the real property or any improvements or personal property due to the non-negligent enforcement or administration of this resolution.

9.8 Except as provided elsewhere in this Resolution or when the public welfare is endangered; at its discretion withhold any service that is provided by Russell County from the owner(s) (or the owner's agent) of connection delinquent property. This may include but is not limited to refusal to accept application for permits for development on property of the said owner(s) other than the connection delinquent property. Withholding of other services may continue until the connection delinquency has been corrected.

9.9 Russell County may seek, in any court of competent jurisdiction, a judgment against the person or property failing to connect to a sewer in accordance with the provisions of this resolution. In any such action, the measure of damages shall be the costs for abatement by the county administrative costs, permit fees, overhead costs, penalties, attorneys fees, court cost and connection charges as determined by the Russell County Building Inspector.

SECTION 10: RESOLUTION ACTIONS AVAILABLE TO PROPERTY OWNERS.

10.1 Mandatory Sewer Connections Property owners subject to the Mandatory Sewer Connection Program may object to the Russell County Building Official. Property owners shall receive notice of deadlines and procedures for testifying before the Russell County Building Officials. An appeal from the Russell County Building Official's decision shall be made to an appeals committee appointed by the Russell County Planning Commission which shall schedule a hearing to hear evidence from both the property owners and Russell County on whether Russell County followed established procedures for requiring connection. The appeals committee decision is final. No property owner initiated appeals are allowed in the Mandatory Sewer Connection Program. Appeals, from the decision of the appeals committee is to the Circuit Court of Russell County, Alabama.

SECTION 11: SEVERABILITY

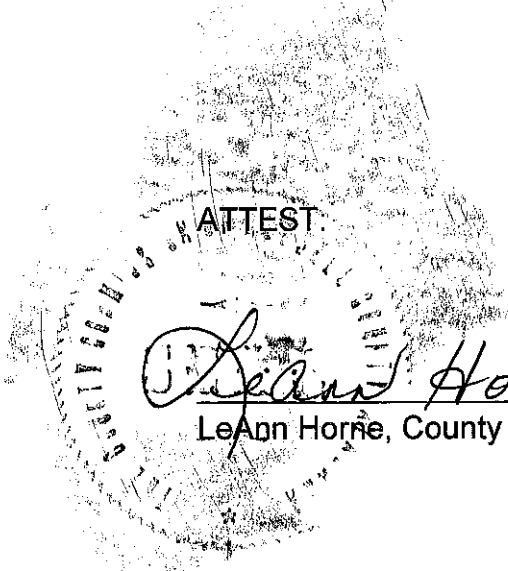
11.1 The provisions of this Chapter are severable. If any word, definition, clause, section or provision of this resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. In the event a definition is held to be invalid or is severed, the defined word or term shall be deemed to have the meaning given to that word or term under Alabama Law if Alabama Law contains such a definition. If there is not established definition of the word or term under Alabama Law, the word or term shall have its ordinary dictionary meaning.

It is hereby declared to be the Russell County Commissions express legislative intent that this resolution would have been adopted had such an unconstitutional or otherwise invalid provision not been included herein.

A public hearing was conducted on May 3, 2011, 4:30PM EST after amendment advertised for three weeks. Meeting was held in the Russell County Commission Chambers. Planning Commission Board meeting called to order. Quorum established. Motion to amend/replace Section 10: Sanitary Sewer System Requirements; adopting regulations for sewer systems to include mandatory connection amending the Russell County Subdivision Regulations was made by Bill Friend; Seconded by Gary Head; (2) no votes, David Ellis and Jimmie Batcheldor; All others voting, yes, to amend Section 10; motion passed.

Russell County Planning Commission
By: R.C. Adams
Its: Chairman

ATTEST



LeAnn Horne

LeAnn Horne, County Administrator