

**AN ORDINANCE TO AMEND SECTION 64-1 OF THE CITY OF MILTON ZONING
ORDINANCE (CHAPTER 64 OF THE CITY CODE OF ORDINANCES) TO CREATE AND
AMEND DEFINITIONS CONTAINED WITHIN THIS SECTION**

BE IT ORDAINED by the City Council of the City of Milton, GA while in a regularly called council meeting on June 20, 2011 at 6:00 p.m. as follows:

SECTION 1. That the amendment of Section 64-1, definitions of the City of Milton Zoning Ordinance is hereby adopted and approved; and is attached hereto as if fully set forth herein, and;

SECTION 2. All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

SECTION 3. That this Ordinance shall become effective upon its adoption.

ORDAINED this the 20th day of June, 2011.

Joe Lockwood, Mayor

Attest:

Sudie AM Gordon, City Clerk

(Seal)

Sec. 64-1. - Definitions.

(a)

Scope. Words not defined herein shall be construed to have the meaning given by Merriam-Webster's Collegiate Dictionary, eleventh edition.

(b)

Use and interpretation. The following shall apply to the use of all words in this zoning ordinance:

(1)

Words used in the present tense shall include the future tense.

(2)

Words used in the singular shall include the plural and vice versa.

(3)

The word "shall" is mandatory.

(4)

The word "may" is permissive.

(5)

The nouns "zone," "zoning district" and "district" have the same meaning and refer to the zoning districts established by this zoning ordinance.

(6)

The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

(c)

Terms.

Accessory site feature means mechanical, electrical and ancillary equipment, cooling towers, mechanical penthouses, heating and air conditioning units and pads, exterior ladders, storage tanks, processing equipment, service yards, storage yards, exterior work areas, loading docks, maintenance areas, dumpsters, recycling bins, and any other equipment, structure or storage area located on a roof, ground or building.

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 loadbearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter loadbearing walls, is new construction.

Adjoin means to have a common border with. The term "adjoin" also means coterminous, contiguous, abutting and adjacent.

Administrative minor variance. See *Variance*.

Administrative modification means a change to an approved condition of zoning that constitutes only a technical change and does not involve significant public interest as determined by the director of community development.

Administrative variance. See *Variance*.

Adult bookstore means an establishment or facility licensed to do business in the city having a minimum of 25 percent of its stock in trade, for any form of consideration, any one or more of the following materials:

(1)

Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes, CDs, DVDs or other video reproductions, or slides or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," as defined herein; or

(2)

Instruments, devices, novelties, toys or other paraphernalia that are designed for use in connection with "specified sexual activities" as defined herein or otherwise emulate, simulate, or represent "specified anatomical areas" as defined herein.

Adult entertainment means permitting, performing, or engaging in live acts:

(1)

Of touching, caressing, or fondling of the breasts, buttocks, and anus, vulva, or genitals;

(2)

Of displaying of any portion of the areola of the female breast, or any portion of his or her pubic hair, cleft of the buttocks, anus, vulva or genitals;

(3)

Of displaying of pubic hair, anus, vulva, or genitals; or

(4)

Which simulate sexual intercourse (homosexual or heterosexual), masturbation, sodomy, bestiality, oral copulation, flagellation.

None of these definitions shall be construed to permit any act which is in violation of any county or state law.

Adult entertainment establishment.

(1)

The term "adult entertainment establishment" means any establishment or facility licensed to do business in the city where adult entertainment is regularly sponsored, allowed, encouraged, condoned, presented, sold, or offered to the public.

(2)

The term "adult entertainment establishment" does not include traditional or mainstream theater which means a theater, movie theater, concert hall, museum, educational institution or similar establishment or facility which regularly features live or other performances or showings which are not distinguished or characterized by an emphasis on the depiction, display, or description or the featuring of "specified anatomical areas" or "specified sexual activities" in that the depiction, display, description or featuring is incidental to the primary purpose of any performance. Performances and showings are regularly featured when they comprise 90 percent of all performances or showings.

Alternative antenna support structure means clock towers, campaniles, freestanding steeples, light structures and other alternative designed support structures that camouflage or conceal antennas as an architectural or natural feature.

Amateur radio antenna means radio communication facility that is an accessory structure to a single-family residential dwelling operated for noncommercial purposes by a Federal Communication Commission licensed amateur radio operator. The term "antenna" includes both the electronic system and any structures it is affixed to for primary support.

Antenna means any exterior apparatus designed for telephone, radio, or television communications through the sending or receiving of electromagnetic waves.

Apartment means a building which contains three or more dwelling units either attached to the side, above or below another unit. The term "apartment" also refers to a dwelling unit attached to a nonresidential building. (See *Dwelling, multifamily*.)

Appeal means a request for relief from a decision made by:

(1)

The director of community development;

- (2) Other department directors;
- (3) The board of zoning appeals; and
- (4) The city council.

Applicable wall area means the wall on which a wall sign is attached, including all walls and windows that have the same street or pedestrian orientation. All open air spaces shall be excluded from the applicable wall area.

Applicant means a property owner or his or her authorized representative who has petitioned the city for approval of a zoning change, development permit, building permit, variance, special exception or appeal, or any other authorization for the use or development of their property under the requirements of this zoning ordinance, or a person submitting a post-development stormwater management application and plan for approval.

Application means a petition for approval of a zoning change, development permit, building permit, variance, special exception or appeal, or any other authorization for the use or development of a property under the requirements of this zoning ordinance.

Art Gallery means a room or building devoted to the exhibition of works of art.

Assembly Hall means a room or building typically accommodating the gathering of persons for deliberation, legislation, worship or entertainment.

Attic means an unheated storage area located immediately below the roof.

Automobile and light truck sales/leasing means a facility used primarily for the retail sales and leasing of new or used cars, and trucks.

Automotive garage means a use primarily for the repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or major components of automobiles and motorized vehicles.

- (1) The term "automotive garage" does not include the repair of heavy trucks, equipment and automobile body work.
- (2) The outside storage of unlicensed and unregistered vehicle is prohibited as part of this use. (See *Automotive specialty shop* and *Service station*.)

Automotive parking lots See "*Parking lot*".

Automotive specialty shop.

- (1) The term "automotive specialty shop" means a use which provides one or more specialized repair sales and maintenance functions such as the sale, replacement, installation or repair of tires, mufflers, batteries, brakes and master cylinders, shock absorbers, instruments (such as speedometers and tachometers), radios and sound systems or upholstery for passenger cars, vans, and light trucks only.
- (2) The term "automotive specialty shop" does not include:

- a. Any private or commercial activity which involves auto/truck leasing, painting, repair or alteration of the auto body; or
- b. Any repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or cooling system be permitted, except that minor tune-ups involving the changing of spark plugs, points or condenser, including engine block oil changes, are permitted. (See *Repair garage (automotive, truck and heavy equipment)* and *Service station*).

Babysitting means a service in which shelter, care, and supervision are provided for four or fewer children below the age of 12 years on an irregular basis.

Bail bondsmen means all persons who hold themselves out as signers or sureties of bail bonds for compensation, and who are licensed as provided in Article V. Professional Bondsmen, of the Milton City Code.

Banner.

(1)

The term "banner" means any sign of lightweight fabric or similar material that is either with or without frame and hung or mounted to a pole, building or other background by one or more edges.

(2)

The term "banner" does not include flags.

Basement means the lower level of a building having a floor-to-ceiling height of at least 6½ feet and a portion of its floor subgrade (below ground level) on at least one side. See also *Cellar*.

Beacon means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also any light with one or more beams that rotate or move.

Bed and breakfast inn means a residence in which the frequency and volume of visitors are incidental to the primary use as a private residence and where guestrooms are made available for visitors for fewer than 30 consecutive days. Breakfast is the only meal served and is included in the charge for the room. Use is allowed in nonresidential districts and permitted in AG-1 and TR with a use permit.

Berm means a planted earthen mound.

Billboard means a sign which advertises services, merchandise, entertainment or information which is not available at the property on which the sign is located.

Boardinghouse means a residential use other than a hotel or motel in which lodging may be provided to nonhousehold members and which includes the provision of meals.

Body Art or Piercing establishment See "*Tattoo and Body Art or Piercing establishment*".

Brewpub means an accessory use to a permitted restaurant where distilled spirits, malt beverages or wines are licensed to be sold and where beer or malt beverages are manufactured or brewed for consumption on the premises and solely in draft form.

Buffer, state water, means an area along the course of any state waters to be maintained in an undisturbed and natural condition.

Buffer, tributary, means a protection area adjoining the tributaries of the Chattahoochee River. Tributary buffer specifications are contained in Part D of each prospective land use section of the tree ordinance (chapter 60).

Buffer, zoning, means a natural undisturbed portion of a lot, except for approved access and utility crossings, which is set aside to achieve a visual barrier between the use on the lot and adjacent lots and uses. A buffer is achieved with natural vegetation and must be replanted subject to the approval of the director of community development or his or her designated agent when sparsely vegetated. Clearing of undergrowth from a buffer is prohibited except when accomplished under the supervision of the director of community development or his or her designated agent.

Buildable area means the portion of a parcel of land where a building may be located and which shall contain enough square footage to meet the minimum required by the zoning district. The term "buildable area" means that portion of a parcel of land which is not located in the:

- (1) Minimum setbacks;
- (2) Utility corridors;
- (3) Driveways;
- (4) Slopes to build streets;
- (5) Tree save areas;
- (6) Landscape strips;
- (7) Specimen tree areas;
- (8) State water buffers;
- (9) Tributary buffers;
- (10) Zoning buffers;
- (11) Wetlands;
- (12) Stormwater; and
- (13) Sanitary sewer easements.

Building means any structure with a roof, designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.

Building code means the technical codes approved for enforcement or otherwise adopted or adopted as amended by the city under the Georgia Uniform Codes Act, which regulate the construction of buildings and structures.

Building line means one which is no closer to a property line than the minimum yard (setback) requirements.

Building permit means a written permit that allows construction issued by the building official.

Business.

(1)

The term "business" means a use involving retailing, wholesaling, warehousing, outside storage, manufacturing or the delivery of services regardless of whether payment is involved.

(2)

The term "business" does not include uses which are customarily incidental (accessory) to another use.

Canopy means a rooflike cover, excluding carports, that either projects from the wall of a building or is freestanding.

Car wash, accessory, means a customarily incidental use of an attached or detached bay for cleaning vehicles.

Car wash, principal, means a primary or main use which provides space for cleaning vehicles.

Catering, carry out or delivery of prepared foods means to provide prepared foods and/or service off-site of the preparation facility whether by paid delivery or self-service collection. This does not include the delivery of packaged foods for individual sale.

Cellar means the lower level of a building with more than one-half of its floor-to-ceiling height below the average finished grade of the adjoining ground on all sides, or with a floor-to-ceiling height of less than 6½ feet. See also *Basement*.

Cemetery, human, means the use of property as a burial place for human remains. Such a property may contain a mausoleum.

Cemetery, pet, means the use of property as a burial place for the remains of pets. Such a property may contain a mausoleum.

Check cashing establishment means any establishment licensed by the state pursuant to O.C.G.A. § 7-1-700 et seq.

Church, temple or place of worship means a facility in which persons regularly assemble for religious ceremonies. The term "church", "temple" or "place of worship" includes, on the same lot, accessory structures and uses such as minister's and caretaker's residences, and others uses identified under the provisions for administrative and use permits.

City means the City of Milton, Georgia.

Clear cutting means the removal of all vegetation from a property, whether by cutting or other means, excluding stream buffer requirements.

Clinic means a use where medical examination and treatment is administered to persons on an outpatient basis. No patient shall be lodged on an overnight basis.

Club means a nonprofit social, educational or recreational use normally involving:

(1)

Community centers;

(2)

Public swimming pools or courts;

(3)

Civic clubhouses;

- (4) Lodge halls;
- (5) Fraternal organizations;
- (6) Country clubs; and
- (7) Similar facilities.

Club, neighborhood, means any club operated for recreation and social purposes solely by the residents of a specific neighborhood or community.

Commercial amusement/indoor means a use where recreational activity such as movie theaters, arcades, billiards, game rooms, bowling, skating rinks, sporting activities and other recreational amusements are conducted within a building.

Commercial amusement/outdoor means a use where recreational activity such as skating rinks, batting cages, miniature golf, drive-in theaters, skating rinks, and other recreational activities or amusements that are conducted outside a building.

Commercial equipment means any equipment or machinery used in a business trade or industry, including but not limited to: earth-moving equipment, trenching or pipe-laying equipment, landscaping equipment, mortar and concrete mixers, portable or mobile pumps, portable or mobile generators, portable or mobile air compressors, pipes, pool cleaning equipment and supplies, and any other equipment or machinery similar in design or function. However, equipment and machinery for business use kept within enclosed vehicles are not included.

"Commercial Vehicle" means any vehicle used in a business, trade, industry or motorized equipment that has two (2) or more of the following characteristics:

- (1) exceeds a gross vehicle weight rating (GVWR) of eleven thousand (11,000) pounds,
- (2) is regularly used in the conduct of a business, commerce, profession, or trade,
- (3) exceeds seven (7) feet in height from the base of the vehicle to the top,
- (4) exceeds twenty (20) feet in length,
- (5) has more than 2 axles,
- (6) has more than 4 tires in contact with the ground,
- (7) used, designed and built to carry more than 8 passengers,
- (8) designed to sell food or merchandise directly from the vehicle or trailer itself,
- (9) bears signs, logos or markings identifying the owner or registrant, a trade, business, service or commodity.

Composting.

- (1)

The term "composting" means a processing operation for the treatment of vegetative matter into humuslike material that can be recycled as a soil fertilizer amendment, such as:

 - a. Trees;
 - b. Leaves; and
 - c. Plant material.
- (2)

The term "composting" does not include:

- a. Organic animal waste;
- b. Food;
- c. Municipal sludge;
- d. Solid waste; and
- e. Other nonfarm or vegetative type wastes.

Concurrent variance. See *Variance*.

Condominium means a form of ownership distinguished by the absence of individual lots or lot lines and utilizing instead a system of ownership whereby the dwelling or other units are individually owned but where land outside of the building walls is held in common and maintained by a condominium association in accordance with O.C.G.A. § 44-3-70, known and cited as the "Georgia Condominium Act."

Construction material means building materials and rubble resulting from the construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings and other structures. The term "construction material" includes, but is not limited to, asbestos containing waste, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste landfill material, and other nonputrescible wastes which have a low potential for groundwater contamination.

Convalescent center/nursing home/hospice.

(1)

The term "convalescent center/nursing home/hospice" means a state-licensed use in which domiciliary care is provided to convalescing chronically or terminally ill persons who are provided with food, shelter and care and not meeting the test of family.

(2)

The term "convalescent center/nursing home/hospice" does not include hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Convenience store.

(1)

The term "convenience store" means a use offering a limited variety of groceries, household goods, and personal care items, always in association with the dispensing of motor fuels as an accessory use.

(2)

The term "convenience store" does not include vehicle service, maintenance and repair.

Convenient location and time means suitable time and easily accessible place for applicants to meet with interested parties to discuss rezoning and use permit petitions.

Council means the City of Milton, Georgia, mayor and city council.

Country inn means a facility, with the owner or innkeepers residing on the premises, where guestrooms are made available for visitors for fewer than 30 consecutive days. The term "country inn" is distinguished from the term "bed and breakfast inn" in that it serves both breakfast and lunch or dinner.

Courtyard means an open air area, other than a yard, that is bounded by the walls of a building.

(1)

Used primarily for supplying pedestrian access, light, and air to the abutting buildings.

(2) Site furniture, lighting and landscaping are appropriate.

(3) Vehicular access allowed for unloading and loading only.

(4) No vehicular parking or vehicular storage is allowed.

Crematorium means a facility for the reduction of remains to ashes by incineration.

Cul-de-sac means a street having only one connection to another street, and is terminated by a vehicular turnaround.

Curb cut means a connection between a roadway and a property for vehicular access. Curb cut applies to access regardless of the existence of curbing.

Cutoff means a luminaire light distribution where the emission does not exceed 2.5 percent of the lamp lumens at an angle of 90 degrees above nadir and does not exceed ten percent at a vertical angle of 80 degrees above nadir.

Cutoff fixture means a luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (2.5 percent) at or above a vertical angle of 90 degrees above nadir, and 100 (ten percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

Day care facility means a use in which shelter, care, and supervision as provided for seven or more persons on a regular basis away from their residence for less than 24 hours a day. A day care facility may provide basic educational instruction. The term "day care facility" includes:

- (1) Nursery school;
- (2) Kindergarten;
- (3) Early learning center;
- (4) Play school;
- (5) Preschool; and
- (6) Group day care home.

Day care home, family. See *Family day care home*.

Day-night average sound level (DNL) means the 24-hour average sound level, in decibels, obtained from the accumulation of all events with the addition of ten decibels to sound levels in the night from 10:00 p.m. to 7:00 a.m. The weighing of nighttime events accounts for the usual increased interfering effects of noise during the night, when ambient levels are lower and people are trying to sleep. DNL is a weighted average measured in decibels (db).

Deck means a structure abutting a dwelling with no roof or walls except for visual partitions and railings not to exceed 42 inches above finished floor which is constructed on piers or a foundation abovegrade for use as an outdoor living area.

Delicatessen means a store where ready to eat food products, typically meats and salads, are sold.

Department means the department of community development.

Department director or *director* means the community development director.

Design professional of record means the licensed professional whose seal appears on plats or plans subject to these regulations.

Development, duplex, means a development of duplexes.

Development, multifamily means a development of multifamily dwelling units on a single lot of record.

Development of regional impact (DRI) study means a review by the Atlanta Regional Commission and the Georgia Regional Transportation Authority of large-scale projects that are of sufficient size that they are likely to create impacts beyond the jurisdiction in which each project will be located.

Development permit standards means requirements established for each administrative and use permit such as setbacks, access, landscape and buffer areas, hours of operation, etc.

Development, single-family, means a development of single-family dwelling units, with each dwelling unit including accessory structures, on a separate lot of record.

Development standards means dimensional measurements as specified in zoning districts relating to such standards as yard setbacks, lot area, lot frontage, lot width, height and floor area.

Development, townhouse, means a development of townhouse dwelling units.

Distribution line means a pipeline other than a gathering or transmission line.

District, nonresidential, means a term used to identify all districts except single-family dwelling districts, all apartment districts, R-6, TR, MHP and residential portions of a CUP, includes AG-1.

District, residential, means a term which applies to all single-family dwelling districts, all apartment districts, R-6, TR, MHP and residential portions of a CUP, excludes AG-1.

Drainage facility means a facility which provides for the collection, removal and detention of surface water or groundwater from land by drains, watercourse or other means.

Drive-in/up restaurant means a restaurant designed for customers to park and place and receive food orders while remaining in their motor vehicles.

Drive-in Theater means an establishment laid out such that patrons may enter and park to view a motion picture while remaining in their vehicle.

Driveway means a vehicular access way.

Dwelling means any building or portion thereof which is designed for or used for residential purposes for periods of more than 30 consecutive days.

Dwelling, duplex, means a structure that contains two dwelling units.

Dwelling, multifamily.

(1)

The term "multifamily dwelling" means a structure containing three or more dwelling units.

(2)

The term "multifamily dwelling" does not include:

- a. Townhouses;
- b. Triplexes; or
- c. Quadruplexes.

Dwelling, quadruplex, means four attached dwellings in one building in which each unit shares one or two walls with an adjoining unit.

Dwelling, triplex, means a building containing three dwelling units, each of which has direct access to the outside or to a common hall.

Dwelling unit means one or more rooms constructed with cooking, sleeping and sanitary facilities designed for and limited to use as living quarters for one family.

Dwelling unit, single-family, means one dwelling unit that is not attached to any other dwelling unit by any means.

Dwelling unit, townhouse, means a dwelling unit in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common walls.

Engineer means a registered, practicing engineer, licensed by the state.

Environmentally adverse means any use or activity which poses a potential or immediate threat to the environment and is physically harmful or destructive to living beings as described in the Executive Order 12898 regarding environmental justice.

Environmentally stressed community means a community exposed to a minimum of two environmentally adverse conditions resulting from:

(1)

Public and private municipal uses:

- a. Solid waste and wastewater treatment facilities;
- b. Utilities;
- c. Airports; and
- d. Railroads; and

(2)

Industrial uses:

- a. Landfills;
- b. Quarries; and
- c. Manufacturing facilities.

Escort and Dating Services means any business that arranges a meeting between an escort and a client for entertainment or companionship for a fee.

Family.

(1)

The term "family" means one or more persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, or up to four unrelated persons, occupying a dwelling unit and living as a single housekeeping unit.

(2)

The term "family" does not include persons occupying a roominghouse, boardinghouse, lodginghouse, or a hotel.

Family day care home means a home occupation in which shelter, care, and supervision are provided for six or fewer persons on a regular basis. A family day care home may provide basic educational instruction.

Farm means:

(1)

A parcel of land which is used for the raising of animals (including fish) on a commercial basis, such as:

a.

Ranching;

b.

Dairy farming;

c.

Piggeries;

d.

Poultry farming; and

e.

Fish farming;

(2)

A facility for the business of boarding or renting horses to the public; or

(3)

A site used for the raising or harvesting of agricultural crops such as wheat, field forage and other plant crops intended for food or fiber.

Fast food restaurant. See *Restaurant, fast food*.

Financial Establishment means an establishment for the custody, loan, exchange, or issue of money, for the extensions of credit, and for facilitating the transmission of funds.

Flag lot means a lot where frontage to a public street is provided via a narrow strip of land forming a pole or stem to the buildable portion of the lot.

Flea market and second hand surplus retailers means an establishment selling secondhand articles, antiques, curios and cut-rate merchandise, typically outdoors and in individually rented stalls.

Flood lamp means a form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

Floodlight means a form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

Floodplain management terms. The following definitions apply to sections of the zoning ordinance on floodplain management:

- (1) *As-built drawings* means plans which show the actual locations, elevations, and dimensions of the improvements as certified by a professional engineer or a licensed surveyor in the state.
- (2) *Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year the 100-year flood.
- (3) *Base flood elevation (BFE)* means the highest water surface elevation anticipated at any given point during the base flood.
- (4) *Development* means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, such as mining, dredging, filling, grading, paving, excavation or drilling operations.
- (5) *Federal Emergency Management Agency (FEMA)* means the federal agency which administers the National Flood Insurance Program. This agency prepares, revises and distributes the maps and studies adopted under sections [64-258](#) through [64-315](#)
- (6) *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.
- (7) *Flood elevation study* means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.
- (8) *Flood boundary and floodway map* means an official map of Fulton County on which FEMA has delineated the various flood boundaries, the floodway fringe, and the floodways.
- (9) *Flood fringe* means that area contained by the flood boundaries exclusive of the regulatory floodway.
- (10) *Flood insurance rate map (FIRM)* means the official map of Fulton County on which FEMA has delineated the risk premium zones.
- (11) *Flood insurance study (FIS)* means a compilation of flood-related data obtained from the flood studies for the unincorporated areas of Fulton County, Georgia, prepared by FEMA.
- (12) *Floodplain* means lands subject to flooding, which have a one percent probability of flooding occurrence in any calendar year; the 100-year floodplain is shown on the Flood Boundary and Floodway Map. The term "floodplain" is also referred to as area of moderate flood hazard.
- (13) *Floodprone area* means areas shown on the flood insurance rate map as "Zone B" (zone where the contributing drainage area is less than one square mile) and which are determined by the public works department to be a hazard to adjacent properties or development in the event of the base flood.
- (14) *Floodproofing* means any combination of structural and nonstructural 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.

- (15) *Floodway. See Regulatory floodway.*
- (16) *Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.
- (17) *Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.
- (18) *Intermediate regional flood (IRF) elevation. See Base flood elevation.*
- (19) *Lowest floor* means the lowest minimum floor including basement and attached garage.
- (20) *Map* means the flood boundary and floodway map or the flood insurance rate map.
- (21) *Mean sea level* means, for purposes of floodplain management, the National Geodetic Vertical Datum (NGVD) of 1929.
- (22) *Mobile home. See Mobile home.*
- (23) *Mobile home park/mobile home subdivision* means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including at a minimum the installation of utilities, either final site grading or the pouring of concrete pads and construction of streets) was completed on or after April 5, 1972.
- (24) *NGVD* means the National Geodetic Vertical Datum.
- (25) *New structure* means any proposed structure which does (did) not have a valid building permit prior to the effective date of this (amendment) ordinance.
Note—This resolution was adopted on March 11, 1955. Records suggest that floodplain management provisions were first adopted on April 5, 1972.
- (26) *Regulatory 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.
- (27) *Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, or brook.
- (28) *Special flood hazard area* means those lands subject to periodic flooding and shown on the flood insurance rate map as a numbered or unnumbered "A" zone.
- (29) *Start of construction* means the first placement of permanent construction of a structure, excluding a mobile home, on a site, such as the pouring of slabs or footing or any work beyond excavation.

- a. The term "start of construction" includes for any structure, except a mobile home, which has no basement or poured footings, the first permanent framing or assembly of the structure or any part thereof on its park or mobile home subdivision. For a mobile home, the term "start" means the date on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of pads, and installation of utilities) is completed.

b.

The term "permanent construction" does not include:

1.

Land preparation, such as clearing, grading, and filling;

2.

The installation of streets and walkways;

3.

Excavation for a basement, footings, piers or foundations, and the erection of temporary forms; or

4.

The installation of accessory buildings, such as garages and sheds, apart from the main structure.

(30)

State coordinating agency means the floodplain management coordinator of the state department of natural resources.

(31)

Structure means all walled and roofed buildings, storage tanks and other structural improvements located principally above ground.

(32)

Water surface elevation means the relationship between the projected heights and the NGVD reached by floods of various magnitudes and frequencies in the floodplains.

Floor area, gross, means the sum of all floors of a structure as measured to the outside surfaces of exterior walls or the center of connected or common walls.

(1)

The term "gross floor area" includes:

a.

Common public areas, such as lobbies, restrooms and hallways; and

b.

Spaces devoted exclusively to permanent mechanical systems, permanent storage areas, stairwells and elevator shafts.

(2)

The term "gross floor area" does not include:

a.

Internal parking and loading areas;

b.

Attics;

c.

Porches;

d.

Balconies; and

e.

Other areas outside of the exterior walls of the building.

(3)

Gross floor area is used to determine the building sizes for all but single-family dwellings and to determine required parking when floor area is the designated measure for a use. The term "gross floor area" is commonly referred to as floor area.

Floor area, ground, means the heated floor area of the first story of a building above a basement or, if no basement, the lowest story.

Floor area, heated.

(1)

The term "heated floor area" means the sum of all heated area of a dwelling or dwelling unit, as appropriate, measured to the inside surfaces of exterior walls.

(2)

The term "heated floor area" does not include:

- a. Porches;
- b. Balconies;
- c. Attics;
- d. Basements (finished or unfinished);
- e. Garages;
- f. Patios; and
- g. Decks.

Floor area, net.

(1)

The term "net floor area" means the sum of all floors of a structure as measured to the outside surfaces of exterior walls.

(2)

The term "net floor area" does not include:

- a. Halls;
- b. Stairways;
- c. Elevator shafts;
- d. Attached and detached garages;
- e. Porches;
- f. Balconies;
- g. Attics with less than seven feet of headroom;
- h. Basements;

- i. Patios; and
- j. Decks.

Floor area, net leasable, means the gross floor area less the common public areas.

Footcandle means a unit of measure for illuminance on a surface that is everywhere one foot from a point source of light of one candle, and equal to one lumen per square foot of area.

Fortune telling establishment means all persons, firms or corporations engaging in the business, trade or profession of fortune-telling, astrology, phrenology, palmistry, clairvoyance, or related practices for a charge or by donation.

Fuel oil means a liquid petroleum product that is burned in a furnace for the generation of heat or used in an engine for the generation of power. The term "fuel oil" includes oil that may be:

- (1) A distilled fraction of petroleum;
- (2) A residuum from refinery operations;
- (3) A crude petroleum; or
- (4) A blend of two or more of the oils in subsections (1) through (3) of this definition.

Full cutoff means a luminaire light distribution where zero candela intensity occurs at or above an angle of 90 degrees above nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (ten percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

Full cutoff fixture means an outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

Funeral Home means an establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funerals.

Garage, automobile repair See "*Repair garage, automobile*"

Garden center means a business whose primary operation is the sale of seeds and organic and inorganic materials, which include, but are not limited to, trees, shrubs, flowers, and other plants for sale or transplanting, mulch, pine straw, and other organic products for landscaping purposes, and other limited retail accessory products for gardening and landscaping.

Gasoline station means a commercial retail establishment for the dispensing and distribution of automotive fuels with or without a retail convenience store.

Gathering line means a pipeline that transports fuel oil/liquid petroleum product from a current production facility to a transmission line or main.

Glare means the sensation produced within the visual field by luminance that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort, or loss in visual performance and visibility.

Golf course means a use of land for playing the game of golf.

(1)

The term "golf course" includes a country club and a driving range as an accessory use.

(2)

The term "golf course" does not include miniature golf.

Governmental facility means a building or institution provided by the government to care for a specified need, such as a courthouse or county jail.

Grade means the average elevation of the finished surface of the ground adjacent to all sides of any structure.

Gravel road means an unpaved road surfaced with gravel material that is constructed and maintained to function as an all-weather surface for vehicular and pedestrian travel.

Green space means permanently protected land and water, including agricultural and forestry land that is in its undeveloped, natural state or that has been developed only to the extent consistent with, or is restored to be consistent with, one or more of the following goals:

(1)

Water quality protection for rivers, streams, and lakes;

(2)

Flood protection;

(3)

Wetlands protection;

(4)

Reduction of erosion through protection of steep slopes, areas with erodible soils, and stream banks;

(5)

Protection of riparian buffers and other areas that serve as natural habitat and corridors for native plant and animal species;

(6)

Scenic protection;

(7)

Protection of archaeological and historic resources;

(8)

Provision of recreation in the form of boating, hiking, camping, fishing, hunting, running, jogging, biking, walking, and similar outdoor activities; and

(9)

Connection of existing or planned areas contributing to the goals set out in this definition.

Group residence for children means a dwelling unit or facility in which fulltime residential care is provided for children under the age of 17 years as a single housekeeping unit. A group residence must comply with applicable federal, state and local licensing requirements. A group residence may not serve the purpose of, or as an alternative to, incarceration.

Group residence/shelter.

(1)

The term "group residence/shelter" means a state-licensed 24-hour residential facility functioning as a single housekeeping unit for the sheltered care of persons with special needs which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services and transportation. Bedroom suites shall not include kitchen facilities.

(2)

The term "group residence/shelter" does not include those facilities which exclusively care for children under the age of 17 years.

Guesthouse means a detached accessory dwelling unit located on the same lot with a single-family dwelling unit. A guesthouse may be only used by relatives, guests or employees that work on the property without payment for rent.

Gymnasium means a room or building used for various indoor sports and physical fitness usually equipped with spectator accommodations, locker and shower rooms, classrooms, and/or swimming pools.

Hardship means the existence of extraordinary and exceptional conditions pertaining to the size, shape, or topography of a particular property, because of which the property cannot be developed in strict conformity with the provisions of this zoning ordinance.

Health club/Spa means a commercial establishment whose members pay a fee to use its health and fitness facilities and equipment. This definition does not include residential or subdivision amenities areas.

Height means the vertical distance measured from the finished grade along all walls of a structure to the highest point of the coping or parapet of a flat roof or to the average height between eaves and ridge for gable, hip and gambrel roofs.

Historic period lighting means commercial lighting with an architectural design from the late 19th and early 20th centuries.

Home occupation means an accessory use of a dwelling unit for business, operated by members of the resident family only. (See Section 64-213.)

Home schooling means the practice of teaching one's own children at home in accordance with O.C.G.A. §§ 20-2-690 and 20-2-690.1.

Hoop stress means a causation of internal and external pressure loading on the pipe.

Hospital means the provision of inpatient health care for people, including:

(1)

General medical and surgical services;

(2)

Psychiatric care and specialty medical facilities; and

(3)

Outpatient facilities.

Hotel, apartment, means a use which provides individual units which include cooking facilities, and which are used for temporary lodging to persons not related to the owner for fewer than 30 days.

Hotel/motel means a building in which lodging and boarding is provided for fewer than 30 days. The term "hotel/motel" includes a restaurant in conjunction therewith. The term "hotel/motel" also means a tourist court, motor lodge and inn.

IESNA means the Illuminating Engineering Society of North America, a nonprofit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

Illuminance means the quantity of light arriving at a surface divided by the area of the illuminated surface, measured in footcandles.

- (1) Horizontal illuminance applies to a horizontal surface.
- (2) Vertical illuminance applies to a vertical surface.
- (3) The term "average illuminance" means the level of illuminance over an entire illuminated target area.
- (4) The term "maximum illuminance" means the highest level of illuminance on any point within the entire area.
- (5) The term "minimum illuminance" means the lowest level of illuminance on any point within the entire area.

Illuminance levels.

- (1) The term "illuminance levels" means illuminance levels and footcandles noted in this zoning ordinance.
- (2) The term "illuminance levels" also means the illuminance levels occurring just prior to lamp replacement and luminaire cleaning.
- (3) The average illuminance level applies to an entire illuminated target area.
- (4) Minimum and maximum illuminance levels apply to small areas within the entire illuminated target area. Unless otherwise noted, illuminance levels refer to horizontal illuminance levels.

Illumination.

- (1) The term "direct illumination" means illumination which is projected from within a sign, building, etc.
- (2) The term "indirect illumination" is illumination which is projected onto a sign, building, etc.

Improvement setback means an area adjacent to a zoning buffer in which no improvements and structures shall be constructed. No development activity such as tree removal, stump removal or grinding, land disturbance or grading is permitted without the approval of the director of community development department.

Industrialized building means a building manufactured in accordance with the Georgia Industrialized Building Act (O.C.G.A. §§ 8-2-110—8-2-112) and the Rules of the Commissioner of the Georgia Department of Community Affairs issued pursuant thereto. State approved buildings meet the state building and construction codes and bear an insignia of approval issued by the commissioner.

Institutional uses include:

- (1) Schools;
- (2) Colleges;
- (3) Vocational schools;

- (4) Hospitals;
- (5) Places of worship;
- (6) Asylums;
- (7) Museums; and
- (8) Other similar uses or facilities.

Junk facility. See *Salvage/storage/junk facility*.

Kennel means a use for the shelter of domestic animals where the shelter of these animals involves an exchange of revenue in which a business license is required. If the kennel is a nonbusiness operation, its use may be certified by the Fulton County Animal Control Office.

Lamp means the component of an outdoor luminaire that produces light.

Land disturbance permit means a permit issued by the community development department that authorizes the commencement of alteration or development of a given tract of land or the commencement of any land disturbing activity.

Land disturbing activity means any alteration of land which may result in soil erosion from water or wind and the movement of sediment into water or onto lands including, but not limited to:

- (1) Clearing;
- (2) Dredging;
- (3) Grading;
- (4) Excavating;
- (5) Transporting; and
- (6) Filling.

Landfill, inert waste disposal means a disposal facility, accepting only waste that will not or is not likely to cause production of leachate of environmental concern by placing an earth cover thereon.

- (1) The term "inert waste" means:
 - a. Earth and earthlike products;
 - b. Concrete;
 - c. Cured asphalt;
 - d. Rocks;

- e. Bricks;
- f. Yard trash;
- g. Stumps;
- h. Limbs; and
- i. Leaves.

(2)

The term "inert waste" does not include other types of industrial and demolition waste not specifically listed in subsection (1) of this definition. Refer to the rules concerning solid waste management of the Georgia Department of Natural Resources, Environmental Protection Division, as amended, for further definition.

Landfill, solid waste disposal, means a disposal facility accepting solid waste excluding hazardous waste disposed of by placing an earth cover thereon. The term "solid waste" includes waste from domestic, agricultural, commercial and industrial sources. Refer to the rules concerning solid waste management of the Georgia Department of Natural Resources, Environmental Protection Division, as amended, for further definition.

Landscape architect means a registered, practicing landscape architect licensed by the state.

Landscape strip means an area required by this zoning ordinance or by conditions of zoning which is reserved for the installation and maintenance of plant materials.

Landscape business means a business providing the services described herein at off-site locations. While most of the actual landscape activity occurs off-site, the business owner's property may be approved for equipment storage, parking, material storage and a building or buildings for storage and plant propagation. Landscape businesses typically include outdoor activities such as: lawn installation; mowing and maintenance; fertilization and/or insecticide treatment; the planting and maintenance of trees, shrubs and flowers; tree and stump removal; the spreading and grading of top soil, mulch or other ground covers; the installation of stone, brick and block walkways and retaining walls; and the temporary storage of plant trimmings.

Large-scale retail/service commercial development means a retail/service commercial development with at least one large-scale retail structure but no more than four such structures whether freestanding or combined.

Large-scale retail/service commercial structure means an individual retail/service commercial structure that is 75,000 square feet or greater. This size threshold refers to an individual establishment and its associated outdoor areas used for display and storage.

Laundromat means any commercial laundry where coin-operated or other self-service washing machines are available to individual customers.

Laundry and dry cleaning plant distribution center means an establishment performing the dry cleaning and laundering processes on site with or without walk-in facilities and typically sending laundered products out to separate pick up sites.

Laundry and dry cleaning shop means a commercial establishment whose business is the cleansing of fabrics with non-aqueous organic solvents and may include laundering off-site.

Lawful use means any use of lots or structure which is not in violation of any existing federal, state or local law, statute, regulation or ordinance.

Lawn service business means a commercial establishment providing lawn care, maintenance and propagation for a fee. These services are provided at off-site locations.

Library means a place set apart to contain books and other literary material for reading, study, or reference, for use by members of a society or the general public.

Light, direct, means light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of luminaire.

Light, fully shielded, means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

Light, indirect, means direct light that has been reflected or has scattered off of other surfaces.

Loading space means an area within the main building or on the same lot, which provides for the loading, or unloading of goods and equipment from delivery vehicles.

Lodge and/or retreat/campground means a facility allowed with a use permit which provides space, food and/or lodging facilities for social, educational or recreational purposes.

Lot means the basic lawful unit of land, identifiable by a single deed. A group of two or more contiguous lots owned by the same entity and used for a single use shall be considered a single lot. The terms "lot," "tract" and "parcel" are synonymous.

Lot, corner, means a multiple frontage lot adjoining two streets at their intersection.

Lot frontage means the shortest property line adjoining a street or, for lots requiring no street frontage, oriented toward a street. A property line adjoining a stub street shall not be considered as frontage unless it is proposed for access or is the only street frontage. Front yard requirements shall be measured from this property line. In situations where a multiple frontage lot has equal distance on street frontages, the director of community development shall determine the legal lot frontage.

Lot line, front, means a lot line which extends the entire length of an abutting street from intersecting property line to intersecting property line. The front lot line of a corner lot abuts the street which adjoins the lot for the shortest distance.

Lot line/property line means a line established through recordation of an approved plat, or a deed in the absence of a platting requirement, which separates a lot from other lots, or a lot from rights-of-way.

Lot line, rear, means, generally, the lot line opposite and most distant from the front lot line. For a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and the most distant from the front lot line, not less than 20 feet long, and wholly within the lot. True triangular lots do not have rear lot lines. Lots with more than one front lot line do not have rear lot lines. The director of the community development department or his or her designee shall make the final determination of rear lot lines when in dispute or undefined by this definition.

Lot line, side, means a lot line which is not a rear or front lot line.

Lot, multiple frontage, means lots adjoining more than one street.

Lot, nonconforming. See. *Nonconforming lot, use or structure*.

Lot-of-record means a lot, whether lawful or unlawful, which appears on a deed and plat recorded in the official records of the clerk of superior court.

Lot, unlawful, means any lot-of-record which, at the time of recordation in the official records of the clerk of superior court, was not in compliance with zoning and subdivision laws in effect at that time.

Lot width, minimum, means the least dimension required along the building line specified for each district, parallel to the lot frontage and measured between side lot lines.

Luminaire means a complete lighting system and includes a lamp and a fixture.

Luminaire height means the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Maintenance, normal, means the upkeep of a sign for the purpose of maintaining safety and appearance which may include:

- (1) Painting;
- (2) Bulb replacement;
- (3) Panel replacement;
- (4) Letter replacement; and
- (5) Repair of electrical components and structural reinforcements to its original condition.

Manufactured home.

- (1) The term "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight-body feet or more in width or 40-body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

- (2) The term "manufactured home" includes any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq.

Manufactured home installation means the construction of a foundation system and the placement or erection of a manufactured home or a mobile home on the foundation system. The term "manufactured home installation" includes, without limitation, supporting, blocking, leveling, securing, or anchoring such home and connecting multiple or expandable sections of such home.

Marquee means any permanent rooflike structure projecting beyond a building or extending along and projecting beyond the wall of the building used for advertising or identification.

Massage Parlor means any building, structure, or place, other than a regularly licensed and established hospital or dispensary, whose principal business is to practice nonmedical or non surgical manipulative exercises or devices upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor or osteopath with or without the use of therapeutic, electrical, mechanical or bathing devices.

Massing means varying the massing of a building and includes varying the surface planes of the building:

- (1) With porches, balconies, bay windows, and overhangs;

(2)

By stepping-back the buildings from the second floor and above; or

(3)

By breaking up the roofline with different elements to create smaller compositions.

Medical related lodging means a use which provides temporary lodging for family members of a hospitalized patient.

Millinery means an establishment for the crafting, production and, or sale of headwear.

Mineral extraction means severance and removal of sand, stone, gravel, top soil, and other mineral resources whenever such severance and removal is not conducted in conjunction with a permitted development activity.

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

Minor variance. See *Variance*.

Mobile home means a structure, transportable in one or more sections, which, in the traveling mode, is eight-body feet or more in width or 40-body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein; and manufactured prior to June 15, 1976, or otherwise does not comply with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq.

Mobile home park.

(1)

The term "mobile home park" means use of property for two or more mobile homes for living purposes, and spaces or lots set aside and offered for use for mobile homes.

(2)

The term "mobile home park" does not include mobile home sales lot.

Model home means a dwelling unit used for conducting business related to the sale of a development.

Modification means an application requesting change to an approved condition of zoning or use permit, except for conditions that pertain to a change in use, increase in density, and increase in height.

Modular building. See *Industrialized building*.

Modular home means a dwelling manufactured in accordance with the Georgia Industrialized Building Act. See *Industrialized building*.

Mortuary See "Funeral Home".

Motel. See *Hotel/motel*.

Multi-tenant means two or more businesses that provide goods and services within separate structures located on the same site or within the same structure that provides wall separation and private access for each business.

Museum means an institution devoted to the exhibition, procurement, care, study and display of objects of lasting interest or value.

NADIR means the point directly below the luminaire defined as zero degrees vertical angle.

Nonconforming (grandfathered) lot, use or structure means a use, lot or structure that was nonconforming at the time of the adoption of the Fulton County Zoning Resolution on March 11, 1955, or subsequent amendments thereto, or created by deed between March 11, 1955 and September 21, 1967, (adoption of the subdivision regulations), and does not now meet the minimum requirements of the district in which it is located. Also, a use, lot or structure which has been made nonconforming by some county or state action. Any change or addition to a use, lot or structure must comply with current provisions of this zoning ordinance.

Nursing home.

(1)

The term "nursing home" means a use in which domiciliary care is provided to three or more chronically ill nonfamily members who are provided with food, shelter and care.

(2)

The term "nursing home" does not include:

a.

Hospitals;

b.

Clinics; or

c.

Similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

(3)

A convalescent center, nursing home and personal care home are further distinguished in administrative and use permit provisions.

Off-premises means a location outside of the subject lot for a designated use.

Off-site premises means the location of a structure or use outside the lot-of-record of the subject development, including the adjoining street or other right-of-way.

On-premises means the individual lot-of-record on which the use is located.

On-site premises means the location of a structure or use within the confines of a property delineated by property lines or, if referenced in a zoning or use permit case, within the confines of the boundaries of the legal description filed with the petition.

Office, temporary, means a mobile, manufactured or other structure which is used as an office for real estate sales, on-site construction management and related functions. Requires an administrative permit under temporary structures.

Office, permanent, means a room or building wherein a professional person conducts business, typically performing a service for another.

Open space means a portion of a site which is permanently set aside for public or private use and will not be developed. The space may be used for passive or active recreation or may be reserved to protect or buffer natural areas.

(1)

The term "open space" includes wooded areas other than required landscape strips and buffers, pathways/walkways, fields, and sensitive environmental areas such as wetlands, etc.

(2)

The term "open space" does not include detention facilities and platted residential lots.

Ordinance means this City of Milton Zoning Ordinance.

Outparcel (spin-site) means a portion of a larger parcel of land generally designed as a site for a separate structure and business from the larger tract. An outparcel may or may not be a subdivision of a larger parcel. To be recognized as an outparcel, the portion must be identified on a site plan approved for the larger parcel.

Package sales store means an establishment retailing beer, malt, wine, or distilled spirits in the original consumer container, typically sold directly to the final consumer and not for resale. See Section 4-1 of the Milton City Code.

Parcel. See *Lot*.

Parking lot means an off-street area which is used for the temporary parking of vehicle whether paid or unpaid. Typically, lots are surfaced and improved and may include a parking garage as a multi-story facility.

Parking garage/deck see "*Parking lot*".

Parking space means an area designated for the parking of one vehicle on an all-weather surface. No more than two carport or garage spaces may offset the minimum parking requirements in a single-family residential district. (Specifications included in article VIII.)

Path means a cleared way for pedestrians and bicycles that may or may not be paved or otherwise improved.

Pawnshop means a business that lends money at interest on personal property deposited with the lender until redeemed.

Personal care home/assisted living.

(1)

The term "personal care home/assisted living" means a state-licensed use in which domiciliary care is provided to adults who are provided with food, shelter and personal services.

(2)

The term "personal care home/assisted living" does not include:

a.

Hospitals;

b.

Convalescent centers;

c.

Nursing homes;

d.

Hospices;

e.

Clinics; or

f.

Similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Personal services, stand alone, means those buildings specifically designed and used for providing personal grooming, and hygiene services.

Pet grooming means caring for the appearance of domesticated animals kept for pleasure, including bathing and brushing services.

Photography studio means a room or building used for professional commercial photography.

Pipeline means any conduit through which natural gas, petroleum, oxygen, or other flammable or combustible products, or any of their derivative products are conveyed or intended to be conveyed.

Plans review means the act of reviewing plans and specifications to ensure that proposed undertakings comply with various governing laws, ordinances and resolutions. Compliance is subsequently utilized to determine that work and materials are in accordance with approved plans and specifications.

Plant nursery.

(1)

The term "plant nursery" means any land used to raise trees, shrubs, flowers and other plants for sale or transplanting.

(2)

The term "plant nursery" does not include:

a.

The retail sale of any related garden supplies such as chemical fertilizer, tools and other similar goods and equipment; or

b.

The retail sale of plants not grown on the property.

Plat, final, means a finished drawing of a subdivision which provides a complete and accurate depiction of all legal and engineering information required by the subdivision regulations (chapter 50). Certification is necessary for recording.

Plat, preliminary, means a drawing which shows the proposed layout of a subdivision in sufficient detail to clearly indicate its feasibility, but is not in final form for recordation pursuant to the subdivision regulations (chapter 50).

Plumbing shop associated with retail sales means a commercial establishment used primarily for the sale of plumbing and lighting equipment, and supplies.

Pool hall means any public place including three or more pool tables where a person is permitted to play the game of billiards and for which a charge is made for use of equipment or for which no charge is made for use of equipment and where alcoholic beverages are being served.

Porch means a roofed open structure projecting from the exterior wall of a building and having at least 70 percent of the total area of the vertical planes forming its perimeter unobstructed in any manner except by insect-screening between floor and ceiling.

Primary variance. See *Variance*.

Printing shop means a commercial establishment where copying, reproduction and other business services are performed.

Prison/correctional facility.

(1)

The term "prison/correctional facility" means a public or state-licensed private owned buildings, and all accessory uses and structures, used for long-term confinement housing and supervision of persons who are serving terms of imprisonment for violation of criminal laws.

(2)

The term "prison" is distinguished from a jail, in that a prison is considered to be larger and for longer terms, and is normally operated under the authority or jurisdiction of the state or federal government. (See *Section 64-1826, private* correctional facility.)

Property, when used in conjunction with an application for rezoning, means an area of land composed of less than one lot, or of accumulations of one or more lots, or parts thereof.

Protected zone means all lands that fall outside the buildable area of a parcel, all areas of a parcel required to remain in open space, all areas required as landscape strips and buffers (including zoning buffers, state water buffers and tributary buffers) and all tree save areas according to:

(1)

The provisions of this zoning ordinance;

(2)

Conditions of zoning;

(3)

Use permit or variance approval; and

(4)

The tree preservation ordinance (article III of this zoning ordinance).

Radio and television station means an installation consisting of one or more transmitters or receivers, used for radio and, or television communications. This definition includes broadcasting organizations and/or studios.

Recreation fields means an outside area designed and equipped for the conduct of sports and leisure time activities including, but not limited to:

(1)

Softball;

(2)

Soccer;

(3)

Football; and

(4)

Field hockey.

Recreational court, private.

(1)

The term "private recreational court" means an improved area designed and intended for the playing of a game or event such as basketball or tennis, and which serves a single-family dwelling, duplex dwelling and multifamily dwelling, or combinations of dwelling types, including such improved areas which are owned and/or controlled by a neighborhood club or similar organization.

(2)

The term "private recreational court" does not include a basketball goal adjoining a driveway of typical residential driveway dimensions.

Recreational court, public, means an improved area designed and intended for the playing of a game or event such as basketball or tennis, and is operated as a business or as a club unless such club is a neighborhood club or similar organization identified under the definition *Recreational court, private*.

Recreational facilities includes:

- (1) Parks;
- (2) Recreation areas;
- (3) Golf courses;
- (4) Playgrounds;
- (5) Recreation counters (indoor and outdoor);
- (6) Playing fields; and
- (7) Other similar uses or facilities.

Recreational vehicle means a vehicle used for leisure time activities and as a dwelling unit while traveling. The dimensions of a recreational vehicle shall not exceed a width of 8½ feet and a length of 45 feet.

- (1) The term "recreational vehicle" includes:
 - a. A camper;
 - b. A motor home; and
 - c. A travel trailer.
- (2) The term "recreational vehicle" does not include a mobile home.

Recycling center, collecting, means any facility utilized for the purpose of collecting materials to be recycled including, but not limited to, plastics, glass, paper and aluminum materials. Such use may be principal or accessory to a nonresidential use on nonresidentially zoned property, except AG-1 zoned properties unless the primary use is a permitted nonresidential use.

Recycling center, processing.

- (1) The term "processing recycling center" means any facility utilized for the purpose of collecting, sorting and processing materials to be recycled including, but not limited to, plastics, glass, paper and aluminum materials whenever such use is permitted in M-1 and M-2 zoning districts.
- (2) The term "processing recycling center" does not include a landfill.

Relocated residential structure means a dwelling which has been removed from one location for relocation to another lot.

Repair garage, automobile, means a use which may provide a full range of automotive repairs and services including major overhauls. The term "automobile repair garage" includes paint and body shops.

Repair garage, truck and heavy equipment means a use which may provide a full range of repairs and services including major overhauls on trucks and heavy equipment. The term "truck and heavy equipment repair garage" includes paint and body shops.

Repair shop means a commercial establishment where small appliances, electronics and small motors are restored to working condition.

Research laboratory means a workplace for the conduct of scientific research.

Residential use/dwelling means any building or portion thereof where one actually lives or has his or her home. The term "residential use/dwelling" also means a place of human habitation.

Restaurant means a food service use which involves the preparation and serving of food to seated patrons. The restaurant seating area must be at least 40 percent of the gross square footage of the restaurant facility. Seating space located outside of the main structure (i.e., patios, decks, etc.) shall not be included in calculating the seating space. The term "restaurant" includes a cafeteria.

Restaurant, fast food, means a food service establishment which sells food from a counter or window for consumption on-premises or off-premises. Tables may be provided, and food may be served at a table, but may not be ordered from a table.

Retail use means a business whose primary purpose is the sale of merchandise to consumers.

Retreat. See *Lodge*.

Right-of-way means a portion of land over which a local or state government has designated a right of use.

Roadside produce stand means a use offering either farm-grown, prepared food products such as fruits, vegetables, canned foods, or prepared packaged meats for sale from a vehicle or a temporary structure. The consumption of food on-site is prohibited.

Roadside vending means the sale of merchandise such as clothing, crafts, household item, firewood, etc., from a temporary table or cart.

Roominghouse means a residential use other than a hotel or motel in which lodging may be provided to nonhousehold members for periods of 30 days or longer, and which does not include the provision of meals.

Salvage/storage/junk facility means any use involving the storage or disassembly of wrecked or junked automobiles, trucks or other vehicles; vehicular impound lots; storage, bailing or otherwise dealing in scrap irons or other metals, used paper, used cloth, plumbing fixtures, appliances, brick, wood or other building materials; and the storage or accumulation outside of a storage building of used vehicle tires or tire carcasses which cannot be reclaimed for their original use. Such uses are storage and salvage facilities whether or not all or part of such operations are conducted inside or outside a building or as principal or accessory uses. State approval is required for all sites utilized for reclamation and disposal of toxic and hazardous waste.

Scale refers to the relationship of the size of a building to neighboring buildings and of a building to a site. In general, the scale of new construction should relate to the majority of surrounding buildings.

School, business, music or dance, means an educational institution devoted to a specific field of learning whether public or private.

School, private, means an educational use having a curriculum at least equal to a public school, but not operated by the Fulton County Board of Education.

School, special, means an educational use devoted to special education, including the training of gifted, learning disabled, mentally or physically handicapped persons, but not operated by the Fulton County Board of Education.

Schools, colleges and universities means any educational facility established under the laws of the state (and usually regulated in matters of detail by local authorities), in the various districts, counties, or towns, maintained at the public expense by taxation, and open, usually without charge, to all residents of the city, town or other district; private schools which have students regularly attending classes and which teach subjects commonly taught in these schools of this state; any educational facility operated by a private organization or local county, or state that provides training or education beyond and in addition to that training received in grades kindergarten to 12th, including, but not limited to:

(1)

Trade, business and vocational schools; and

(2)

Any institution of higher learning, consisting of an assemblage of colleges united under one corporate organization or government, affording instruction in the arts and sciences and the learned professions, and conferring degrees.

Screen means a fence, wall, hedge, landscaping, earthen berm, buffer area or any combination of these that is designed to provided a visual and physical barrier.

Seasonal business use means a primary use involving the sale of items related to calendar holidays, such as Christmas trees, Halloween pumpkins, etc., which may be conducted outside.

Secondary variance. See *Variance*.

Self-storage/mini means a single-level structure or group of structures containing separate spaces/stalls and which are leased or rented to individuals for the storage of goods.

Self-storage/multi means a multi-level structure containing separate storage rooms/stalls under a single roof that are leased or rented.

Senior housing means a single-family or multifamily development intended for, operated for and designed to accommodate residents 55 years of age and older. Senior housing communities are designed for seniors to live on their own, but with the security and conveniences of community living. Some provide communal dining rooms and planned recreational activities (congregate living or retirement communities), while others provide housing with only minimal amenities or services.

Service commercial use means a business whose primary purpose is to provide a service.

Service line means a distribution line that transports natural gas from a common source of supply to:

(1)

A customer meter or the connection to a customer's piping, whichever is farther downstream; or

(2)

The connection to a customer's piping if there is no customer meter.

The term "customer meter" means the meter that measures the transfer of gas from one operator to a customer.

Service station means a use which provides for the sale of motor vehicle fuels and automotive accessories, and which may provide minor repair and maintenance services. A service station shall be limited to four or fewer bays excluding no more than one attached or detached bay for washing cars.

Setback means a space between a property line and a building or specified structure.

Setback, minimum, means the minimum yards as specified in the various use districts. A minimum required space between a property line and a structure. An area identified by a building line.

Sidewalk means a paved area designated for pedestrians which is constructed in accordance with city standards.

Site plan means a detailed plan, drawn to scale, based on a certified boundary survey, and reflecting conditions of zoning approval, various requirements of state law, and zoning ordinances and other applicable ordinances.

Site plan, preliminary, means a detailed plan, normally associated with rezoning and use permit requests, which is drawn to scale and reflects the various requirements of state law and of city ordinances. A preliminary site plan must be drawn to scale and shall contain information listed for such a plan as prescribed by the community development department.

Skywalk means an elevated, grade separated pedestrian walkway or bridge located over a public right-of-way.

Special event.

(1)

The term "special event" means an event or happening organized by any person or organization which will generate or invite considerable public participation and spectators for a particular and limited purpose of time including, but not limited to:

a.

Special sales and service promotions;

b.

Car shows;

c.

Arts and crafts shows;

d.

Horse shows;

e.

Carnivals, festivals, exhibitions, circuses and fairs;

f.

Show houses; and

g.

Tours of homes for charity.

(2)

Special events are not limited to those events conducted on the public streets but may occur entirely on private property.

(3)

Special events may be for profit or nonprofit.

(4)

Special events which will occur in the public right-of-way, such as roadway footraces, fundraising walks, bike-a-thons, parades, etc., are subject to the approval of the city police department.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic regions, buttocks, or female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

Spill light means the light that illuminates surfaces beyond the intended area of illumination caused by the uncontrolled direct light component from the luminaires.

Stadium means a large open or enclosed structure used for sports and other major events and partly or completely surrounded by tiers of seats for spectators.

Story.

- (1) The term "story" means a portion of a building between the surface of any floor and the floor or space above it;
- (2) The term "story" does not include basements and attics.

Story, half, means a heated and finished area below a roof, one or more of the vertical walls of which are less than normal ceiling height for the building.

Street means a roadway/right-of-way located and intended for vehicular traffic. Streets may be public or they may be private if specifically approved by the community development department as part of a subdivision plat or approved through the privatization process.

- (1) *Public streets* means rights-of-way used for access owned and maintained by the federal, state, or local government.
- (2) *Private streets* means roadways and parallel sidewalks similar to and having the same function as a public street, providing vehicular and pedestrian access to more than one property, but held in private ownership (as distinct from a driveway). Private streets are constructed to city standards but owned and maintained by a private entity. Necessary easements for ingress and egress for police, fire, emergency vehicles and all operating utilities shall be provided. Should the city ever be petitioned to assume ownership and maintenance of the private streets prior to dedication of the streets, they must be brought to acceptable city standards subject to the approval of the director of public works.
- (3) *Stub-out streets* means streets having one end open to traffic and being temporarily terminated at the other. Stub-outs generally do not have, but may be required to have, a temporary vehicular turnaround. This temporary termination is to provide connectivity to future developments and may be constructed without curb and gutter provided such stub-out street meets the standards of the fire department.
- (4) *Driveway* means a vehicular access way in private ownership, other than a private street, which provides access primarily to only one property or project, or to no more than three single-family detached residences.
- (5) *Roadway.*

- a. The term "roadway" means the paved or graveled portion of a street from back of curb to back of curb (or edge of pavement to edge of pavement for streets not having curbs).
- b. The term "roadway" does not include driveway aprons, bridges, and large single and multi-cell culverts which in a hydrologic sense can be considered to function as a bridge.

(6)

Freeway means any multi-lane roadway having full access control and separation of directional traffic. A freeway accommodates large volumes of high speed traffic and provides efficient movement of vehicular traffic for interstate and major through travel.

(7)

Principal arterial means any roadway that has partial or no access control and is primarily used for fast or heavy traffic. Emphasis is placed on mobility rather than access to adjacent land.

(8)

Minor arterial means any roadway that has partial or no access control and is primarily used for interconnectivity of major arterials and places more emphasis on access to adjacent land over mobility than principal arterials.

(9)

Collector road means any roadway that has partial or no access control and has more emphasis on access to adjacent land over mobility than arterials. The primary purpose is to distribute trips to and from the arterial system to their destination points and allow access to the local roads.

(10)

Local road means any roadway that has no access control and places strong emphasis on access to adjacent land over mobility while service to through traffic is discouraged.

(11)

Full access control means that preference is given to through traffic by providing access connections only with selected public roads and by prohibiting crossing at grade and direct private connections.

(12)

Partial access control means that preference is given to through traffic to a degree that in addition to connection with selected public roads, there may be some crossing at grade and some private connections.

(13)

No access control means that preference is generally given to access to adjacent land rather than mobility.

Structure.

(1)

The term "structure" means anything built or constructed which occupies a location on, or is attached to, the ground.

(2)

The term "structure" does not include:

- a. Driveways;
- b. Surface parking lots;

- c. Patios; and
- d. Similar paved surfaces.

Structure, accessory, means a subordinate structure, customarily incidental to a principal structure or use and located on the same lot.

- (1) Examples of accessory structures in single-family dwelling districts include outbuildings, such as, tool sheds, woodsheds, workshops, outdoor kitchens, pool houses, gazebos, guesthouses, storage sheds, detached garages and detached carports, etc.
- (2) The term "accessory structure" does not include:
 - a. Fences and retaining walls;
 - b. Driveways;
 - c. Surface parking lots;
 - d. Patios, and similar paved surfaces.

Structure, principal, means a structure in which the principal use or purpose on a property occurs, and to which all other structures on the property are subordinate. The term "principal" is synonymous with the terms "main" and "primary."

Subdivision means the division of land into two or more lots. The term "subdivision" also means a development consisting of subdivided lots.

Surface, all-weather, means any surface treatment, including gravel, which is applied to and maintained:

- (1) So as to prevent:
 - a. Erosion;
 - b. Vehicle wheels from making direct contact with soil, sod or mud; and
- (2) Which effectively prevents the depositing of soil, sod or mud onto streets from areas required to be so treated.

Swimming pool, private, means a recreation facility designed and intended for water contact activities which serves single-family dwellings, duplex dwellings and multifamily dwellings, or combinations of dwelling types, including pools which are owned and controlled by a neighborhood club or similar organization.

Swimming pool, public, means a recreation facility designed and intended for water contact activities which is operated as a business or as a club unless such club is associated with a neighborhood club or similar organization.

Tattoo and Body Art or Piercing establishment means any establishment whose principal business activity, either in terms of operation or as held out to the public, is performing the practice of physical body adornment by using the techniques of body piercing and tattooing. For the purposes of this code, the definition does not include ear piercing or body painting with pigments that are temporary in nature.

Tenant panels means an on-premises sign panel that lists the name of tenants within a shopping center or development which the primary sign identifies.

Theater means a building or area designed primarily for showing performing arts or motion pictures.

Thoroughfare, major, means any street which is classified in the transportation element of the comprehensive plan as either a freeway, an arterial or a major collector.

Thoroughfare, minor, means any street which is classified in the transportation element of the comprehensive plan as a minor collector or local street.

Tinsmithing shop means an establishment wherein tin ware, sheet metal or other light metals are formed or repaired.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers and monopoles but not alternative antenna support structures.

(1)

The term "tower" includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and the like.

(2)

The term "tower" does not include amateur radio antenna.

Transfer station means a facility used to transfer solid waste from one transportation vehicle to another for transportation to a disposal facility or processing operation.

Transmission line means a pipeline other than a gathering line that:

(1)

Transports fuel oil/liquid petroleum product from a gathering line or storage facility (tank farm) to a distribution center or storage facility (tank farm); or

(2)

Transports fuel oil/liquid petroleum product within a storage field.

Trespass light means the off-site spill light that illuminates beyond the property boundaries in which the light fixture is installed, where it is neither wanted nor needed.

Truck terminal means a primary use of property where trucks/trailers are either temporarily stored, maintained or based. Trucks/trailers shall have current registration and license plates with decal. (Permitted M-2 heavy industrial district.)

Use means the purpose or function arranged or intended for a structure or property.

Use, accessory, means a subordinate use which is customarily incidental to the principal use of a lot, and which is located on the same lot as a principal use.

Use permit means a permit approved by the city council, pursuant to a public hearing, which authorizes a use which must meet certain standards which exceed the requirements of the district as-a-whole.

Use, principal, means the primary or main purpose or function of a lot or structure. The term "principal" is synonymous with the terms "main" and "primary."

Variance.

(1)

Administrative minor variance means a variance to the minimum district yard requirements of not more than one foot, granted administratively by the director of community development.

(2)

Administrative variance means a request:

a.

For relief from the standards contained in article XVII, development regulations;

b.

To reduce the ten-foot improvement setback adjacent to buffers; or

c.

For a ten percent reduction of parking spaces as required in Section 64-1413

(3)

Concurrent variance means a request for a primary variance concurrently with a rezoning petition, modification or use permit.

(4)

Minor variance means an application requesting deviation from the minimum yard requirements, not to exceed ten percent of the dimensional requirements.

(5)

Primary variance means an application requesting relief from the standards of the zoning ordinance, except relief from use, minimum lot area, or minimum lot frontage.

(6)

Secondary variance means an appeal of a decision or action of a department director authorized to hear a variance request or interpretation of this zoning ordinance.

Vegetative screen means an evergreen planting which, within three years of planting, provides a 100 percent visual barrier between a lot and adjacent lots and uses with a minimum height of six feet. A vegetative screen is composed of plant materials.

Vehicle, junk or salvage, means any automobile, truck or other vehicle which is missing one of the following:

(1)

Current registration;

(2)

License plate with current decal;

(3)

Proof of liability insurance; and

(4)

Drivetrain component for more than 30 days.

Veterinary clinic/hospital means a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Video Arcade means any building structure or place where there are operated more than fifteen coin-operated or self-service bona fide amusement games as that term is defined in O.C.G.A. ss 16-12-35(d).

Waste means materials that are discarded, disposed of or no longer usable.

Waste disposal boundary means the limit of all waste disposal areas, appurtenances, and ancillary activities including, but not limited to:

(1)

Internal access roads; and

(2)

Drainage control devices.

Waste, hazardous. See Georgia Department of Natural Resources definition.

Waste, solid. See Georgia Department of Natural Resources definition.

Yard means a land area extending between a structure and a lot line.

Yard, front, means a yard abutting any street except the side street on a corner lot. Front yards extend the entire length of an abutting street from intersecting lot line to intersecting lot line. The front yard of corner lots shall be applied to the street which abuts the lot for the shortest distance.

Yard, minimum, means the minimum distance between a building or specified structure and a lot line as specified in the district regulations.

Yard, rear, means the minimum required distance between the rear lot line and a structure. True triangular lots do not have rear yards. Lots with more than one front lot line do not have rear yards. The director of community development or his or her designee shall make the final determination of rear yards when in dispute or undefined by this definition.

Yard, side, means a yard which is not a front or rear yard.

Zero lot line means the location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line, such as "patio homes" or "townhouses."

Zoning conditions means the requirements placed on property by the city council at the time of approval of a rezoning and use permit.

Zoning modification means an application to change approved zoning conditions on rezonings and use permits where it has been determined by the director of community development that the requested change involves a matter of significant public interest.