



## PLANNING COMMISSION AGENDA

Tuesday October 28, 2008, 7:00 pm

Agenda Item	Description	Meeting Dates**	Staff Recommendation	PC Recommendation
I. INVOCATION				
II. CALL TO ORDER				
III. PLEDGE OF ALLEGIANCE				
IV. PUBLIC COMMENT				
V. Approval of Minutes	Minutes from the September 23, 2008 Planning Commission Meeting		Approval	
VI. Use Permits	To obtain a use permit for a landscaping business on 3.75 acres with a 2,500 sq. ft. office, 2,000 sq. ft. pole barn, and storage for mulch at a density of 666.66 sq. ft. per acre (Article 19.4.27).		Approval Conditional	
VII. Text Amendments New				
A. RZ08-11	Text Amendment to Article 3 of the City of Milton Zoning Ordinance Definitions		Approval Conditional	
VIII. Text Amendments Deferred				
A. RZ08-09	Text Amendment to Article 22 of the City of Milton Zoning Ordinance, Appeals		Approval Conditional	
IV. Courtesy Review				
	Chapter 14 of the Code of Ordinances of the City of Milton – Land Development and Environmental Protection			
IV. Adjourn				

\*\*Meeting Codes: CZIM-Community Zoning Information Meeting; DRB-Design Review Board; PC-Planning Commission; MCC-Mayor and City Council

**PROJECT NAME**

Extreme Mulch

<b>PROPERTY INFORMATION</b>	
<b>ADDRESS</b>	13365 Arnold Mill Road
<b>DISTRICT, LAND LOT</b>	2/2, 945
<b>OVERLAY DISTRICT</b>	Northwest Fulton Overlay
<b>EXISTING ZONING</b>	AG-1
<b>PROPOSED ZONING</b>	AG-1
<b>ACRES</b>	3.75
<b>EXISTING USE</b>	Office building and pole barn
<b>PROPOSED USE</b>	Use Permit for Landscaping Business

**OWNER ADDRESS** Henry J. Yarbrough  
271 Yellow Creek Road  
Ball Ground, Georgia 30107

**PETITIONER/REPRESENTATIVE ADDRESS** Extreme Mulch, Jeremiah Smith  
13365 Arnold Mill Road  
Milton, Georgia 30075

**PHONE** 770-362-2504

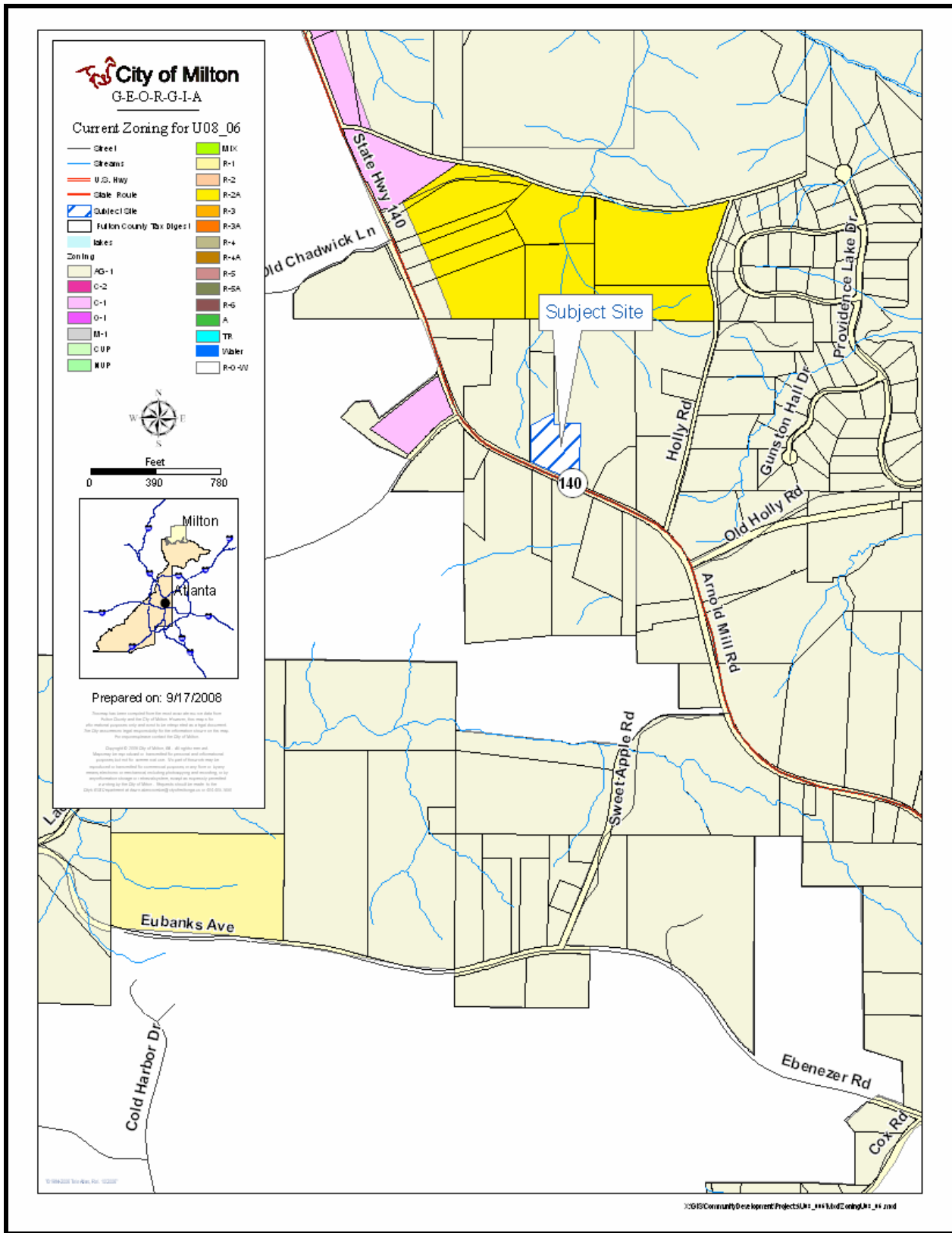
**INTENT**

To obtain a use permit for a landscaping business on 3.75 acres with a 2,500 sq. ft. office, 2,000 sq. ft. pole barn, and storage for mulch at a density of 1,200 sq. ft. per acre (Article 19.4.27).

**COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION**

**U08-06 – APPROVAL CONDITIONAL**

# LOCATION MAP/ZONING MAP

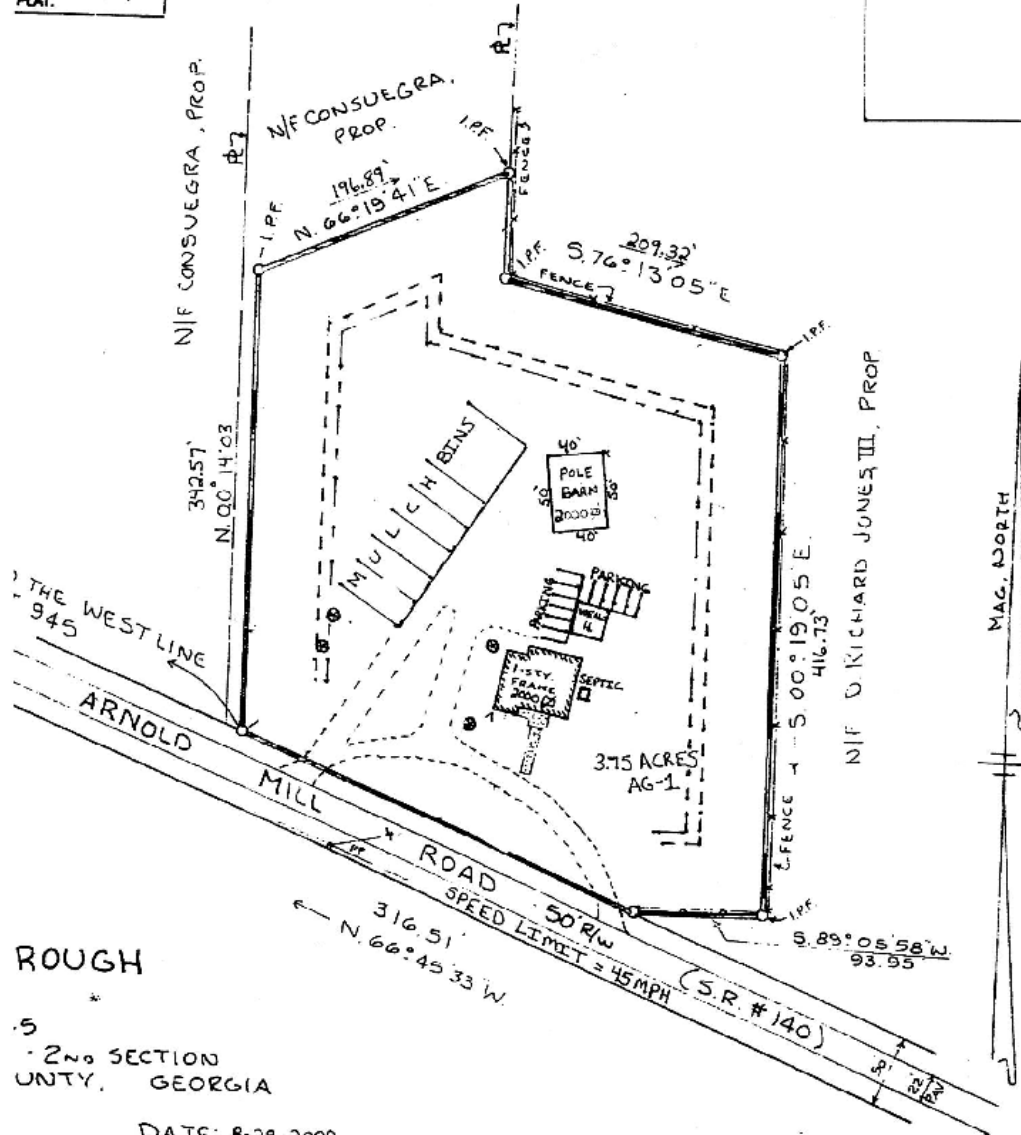


Prepared by the Community Development Department for the  
Planning Commission Meeting on October 28, 2008

THE LINEAR AND ITS USED IN THE PLAT.

**LEGEND**

- - - - 50' BUFFER
- - - - DRIVE WAY
- ⊙ LARGE OAKS
- - - - 10' LANDSCAPE STRIP



ROUGH

5  
- 2nd SECTION  
UNTY, GEORGIA

DATE: 8-28-2008



ASSOCIATES  
TTA HWY., SUITE A-1  
300 76

32

RECEIVED

SEP 04 2008

U08-06

**FLOOD HAZARD NOTE:** This property is not contained within the limits of a flood-hazard area as defined by the U. S. Dept. of Housing and Urban Dev. and/or U.S. Army Corps of Engineers.

**SITE PLAN - September 4, 2008**

Prepared by the Community Development Department for the Planning Commission Meeting on October 28, 2008



**SUBJECT SITE INTERIOR TO THE SITE**



**SUBJECT SITE LOOKING EAST TOWARD THE SITE**

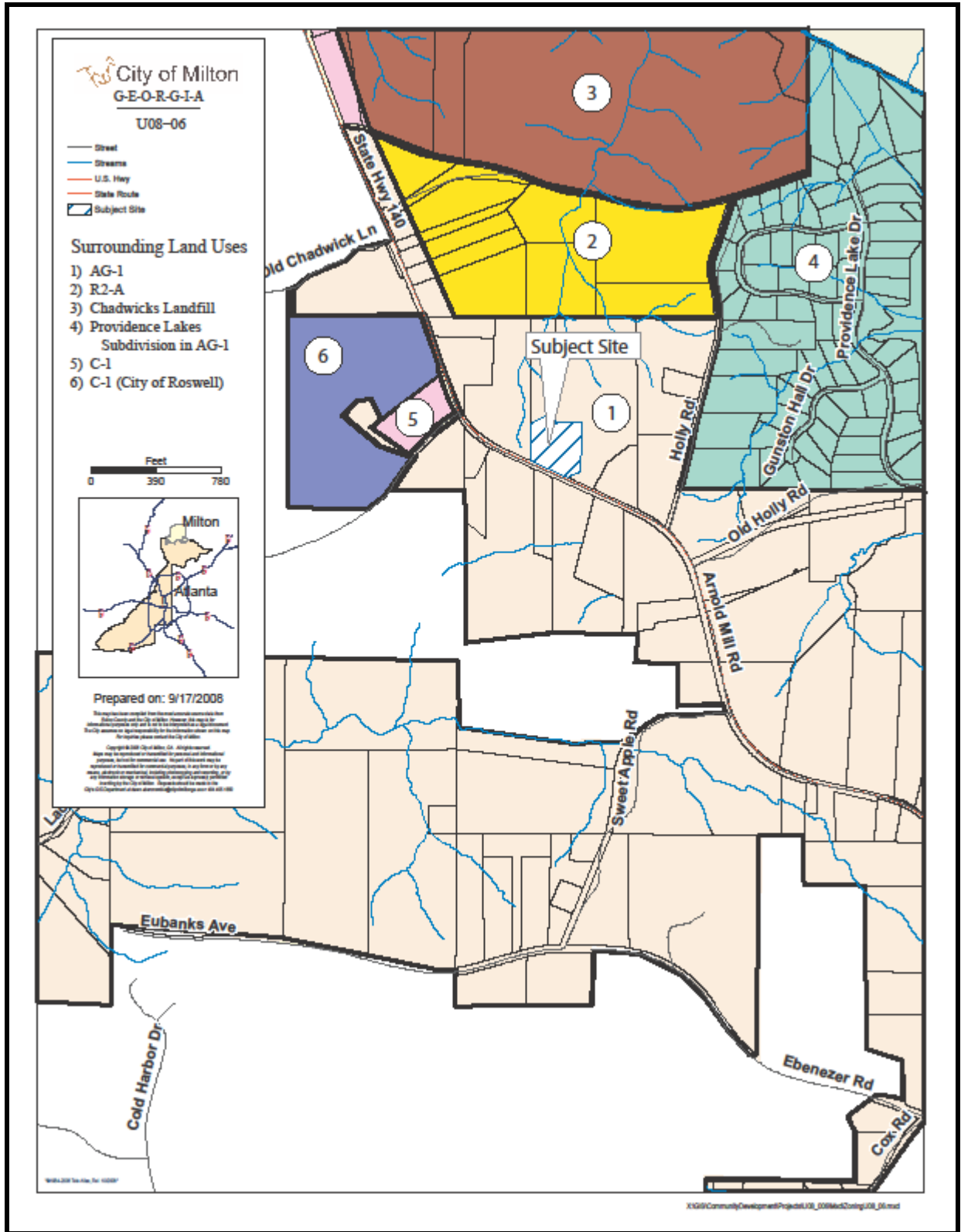
**SUBJECT SITE:**

The subject site is a 3.75 acre tract of agriculturally zoned land, located on the northern side of Arnold Mill Road. The subject site is developed with a 2,500 sq. ft. office and a 2,000 sq. ft. pole barn. It is located within the Agricultural, Forestry and Mining Land Use designation on the Focus Fulton 2025 Comprehensive Land Use Plan.

Existing uses and zoning of nearby property (See Map following table)

Location	Parcel / Zoning Petition	Zoning / Name	Approved Density/Min. Heated Floor Area
North, East, South, & West	1	AG-1 (Agricultural) Scattered Single Family Residences/Farms	1 unit/acre
North	2	R-2A (Residential) Z73-99	1 unit/acre
Further North	3	Single Family Residence AG-1 (Agricultural) U01-27 Use Permit for Inert Landfill (Chadwicks)	N/A
Further East	4	AG-1 (Agricultural) Providence Lakes Subdivision	1 unit/acre
West	5	C-1 (Community Business) Gunby Construction Office	21,175 sq.ft. / 5,293 sq.ft per acre
Northwest	6	C-1 (Community Business) (City of Roswell)	7,000 sq.ft. / 290.46 sq.ft. per acre

# EXISTING USES AND ZONING MAP



Prepared by the Community Development Department for the  
 Planning Commission Meeting on October 28, 2008

In the interest of the public health, safety and welfare, the Mayor and City Council may exercise limited discretion in evaluating the site proposed for a use that requires a Use Permit. In exercising such discretion pertaining to the subject use, the Mayor and City Council shall consider each of the following as outlined in Article 19.2.4 of the Zoning Ordinance; Use Permit Considerations. Staff has reviewed said items pertaining to the subject use, and, offers the following comments:

**A. Whether the proposed use is consistent with the land use or economic development plans adopted by the Mayor and City Council:**

Provided the applicant complies with the Recommended Conditions of this petition and the Use Permit requirements of Article 19.4.27 of the Zoning Ordinance, the proposed development is consistent with the intent and following policies of the Comprehensive Plan:

- Encourage compatible institutional uses in neighborhoods and communities.
- Encourage development consistent with the surrounding scale, transition of densities and uses, and Comprehensive Plan policies, where appropriate.

**B. Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;**

If developed in accordance with Staff's Recommended Conditions and the provisions of the Zoning Ordinance, the proposed landscape business is expected to be compatible with other land uses in the surrounding area.

**C. Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;**

The proposed use does not violate any known local, state and/or federal statutes, ordinances or regulations governing land development.

**D. The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;**

The proposed use will not generate a significant increase in traffic.

**E. The location and number of off-street parking spaces;**

Article 18.2.1 requires the applicant to provide a minimum of 3 parking spaces per 1,000 square feet of office space. Article 19.4.10 requires the applicant to locate parking outside of the minimum 60-foot front yard

building setback. The applicant's site plan indicates 12 parking spaces which meets the requirements set out by Article 18.2.1 and is located outside the 60-foot front yard building setback.

**F. The amount and location of open space;**

The applicant's site plan indicates that approximately one-half of the subject site is undeveloped. Staff is of the opinion that the proposed development will provide adequate open space for the proposed development.

**G. Protective screening;**

If developed in accordance with the requirements of the Zoning Ordinance and the Northwest Fulton Overlay District, the buffer and landscape strip requirements and the existing screening around the structures will provide adequate screening for the proposed development.

**H. Hours and manner of operation;**

The applicant states that the hours of operation are from 7:00am to 5:00pm. The applicant notes that the company does not sell mulch to the general public as it is a delivery and install company only.

**I. Streetscape lighting;**

At the time of Land Disturbance Permit the site shall be in compliance with Article 12H.3.4 of the Northwest Fulton Overlay District regarding outdoor lighting. Staff notes that the subject site's required buffers, and existing screening, will help mitigate the impact of any possible lights on the adjacent properties.

**J. Ingress and egress to the property.**

The applicant's site plan indicates two curb cuts on Arnold Mill Road. Staff notes that one of these curb cuts will be eliminated and re-aligned to meet site distance requirements. Given the limited use of the subject site, Staff is of the opinion that the proposed development will have limited impact upon the community.

## **SITE PLAN ANALYSIS**

Based on the applicant's site plan submitted to the Community Development Department on September 4, 2008, Staff offers the following considerations:

## Northwest Fulton Overlay District

### BUILDING SETBACKS

Article 12H.3.5 Section C.2 of the Northwest Overlay District requires a maximum 30-foot building setback from the edge of the required landscape strip and/or easements for all properties and lots located adjacent to public rights-of-way and from 0 to 400 feet from an intersection. In Staff's opinion, it appears that the applicant has met this requirement. The existing buildings are non-conforming existing structures. There are no additional new structures proposed on the site.

### BUILDING HEIGHT

Article 12H.3.5 Section D.1 of the Northwest Fulton Overlay District requires a maximum height limit of two stories with the maximum height 30 feet from average-finished grade to the bottom of the roof eave. It appears that the applicant meets this requirement.

### LANDSCAPE STRIPS AND BUFFERS

Article 12H.3.1 Section A.1 states that all properties shall provide a minimum 10 foot-wide landscape strip along all public streets, and it appears that there is sufficient room for the applicant has met this requirement. Furthermore, Article 12H.3.1 Section C.1. of the Northwest Fulton Overlay District requires a fifty (50) foot-wide undisturbed buffer, with a 10' improvement setback, which shall be located adjacent to all AG-1 zoning districts and all property zoned, used, or developed for residential uses. In Staff's opinion, it appears that the applicant has met this requirement.

### PARKING REQUIREMENTS

The following chart illustrates the parking required by Article 18 of the City of Milton Zoning Ordinance for the proposed use:

<b>Proposed Use</b>	<b>Minimum Requirement</b>	<b>Spaces Provided</b>
• General Office (2,500 sq. ft.)	• 3 spaces per 1,000 sq. ft. of building area. (8 spaces)	• 12 spaces
<b>Total</b>	<b>8 spaces required</b>	<b>12 spaces provided</b>

Staff notes that the applicant is providing twelve (12) parking spaces, which meets the required eight (8) parking spaces required per Article 18 of the City of Milton Zoning Ordinance. It also appears that the site plan is in compliance with the landscape and layout requirements of Article 12H(2).4. Section B.6.

## OTHER CONSIDERATIONS

### **Arborist**

Existing operation sells mulch by the truckload. Previous use was paving company. Areas of buffers are sparsely vegetated. Three specimen trees located, one of which is in long term decline, most likely due to activities near the tree over the years. Two other specimens were noted to be in fair to better health though some structural defects. Specimens noted are out of any area of disturbance, the drives located near the trees already existed. I would suggest fertilization/maintenance program on the two specimen trees.

The applicant has stated that he intends to keep all specimen trees on subject site.

27" White Oak in Decline  
47" White Oak  
40" White Oak

## PUBLIC INVOLVEMENT

On September 24, 2008 the applicant was present at the Community Zoning Information Meeting held at the Milton City Hall. There was one nearby property owner at the meeting. She was in favor of the proposed landscaping business. The applicants will be presenting their plan to the Milton Design Review Board on October 7, 2008.

Public Comments – Staff has received one e-mail from a nearby resident in Providence Lakes Subdivision which is attached to this report.

### City of Milton Design Review Board Meeting – October 7, 2008

The DRB had no comments about this development.

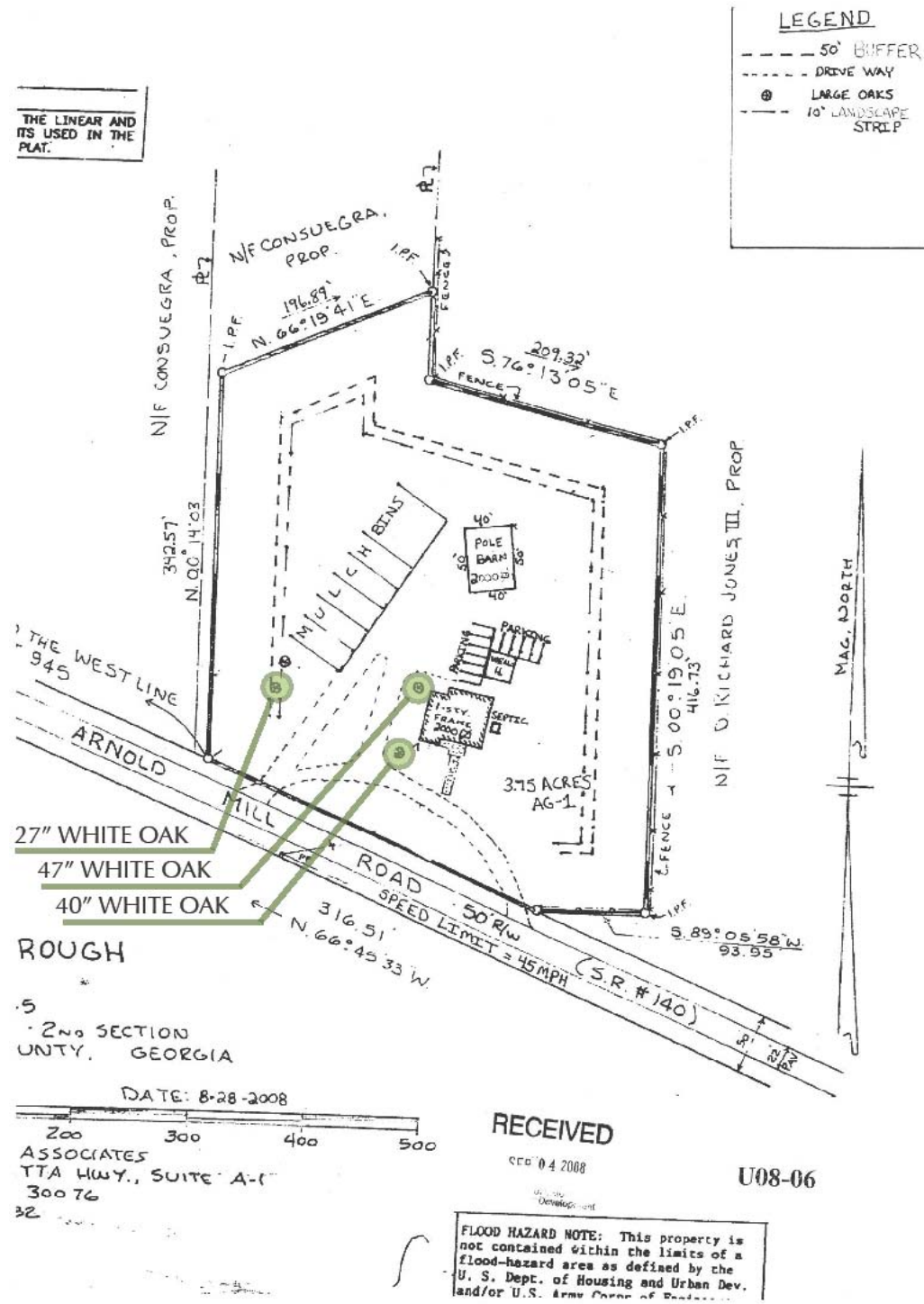
### Public Notice Requirements

The Community Zoning Information Meeting was advertised in the Milton Herald on September 10, 2008 and the sign was installed before the required date of September 19, 2008 along the frontage of Arnold Mill Road. The notice of Community Zoning Information Meeting was sent, to adjacent property owners, on September 10, 2008.

### Public Participation Plan and Report

The applicant has met the requirements of the Public Participation Plan. The applicant will be required to submit the public participation report 7 business

days prior to the Planning Commission meeting and an update 7 business days prior to the Mayor and City Council meeting.



**SPECIMEN TREE LOCATION MAP**

Prepared by the Community Development Department for the Planning Commission Meeting on October 28, 2008

## CONCLUSION

The proposed landscape business is consistent with Council and Plan Policies and compatible with the surrounding area, if developed in accordance with the requirements of the Zoning Ordinance and Staff's Recommended Conditions. Therefore, Staff recommends **APPROVAL CONDITIONAL** of the proposed Use Permit for a landscape business.



## RECOMMENDED CONDITIONS

If this petition is approved by the Mayor and City Council, it should be approved USE PERMIT for a landscape business (Article 19.4.27.) CONDITIONAL subject to the owner's agreement to the following enumerated conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Mayor and City Council.

- 1) To the owner's agreement to restrict the use of the subject property as follows:
  - a) Landscape business within the existing house and pole barn at a density of 1,200 square feet per acre or 4,500 square feet which ever is less.
- 2) To the owner's agreement to abide by the following:
  - a) To the site plan received by the Milton Community Development Department on September 4, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
- 3) To the owner's agreement to abide by the following requirements, dedication and improvements:
  - a) No more than one (1) exit/entrance on Arnold Mill Road (SR 140). Curb cut location and alignment are subject to the approval of the Milton Traffic Engineer and the Georgia Department of Transportation.
  - b) Reserve Right-of-Way necessary along the following roadways, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide for compliance with the Transportation Master Plan and the adjacent developments, according to the definitions in the newly established Right-of-Way Ordinance.
  - c) Dedicate at no cost to the City of Milton prior to the approval of a Land Disturbance Permit or Certificate of Occupancy (whichever comes first), sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to the City of Milton such additional right-or-way as may be required to:

- (i) Provide at least 10.5 feet of right-of-way from the back of curb/edge of pavement of all abutting road improvements, along the entire property frontage, as well as allow the necessary construction easements while the rights-of-way are being improved.
  - d) Driveway entrance shall meet the Public Works Department Policies and AASHTO guidelines.
  - e) Provide turn lanes as required by the Georgia Department of Transportation.
- 4) To the owner's agreement to abide by the following:
  - a) The developer's Professional Engineer shall demonstrate to the City by engineering analysis submitted with the LDP application (should greater than 5000 square feet be disturbed), that the discharge rate and velocity of the storm water runoff resulting from the development is restricted to seventy-five percent (75%) of the pre-development conditions. Locations shall be as approved by the Stormwater Engineer.
  - b) The proposed development shall utilize vegetative measures for water quality. Individual Land Disturbance Permits/Building Permits are strongly encouraged to utilize GASWCC limited application controls such as infiltration trenches, porous surfaces, rain gardens, etc. A maintenance agreement is required to be recorded for such item used.

**MacDonald, Robyn**

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**From:** paulh7@comcast.net  
**Sent:** Wednesday, September 24, 2008 3:08 PM  
**To:** MacDonald, Robyn  
**Subject:** case # U08-06-13365 Arnold Mill rd

I am writing to give input re the above listed case. I live in Providence lake subdivision and am an adjacent property owner as part of Providence lake. I strongly oppose granting a use permit for a landscape business at this location for the following reasons. 1. This property is zoned AG1 and this is a commercial business. Commercial businesses need to be in commercial zoning. 2. The Hwy 140 corridor has been designated by the CPAC committee as a gateway entrance to the city. In my opinion, this gateway needs to present well as an entry point to the City of Milton. A well designed residential area with perhaps a park or golf course at the sight of the current land fill [when it's life is complete] would represent the mission of the city of Milton nicely. Allowing commercial businesses here and there in this developing area is not responsible planning. Sincerely, Paul Hackman

--  
Paul Hackman  
13425 Providence Lake Dr  
Milton, Ca 94504  
770 639 0668

**U08-06**

9/25/2008

**ARTICLE III**

**DEFINITIONS**

3.1. **SCOPE**

Words not defined herein shall be construed to have the meaning given by Merriam-Webster's Collegiate Dictionary, eleventh~~tenth~~ edition or later edition. ~~(Amended 06/04/03)~~

3.2. **USE AND INTERPRETATION**

The following shall apply to the use of all words in this Ordinance~~Resolution~~:

- a. Words used in the present tense shall include the future tense.
- b. Words used in the singular shall include the plural and vice versa.
- c. The word **shall** is mandatory.
- d. The word **may** is permissive.
- e. The nouns **zone, zoning district** and **district** have the same meaning and refer to the Zoning Districts established by this ~~Resolution~~Ordinance.
- f. The phrase **used for** shall include the phrases **arranged for, designed for, intended for, maintained for** and **occupied for**.

3.3. **DEFINITIONS**

**3.3.1. A**

Accessory Site Feature. Mechanical, electrical and ancillary equipment, cooling towers, mechanical penthouses, heating and air conditioning units and/or 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. (Added 06/04/03)

Adjoin. To have a common border with. Adjoin may also mean coterminous, contiguous, abutting and adjacent.

Administrative Minor Variance. A variance to the minimum district yard requirements of not more than 1 foot, granted administratively by the Director of ~~the Department of Environment and~~ Community Development. (Added 06/02/99)

Administrative Modification. 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 ~~the Department of Environment and~~ Community Development. (Added 06/02/99)

Administrative Variance. A request for relief from: 1) the standards contained in Article 34, Development Regulations, 2) a request to reduce the 10 foot improvement setback adjacent to buffers or 3) a request for 10% reduction of parking spaces as required in Article 18.2.4.(Added 06/02/99)

Adult Bookstore (Added 06/05/96, Amended 06/04/03). An establishment or facility licensed to do business in Fulton County having a minimum of 25% of its stock in trade, for any form of consideration, any one or more of the following materials:

- (i) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, 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
- (ii) 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. 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,
- (4) or acts 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. (Added 7/1/92)

Adult Entertainment Establishment (Added 7/1/92, Amended 06/04/03). Any establishment or facility licensed to do business in Fulton County where adult entertainment is regularly sponsored, allowed, encouraged, condoned, presented, sold, or offered to the public. This definition shall 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% of all performances or showings.

Alternative Antenna Support Structure. Clock towers, campaniles, free standing steeples, light structures and other alternative designed support structures that camouflage or conceal antennas as an architectural or natural feature. (Added 3/5/97, Amended 5/7/97, 7/7/99, 05/17/06)

Amateur Radio Antenna. Radio communication facility that is an accessory structure to a single family residential dwelling operated for non-commercial purposes by a Federal Communication Commission licensed amateur radio operator. The term antenna shall include both the electronic system and any structures it is affixed to for primary support. (Added 07/07/93)

Antenna. Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves. (Added 3/5/97)

Apartment. A building which contains three or more dwelling units either attached to the side, above or below another unit. Apartment may also refer to a dwelling unit attached to a non-residential building. (See Dwelling, Multi-Family) (Amended 07/07/99)

Appeal. A request for relief from a decision made by the Director of ~~the Department of Environment and Community Development~~, other department directors, the Board of Zoning Appeals, and/or the ~~Board of Commissioners~~Council. (Added 06/02/99)

Applicable Wall Area. 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. (Added 09/01/99)

Attic. An unheated storage area located immediately below the roof.

~~Authorized Agent. Zoning Department will provide.~~

Automotive Garage. 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. The repair of heavy trucks, equipment and automobile body work shall not be included in this use. The outside storage of unlicensed and unregistered vehicle is prohibited as part of this use. (See Auto Specialty Shop and Service Station) (Added 04/07/93)

Automotive Specialty Shop. A use which provides one or more specialized repair sales and/or 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. No use authorized herein shall permit any private or commercial activity which involves auto/truck leasing, painting, repair or alteration of the auto body, nor shall any repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or cooling system be permitted, except that minor tune-up involving the changing of spark plugs, points or condenser, including engine block oil changes, are permitted. (See Repair 3.3.18 and Service Station 3.3.19) (Added 04/07/93) (Amended 02/07/01)

### 3.3.2.

### B

Babysitting. A service in which shelter, care, and supervision are provided for 4 or fewer children below the age of 12 on an irregular basis.

Banner. Any sign of lightweight fabric or similar material that is either with frame or without frame and hung or mounted to a pole, building or other background by one or more edges. Flags are not considered banners. (Added 09/01/99)

Basement. A level below a floor of a building with a minimum of one-half (1/2) of the total wall area below grade. A basement is not a story. The term basement is synonymous with **cellar**.

Beacon. 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. (Added 09/01/99)

Bed and Breakfast Inn. A residence in which the frequency and volume of visitors are incidental to the primary use as a private residence and where guest rooms 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 allowed in non-residential districts and permitted in AG-1 and TR with a Use Permit. (Added 06/01/94)

Berm. A planted earthen mound.

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

~~Board, Fulton County Board of Commissioners. (Added 09/01/04)~~

Boarding House. A residential use other than a hotel or motel in which lodging may be provided to non-household members and which includes the provision of meals. (Amended 5/6/92)

Brewpub. An accessory use to a permitted restaurant where distilled spirits, malt beverages or wines are licensed to sell and where beer or malt beverages are manufactured or brewed for consumption on the premise and solely in draft form (Added 2/7/96).

Buffer, State Waters. An area along the course of any State waters to be maintained in an undisturbed and natural condition.(Added 12/1/99)

Buffer, Tributary. 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. (Amended 12/1/99)

Buffer, Zoning. 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/or uses. A buffer is achieved with natural vegetation and must be replanted subject to the approval of the Director of ~~the Department of Environment and~~ Community Development or his/her designated agent(s) when sparsely vegetated. Clearing of undergrowth from a buffer is prohibited except when accomplished under the supervision of the Director of ~~the Department of Environment and~~ Community Development or his/her designated agent(s). (Added 12/1/99)

Buildable area. 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. That portion which is not located in the minimum setbacks, utility corridors, driveways, slopes to build streets, tree save areas, landscape strips, specimen tree areas, state water buffers, tributary buffers, zoning buffers, wetlands, storm water and sanitary sewer easements.(Amended 12/1/99)

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

**Business.** A use involving retailing, wholesaling, warehousing, outside storage, manufacturing or the delivery of services regardless of whether payment is involved. The term **Business** does not include uses which are customarily incidental (accessory) to another use.

**3.3.3.**

**C**

**Canopy.** A roof-like cover, excluding carports, that either projects from the wall of a building or is freestanding.

**Car Wash, Principal.** A primary or main use which provides space for cleaning vehicles. (Added 7/5/89)

**Car Wash, Accessory.** A customarily incidental use of an attached or detached bay for cleaning vehicles. (Added 7/5/89)

**Cellar.** See basement.

**Cemetery, Human.** The use of property as a burial place for human remains. Such a property may contain a mausoleum.

**Cemetery, Pet.** The use of property as a burial place for the remains of pets. Such a property may contain a mausoleum.

**Check cashing establishment.** Any establishment licensed by the State of Georgia pursuant to O.C.G.A. sections 7-1-700 et seq. (Added 10/02/02)

**Church, Temple or Place of Worship.** A facility in which persons regularly assemble for religious ceremonies. This shall include, 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.** [The City of Milton.](#)

**Clear Cutting.** The removal of all vegetation from a property, whether by cutting or other means, excluding stream buffer requirements.(Added 12/01/99)

**Clinic.** 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.** A non-profit social, educational or recreational use normally involving community centers, public swimming pools and/or courts, civic clubhouses, lodge halls, fraternal organizations, country clubs and similar facilities.

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

Commercial Amusement/Indoor. A use where recreational activity such as movie theaters, arcades, billiards, game rooms, sporting activities and other recreational amusements are conducted within a building. (Added 7/7/99)

Commercial Amusement/Outdoor. A use where recreational activity such as skating rinks, batting cages, miniature golf, drive-in theaters and other recreational activities or amusements that are conducted outside a building. (Added 7/7/99)

Composting. A processing operation for the treatment of vegetative matter into humus-like material that can be recycled as a soil fertilizer amendment such as trees, leaves and plant material. Organic animal waste, food, municipal sludge, solid waste, and other non-farm or vegetative type wastes are not included. (Added 11/03/93)

Condominium. A form of ownership as defined by State law in which common elements are jointly owned. A condominium is not a building type.

~~Conservation Subdivision.— A single family detached residential subdivision in which a minimum of 40 percent of the total land area is set aside as permanently protected open space as defined by Article VI of the Fulton County Subdivision Regulations. (Added 05/05/04)~~

Construction material. Building materials and rubble resulting from construction, remodeling, repair, and/or demolition operations on pavements, houses, commercial buildings and other structures. Such materials include, but are 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. (Added 12/01/99)

Convalescent Center/Nursing Home/Hospice. 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. This use shall not include hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. (Amended 7/7/99)

Convenience Store. 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, but in all cases excluding vehicle service, maintenance and repair.

Convenient location and time. Suitable time and easily accessible place for applicants to meet with interested parties to discuss rezoning and/or use permit petitions. (Added 09/01/04)

Council. The City of Milton Mayor and City Council.

Country Inn. A facility, with the owner or innkeepers residing on the premises, where guest rooms are made available for visitors for fewer than 30 consecutive days. A Country Inn is distinguished from a Bed and Breakfast category in that it serves both breakfast and lunch or dinner. (Amended 7/7/99)

Courtyard. An open air area, other than a yard, that is bounded by the walls of a building. Courtyards are used primarily for supplying pedestrian access, light, and air to the abutting building(s). Site furniture, lighting and landscaping are appropriate for courtyards. Vehicular access allowed for unloading and loading only. No vehicular parking or vehicular storage is allowed. (Added 03/03/04)

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

Cul-de-sac. A street having only one connection to another street, and is terminated by a vehicular turn-around.

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

Cutoff. 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 10 percent at a vertical angle of 80 degrees above nadir. (Added 05/05/04)

Cutoff Fixture. A luminaire light distribution where the candela per 1000 lamp lumens does not numerically exceed 25 (2.5 percent) at or above a vertical angle of 90 degrees above nadir, and 100 (10 percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire. (Added 02/01/06)

**3.3.4. D**

Day Care Facility. A use in which shelter, care, and supervision for (7) 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 shall include nursery school, kindergarten, early learning center, play school, pre-school, and Group Day Care Home.

Day Care Home, Family. See Family Day Care Home.

Day-Night Average Sound Level (DNL). The day-night average sound level (DNL) is the 24-hour average sound level, in decibels, obtained from the accumulation of all events with the addition of

10 decibels to sound levels in the night from 10 P.M. to 7 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). (Added 04/03/02)

Deck. A structure abutting a dwelling with no roof or walls except for visual partitions and railings not to exceed 42” above finished floor which is constructed on piers or a foundation above-grade for use as an outdoor living area. (Added 03/03/04)

Department. Department of ~~Environment and~~ Community Development. ~~(Added 09/01/04)~~

Department Director. The Community Development Director.

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Development, Duplex. A development of duplexes. (Added 06/04/03)

Development, Multifamily. A development of multifamily dwelling units on a single lot of record. (Amended 06/04/03)

Development of Regional Impact (DRI) Study. 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. (Added 09/01/04)

Development Permit Standards. Requirements established for each administrative and use permit such as setbacks, access, landscape and buffer areas, hours of operation etc. (Added 06/02/99)

Development, Single Family. A development of single family dwelling units, with each dwelling unit including accessory structures, on a separate lot of record. (Amended 06/04/03)

Development Standards. Dimensional measurements as specified in zoning districts relating to such standards as yard setbacks, lot area, lot frontage, lot width, height and floor area.(Added 06/02/99)

Development, Townhouse. A development of townhouse dwelling units. (Added 06/04/03)

Director. Director of ~~the Department of Environment and~~ Community Development. ~~(Added 09/01/04)~~

Distribution Line - a pipeline other than a gathering or transmission line.(Added 08/04/99)

District, Nonresidential. 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. 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. A facility which provides for the collection, removal and detention of surface water or groundwater from land by drains, water course or other means.

Drive-in/up Restaurant. A restaurant designed for customers to park and place and receive food orders while remaining in their motor vehicles. (Added 09/01/04)

Driveway. A vehicular access way.

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

Dwelling, Duplex. A structure that contains two dwelling units. (Added 06/04/03)

Dwelling, Multifamily. A structure containing three or more dwelling units not including townhouses, triplexes or quadruplexes. (Amended 06/04/03, 04/05/06)

Dwelling, Quadruplex. Four attached dwellings in one building in which each unit shares one or two walls with an adjoining unit or units. (Added 04/05/06)

Dwelling, Triplex. A building containing three dwelling units, each of which has direct access to the outside or to a common hall. (Added 04/05/06)

Dwelling Unit. One or more rooms constructed with cooking, sleeping and sanitary facilities designed for and limited to use as living quarters for one family. (Amended 06/04/03)

Dwelling Unit, Single Family. One dwelling unit that is not attached to any other dwelling unit by any means. (Added 06/04/03)

Dwelling Unit, Townhouse. 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. (Added 06/04/03)

### **3.3.5.**

### **E**

Environmentally Adverse. Any use or activity which poses a potential or immediate threat to the environment and/or is physically harmful or destructive to living beings as described in the Executive Order 12898 regarding Environmental Justice.(Added 02/07/01)

Environmentally Stressed Community. A community exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses. (Added 09/01/04)

**3.3.6.**

**F**

Family. Family means one or more persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, or up to 4 unrelated persons, occupying a dwelling unit and living as a single housekeeping unit, as distinguished from persons occupying a rooming, boarding or lodging house, or a hotel. (Amended 7/7/99)

Family Day Care Home. A **Home Occupation** in which shelter, care, and supervision are provided for 6 or fewer persons on a regular basis. A Family Day Care Home may provide basic educational instruction.

Farm. A parcel of land which is used for the raising of animals (including fish) on a commercial basis, such as ranching, dairy farming, piggeries, poultry farming and fish farming; a facility for the business of boarding or renting horses to the public; or 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. (Added 7/7/99)

Fast Food Restaurant. See Restaurant, Fast Food.

Flag Lot. 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 (Added 2/7/96).

Flood Lamp. 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. (Added 02/01/06)

Flood Light. 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. (Added 02/01/06)

Flood Plain Management Terms. The following definitions apply to Sections of the Zoning ~~Resolution~~ Ordinance on Flood Plain Management.

- 1) As-built drawings. 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 of Georgia.

- 2) Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year - the 100-year flood.
- 3) Base Flood Elevation (B.F.E.). The highest water surface elevation anticipated at any given point during the base flood.
- 4) Development. Any man-made 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). The Federal Agency which administers the National Flood Insurance Program. This agency prepares, revises and distributes the maps and studies adopted under Article IV, Section 24.
- 6) Flood or Flooding. 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. An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.
- 8) Flood Boundary and Floodway Map. An official map of ~~Fulton County~~the City on which FEMA has delineated the various flood boundaries, the floodway fringe, and the floodways.
- 9) Flood Fringe. That area contained by the flood boundaries exclusive of the regulatory floodway.
- 10) Flood Insurance Rate Map (FIRM). The official map of ~~Fulton County~~the City on which FEMA has delineated the risk premium zones.
- 11) Flood Insurance Study (FIS). A compilation of flood related data obtained from the flood studies for the unincorporated areas of ~~Fulton County~~the City of Milton, Georgia, prepared by FEMA.
- 12) Flood Plain. Lands subject to flooding, which have a one percent probability of flooding occurrence in any calendar year; the 100-year flood plain is shown on the Flood Boundary and Floodway Map. Also referred to as area of moderate Flood Hazard.
- 13) Flood Prone Area. 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 Department of Public Works to be a hazard to adjacent properties or development in the event of the base flood.

- 14) Flood Proofing. 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. A factor of safety usually expressed in feet above a flood level for purposes of flood plain management.
- 17) Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.
- 18) I.R.F. Elevation. See "Base Flood Elevation".
- 19) Lowest Floor. The lowest minimum floor including basement and attached garage.
- 20) Map. The Flood Boundary and Floodway Map or the Flood Insurance Rate Map.
- 21) Mean Sea Level. For purposes of Flood Plain Management, the National Geodetic Vertical Datum (NGVD) of 1929.
- 22) Mobile Home. See Mobile Home under "M" headings in main text of Definitions.
- 23) Mobile Home Park/Mobile Home Subdivision. 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. National Geodetic Vertical Datum.
- 25) New Structure. Any proposed structure which does (did) not have a valid building permit prior to the effective date of this (amendment) ~~resolution~~Ordinance. Note: This resolution was adopted on March 11, 1955. Records suggest that flood plain management provisions were first adopted on April 5, 1972.

- 26) Regulatory Floodway. 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. Relating to, formed by, or resembling a river (including tributaries), stream, or brook.
- 28) Special Flood Hazard Area. 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. 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. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways. Excavation for a basement, footings, piers or foundations, and the erection of temporary forms are not permanent forms of construction. The installation of accessory buildings, such as garages and sheds, apart from the main structure also fail to qualify as permanent construction.
- 30) Start of Construction. For any structure, **except mobile home**, which has no basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its park or mobile home subdivision. **For a mobile home**, "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.
- 31) State Coordinating Agency. The Flood Plain Management Coordinator of the Georgia Department of Natural Resources.
- 32) Structure. All walled and roofed buildings, storage tanks and other structural improvements located principally above ground.
- 33) Water Surface Elevation. The relationship between the projected heights and the NGVD reached by floods of various magnitudes and frequencies in the flood plains.

Floor Area, Gross. 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, **including** common public areas, such as lobbies, rest rooms and hallways, spaces devoted exclusively to permanent mechanical systems, permanent storage areas, stairwells, elevator shafts, but **excluding** internal parking and loading areas, attics, porches, balconies and other areas outside of the exterior walls of the building. 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. Commonly referred to as **Floor Area**. (Amended 7/5/89)

Floor Area, Ground. The heated floor area of the first story of a building above a basement or, if no basement, the lowest story.

Floor Area, Heated. The sum of all heated area of a dwelling or dwelling unit, as appropriate, measured to the inside surfaces of exterior walls, **excluding** porches, balconies, attics, basements (finished or unfinished), garages, patios and decks.

Floor Area, Net. The sum of all floors of a structure as measured to the outside surfaces of exterior walls, **excluding** halls, stairways, elevator shafts, attached and detached garages, porches, balconies, attics with less than 7 feet of headroom, basements, patios and decks are excluded.

Floor Area, Net Leasable. Gross floor area less the common public areas.

Foot-candle. 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. (Added 02/01/06)

Fuel Oil - 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 oil may be a distilled fraction of petroleum, a residuum from refinery operations, a crude petroleum, or a blend of two or more of these. (Added 08/04/99)

Full Cutoff. A luminaire light distribution where zero candela intensity occurs at or above an angle of 90 degrees above nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10 percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire. (Added 02/01/06)

Full Cutoff Fixture. An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture. (Added 02/01/06)

### 3.3.7.

## G

Garden Center. 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/or landscaping with an approved Use Permit for Landscaping Business, Plant Nursery, or Garden Center with Indoor Retail Component (Article 19.4.27). (Added 04/03/02)

Gathering Line - a pipeline that transports fuel oil/liquid petroleum product from a current production facility to a transmission line or main.(Added 08/04/99)

Glare. 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. (Added 02/04/04, Revised 02/01/06)

Golf Course. A use of land for playing the game of golf. The term shall not include miniature golf, but may include a Country Club and a driving range as an accessory use.

Governmental Facility. A building or institution provided by the government to care for a specified need, such as a courthouse or county jail. (Added 7/1/92)

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

Green space. 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 paragraph. (Added 04/03/02)

Group Residence for Children: A dwelling unit or facility in which full time residential care is provided for children under the age of 17 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. (Added 11/03/04)

Group Residence/Shelter. 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. For purposes of this ~~Resolution~~**Ordinance**, group residence/shelter shall not include those facilities which exclusively care for children under the age of 17. (Amended 7/7/99, 11/03/04)

Guest House. A detached accessory dwelling unit located on the same lot with a single-family dwelling unit. A guest house may be only used by relatives, guest or employees that work on the property without payment for rent (Amended 2/7/96).

### 3.3.8.

## H

Hardship. 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 the Zoning ~~Resolution~~**Ordinance**. (Added 06/02/99)

Height. 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.

~~Height, Sign. The elevation measured from grade level adjoining a sign to the highest point on the sign; except that when measuring a free standing sign, any part of which is located below the centerline of an adjoining street, said sign shall be measured from the elevation of the centerline of the road to the highest point on the sign, (as shown in Illustration XXXIII-1).~~

Historic period lighting. Commercial lighting with an architectural design from the late 19th and early 20th centuries. (Added 06/04/03)

Home Occupation. An accessory use of a dwelling unit for business, operated by members of the resident family only. (**See Article Section 4.12**) (Amended 12/4/91)

Home Schooling. The practice of teaching one's own children at home in accordance with Sections 20-2-690 and 20-2-690.1 of the Georgia Code. (Added 03/03/04)

Hoop Stress - a causation of internal and external pressure loading on the pipe.(Added 08/04/99)

Hospital. The provision of in-patient health care for people, including general medical and surgical services, psychiatric care and specialty medical facilities. Out-patient facilities are normally included.

Hotel/Motel. A building in which lodging and/or boarding is provided for fewer than 30 days. The term may include a restaurant in conjunction therewith and may also mean tourist court, motor lodge and inn.

Hotel, Apartment. 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.

**3.3.9.**

**I**

Identification Monument. ~~See Article 33, Signs.~~

IESNA. The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications. (Added 05/05/04, Revised 02/01/06)

Illuminance. The quantity of light arriving at a surface divided by the area of the illuminated surface, measured in foot-candles. Horizontal illuminance applies to a horizontal surface, vertical illuminance applies to a vertical surface. Average illuminance is the level of illuminance over an entire illuminated target area. Maximum illuminance is the highest level of illuminance on any point within the entire area; minimum illuminance is the lowest level of illuminance on any point within the entire area. (Added 02/01/06)

Illuminance Levels. Illuminance levels and foot candles noted in this ordinance mean the maintained illuminance levels; the illuminance levels occurring just prior to lamp replacement and luminaire cleaning. The average illuminance level applies to an entire illuminated target area. 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. (Added 02/01/06)

Illumination. Direct illumination is illumination which is projected from within a sign, building, etc.. Indirect illumination is illumination which is projected onto a sign, building, etc..

Improvement Setback. An area adjacent to a zoning buffer in which no improvements and/or 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 ~~the Environment and~~ Community Development ~~Department.~~(Added 12/1/99)

Institutional Use. Includes schools, colleges, vocational schools, hospitals, places of worship, asylums, museums, and other similar uses or facilities. (Added 7/1/92)

**3.3.10. J**

Junk Facility. See Salvage/Storage/Junk Facility.

**3.3.11. K**

Kennel. 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 non-business operation, its use may be certified by the Fulton County Animal Control Office. (Amended 04/06/94)

**3.3.12. L**

Lamp. The component of an outdoor luminaire that produces light. (Added 05/05/04)

Land Disturbance Permit. A permit issued by the ~~Department of Environment and~~ Community Development that authorizes the commencement of alteration or development of a given tract of land or the commencement of any land disturbing activity.(Amended 12/1/99).

Land Disturbing Activity. 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, clearing, dredging, grading, excavating, transporting and filling.

Landfill, Inert Waste Disposal. 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. Such waste is limited to earth and earth-like products, concrete, cured asphalt, rocks, bricks, yard trash, stumps, limbs and leaves. This definition excludes other types of industrial and demolition waste not specifically listed above. Refer to the rules concerning Solid Waste Management of the Georgia Department of Natural Resources, Environmental Protection Division, as amended, for further definition.(Amended 7/7/99)

Landfill, Solid Waste Disposal. A disposal facility accepting solid waste excluding hazardous waste disposed of by placing an earth cover thereon. 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.(Amended 7/7/99)

Landscape Strip. An area required by this ~~resolution~~Ordinance or by conditions of zoning which is reserved for the installation and/or maintenance of plant materials. (Amended 12/1/99)

Landscaping Business. A business whose primary operation is the sale and/or storage of organic and inorganic materials, plants, mulch, pine straw, and other limited related accessory products for the

landscape industry or the storage or use of associated landscape vehicles with an approved Use Permit for Landscaping Business, Plant Nursery, or Garden Center with Indoor Retail Component (Article 19.4.27). (Added 04/03/02) (Amended 4/28/08)

Large Scale Retail/Service Commercial Structure. 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. (Added 04/05/06)

Large Scale Retail/Service Commercial Development. A retail/service commercial development with at least one large scale retail structure but no more than four such structures whether freestanding or combined. (Added 04/05/06)

Lawful Use. Any use of lots or structure which is not in violation of any existing federal, state or local law, statute, regulation or ordinance. (Added 7/1/92)

Library. 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. (Added 7/1/92)

Light, Direct. Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of luminaire. (Added 02/04/04)

Light, Fully-shielded. 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. (Added 02/04/04)

Light, Indirect. Direct light that has been reflected or has scattered off of other surfaces. (Added 02/04/04)

Loading Space. 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. A facility allowed with a Use Permit which provides space, food and/or lodging facilities for social, educational or recreational purposes. (Amended 3/6/91, 7/7/99)

Lot. 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. Lot, tract and parcel are synonymous.

Lot, Corner. A Multiple Frontage Lot adjoining two streets at their intersection.

Lot Frontage. 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 ~~Development Services~~ Community Development shall determine the legal lot frontage. (Amended 11/03/93)

Lot line, front. 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. (Added 04/03/02)

Lot line, rear. Generally, the rear lot line is 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 twenty 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 Department of Environment and~~ Community Development or his/her designee shall make the final determination of rear lot lines when in dispute or undefined by this definition. (Added 04/03/02)

Lot line, side. A lot line which is not a rear or front lot line. (Added (04/03/02)

Lot Line/Property Line. 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, Multiple Frontage. Lots adjoining more than one street.

Lot, Nonconforming. See "Nonconforming Lot, Use or Structure".

Lot-of-Record. A lot, whether lawful or unlawful, which appears on a deed and/or plat recorded in the official records of the Clerk of Superior Court.

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

Luminaire. This is a complete lighting system and includes a lamp or lamps and a fixture. (Added 02/04/04)

Luminaire Height. The height of a luminaire shall be the vertical distance from the ground directly

below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.  
(Added 02/04/04)

### 3.3.13.

### M

Maintenance, Normal. The upkeep of a sign for the purpose of maintaining safety and appearance which may include painting, bulb replacement, panel replacement, letter replacement, repair of electrical components, and structural reinforcements to its original condition.(Added 09/01/99)

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building used for advertising or identification. (Added 09/01/99)

Massing. Varying the massing of a building may be achieved by varying the surface planes of the building with porches, balconies, bay windows, and/or overhangs, and/or stepping-back the buildings from the second floor and above, and/or breaking up the roofline with different elements to create smaller compositions. (Added 10/01/03)

Medical Related Lodging. A use which provides temporary lodging for family members of a hospitalized patient. (Added 12/4/91)

Mineral Extraction. Severance and/or removal of sand, stone, gravel, top soil, and other mineral resources whenever such severance and/or removal is not conducted in conjunction with a permitted development activity. (Added 12/4/91)

Mini-warehouse. 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. An application requesting deviation from the minimum yard requirements, not to exceed ten percent of the dimensional requirements.(Added 06/02/99)

Mobile Home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, mobile home includes travel trailers and similar vehicles placed on a site for 180 consecutive days or more. For all other purposes including insurance purposes under FEMA sponsored programs, mobile home does not include travel trailers and similar vehicles. A mobile home is not a modular home. (Amended 04/05/06)

Mobile Home Park. 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. Does not include mobile home sales lot.

Model Home. A dwelling unit used for conducting business related to the sale of a development.

Modification. 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/or increase in height. (Added 06/02/99)

Modular Home. A factory-fabricated, single family dwelling built in one or more sections, designed for placement on a permanent foundation and not having a permanent chassis. A modular home is not a mobile home. (Amended 3/6/91, 04/05/06)

Motel. See Hotel/Motel.

Multi-tenant. Two or more businesses that provide goods and/or services within separate structures located on the same site or within the same structure that provides wall separation and private access for each business. (Added 06/04/03)

**3.3.14. N**

NADIR. The point directly below the luminaire defined as 0 degrees vertical angle. (Added 05/05/04)

Nonconforming (Grandfathered) Lot, Use or Structure. 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 the Zoning ~~Resolution~~ Ordinance. (Amended 11/03/04)

Nursing Home. A use in which domiciliary care is provided to 3 or more chronically ill non-family members who are provided with food, shelter and care. This use shall not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. Convalescent Center, nursing home and personal care home are further distinguished in Administrative and Use Permit provisions.

**3.3.15. O**

Off-Premise. A location outside of the subject lot for a designated use. (Added 09/01/99)

Off-Site/Premise. 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. (Added 7/7/99)

On-Premise. The individual lot-of-record on which the use is located. (Added 09/01/99)

On-Site/Premise. 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. (Added 7/7/99)

Office, Temporary. 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**.

Open space. 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. Open space may include wooded areas other than required landscape strips and buffers, pathways/walkways, fields, and sensitive environmental areas such as wetlands, etc. Detention facilities and platted residential lots shall not be included in open space calculations. (Added 04/05/06)

Ordinance. [The City of Milton Zoning Ordinance](#).

Outparcel (spin-site). 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. (Added 12/4/91)

### **3.3.16. P**

Parcel. See lot.

Parking Lot. An area which is used for the parking of vehicle.

Parking space. 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. (Amended 5/6/92) (**SPECIFICATIONS INCLUDED IN ARTICLE XVIII**)

Path. A cleared way for pedestrians and/or bicycles that may or may not be paved or otherwise improved. (Added 03/03/04)

Pawn shop. A business that lends money at interest on personal property deposited with the lender until redeemed. (Added 10/02/02)

Personal Care Home/Assisted Living - A state licensed use in which domiciliary care is provided to adults who are provided with food, shelter and personal services. This use shall not include

hospitals, convalescent centers, nursing homes, hospices, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. (Amended 7/7/99)

Plans Review. The act of reviewing plans and specifications to insure that proposed undertakings comply with various governing laws, ~~ordinances~~ Zoning Ordinance and other applicable resolutionOrdinances. Compliance is subsequently utilized to determine that work and materials are in accordance with approved plans and specifications.

Plant Nursery. Any land used to raise trees, shrubs, flowers and other plants for sale or transplanting, but not including the retail sale of any related garden supplies such as chemical fertilizer, tools and other similar goods and/or equipment, or the retail sale of plants not grown on the property except with an approved Use Permit for Landscaping Business, Plant Nursery, or Garden Center with Indoor Retail Component (Article 19.4.27). (Amended 7/7/99, 04/03/02)

Plat, Final. A finished drawing of a subdivision which provides a complete and accurate depiction of all legal and engineering information required by the Subdivision Regulations. Certification is necessary for recording.

Plat, Preliminary. 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.

Pipeline - 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.(Added 08/04/99)

Porch. A roofed open structure projecting from the exterior wall of a building and having at least seventy percent of the total area of the vertical planes forming its perimeter unobstructed in any manner except by insect-screening between floor and ceiling. (Added 03/03/04)

Primary Variance. An application requesting relief from the standards of the Zoning ResolutionOrdinance, except relief from use, minimum lot area, or minimum lot frontage .

Prison/Correctional Facility. A public or state-licensed private owned building(s), 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. A 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 Article 19.4.34, Private Correctional Facility) (Added 7/7/99)

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

Protected Zone. 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/or buffers (including zoning buffers, state water buffers and tributary buffers) and all tree save areas according to the provisions of the ~~Fulton County Zoning~~ City of Milton Zoning Resolution Ordinance, conditions of zoning, use permit or variance approval, and/or the Tree Preservation Ordinance. (Added 12/1/99)

**3.3.17. Q**

**3.3.18. R**

Recreational Court, Private. 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(s), duplex dwellings and/or multi-family dwellings, or combinations of dwelling types, including such improved areas which are owned and/or controlled by a neighborhood club or similar organization. A basketball goal adjoining a driveway of typical residential driveway dimensions shall not constitute a recreational court. (Added, 7/5/89)

Recreational Court, Public. 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 **Recreational Court, Private**. (Added 7/5/89)

Recreational Facilities. Includes parks, recreation areas, golf courses, playgrounds, recreation counters (indoor & outdoor), playing fields, and other similar uses or facilities.(Added 7/1/92)

Recreation Fields - An outside area designed and equipped for the conduct of sports and leisure-time activities including but not limited to softball, soccer, football, and field hockey. (Added 7/7/99)

Recreational Vehicle. A vehicle used for leisure time activities and as a dwelling unit while traveling. Examples include a camper, a motor home and a travel trailer. As distinguished from a mobile home, dimensions shall not exceed a width of eight and one-half (8.5) feet and a length of forty five (45) feet.

Recycling Center, collecting. 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 non-residential use on non-residentially zoned property, except AG-1 zoned properties unless, the primary use is a permitted non-residential use. (Added 12/4/91)

Recycling Center, processing. 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. A recycling center is not to be considered a landfill. (Added 12/4/91, Amended 5/6/92, 7/7/99)

Relocated Residential Structure. A dwelling which has been removed from one location for relocation to another lot.

Repair Garage, Automobile. A use which may provide a full-range of automotive repairs and services including major overhauls. May include paint and body shops.

Repair Garage, Truck and Heavy Equipment. A use which may provide a full-range of repairs and services including major overhauls on trucks and heavy equipment. Includes paint and body shops.

Residential Use/Dwelling. Any building or portion thereof where one actually lives or has his home; a place of human habitation. (Added 7/1/92)

Restaurant. A food service use which involves the preparation and serving of food to seated patrons. A cafeteria shall also be considered to be a restaurant. The restaurant seating area must be at least 40% 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. (Amended 04/06/94)

Restaurant, Fast Food. 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. A business whose primary purpose is the sale of merchandise to consumers. (Added 06/04/03)

Retreat. See Lodge.

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

Roadside Produce Stand. 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. (Amended 07/07/93, 04/06/94, 04/05/06)

Roadside Vending. The sale of merchandise such as clothing, crafts, household item, firewood, etc., from a temporary table or cart. (Added 07/07/93) (Amended 04/06/94, 02/07/01)

Rooming House. A residential use other than a hotel or motel in which lodging may be provided to non-household members for periods of 30 days or longer, and which does not include the provision of meals.

### 3.3.19.

## S

Salvage/Storage/Junk Facility. 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/or 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/or disposal of toxic and/or hazardous waste. (Amended 7/7/99)

Scale. 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. (Added 10/01/03)

Schools, Colleges & Universities. 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 twelfth, including but not limited to, trade, business and vocational schools; 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. (Added 7/1/92)

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

Screen. A fence, wall, hedge, landscaping, earthen berm, buffer area or any combination of these that is designed to provide a visual and/or physical barrier. (Added 7/7/99)

Seasonal Business Use. A primary use involving the sale of items related to calendar holidays, such as Christmas trees, Halloween pumpkins, etc., which may be conducted outside. (Amended 12/4/91, 5/6/92, 07/07/93, 04/06/94, 04/05/06)

Secondary Variance. An appeal of a decision and/or action of a department director ~~or deputy department director~~ authorized to hear a variance request or interpretation of the Zoning ~~Resolution~~Ordinance. (Added 07/07/99)

Self-Storage/Mini. 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. (Added 7/7/99)

Self-Storage/Multi. A multi-level structure containing separate storage rooms/stalls under a single roof that are leased or rented. (Added 7/7/99)

Senior housing. A single family or multi-family 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. (Added 04/05/06)

Service Commercial Use. A business whose primary purpose is to provide a service. (Added 06/04/03)

Service Line - 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 customer meter is the meter that measures the transfer of gas from one operator to a customer.(Added 08/04/99)

Service Station. 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 4 or fewer bays excluding no more than one attached or detached bay for washing cars.

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

Setback, Minimum. 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. A paved area designated for pedestrians which is constructed in accordance with ~~Fulton County~~City standards. (Added 03/03/04)

~~Sign. Any name, identification, description, display, illustration, writing, emblem, pictorial representation or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or business.~~

~~Sign, Abandoned. Any sign that is located on property which becomes vacant and /or unoccupied, pertains to a business which does not currently conduct a business of valid business licensing, or pertains to a product no longer being sold on premises or pertains to time, event or purpose which no longer applies. (Added 09/01/99)~~

~~Sign Animated. Any sign that uses movement or change of lighting to depict action or create a special effect or scene. (Added 09/01/99)~~

~~Sign Area. The sign area of a freestanding sign shall be the combination of sign faces enclosing the limits of all representations measured from the extreme lowest point of the sign to the extreme highest point of the sign and from the extreme left edge to the extreme right edge of each sign face, including any frame and excluding any support structure. When sign representations are not placed upon an independent surface, the sign area shall be the area of the smallest regular polygon completely enclosing the limits of all representations including any frame (painted or otherwise as shown on Illustrations XXXIII 1 and 2), contrasting material or color differentiation against which representations may be placed. The sign area calculation shall encompass all open space within the polygon and any internally illuminated portions of the sign structure.~~

~~The message area of an identification monument sign shall be delineated by a polygon touching the extremities of all representations thereon as shown on Illustration XXXIII 3. For V shaped signs, the sign area shall be composed of the total area of both faces if the faces meet at an angle of 90 degrees or more, or the total area of the larger face if less than 90 degrees. The area of signs with more than two faces shall be one half of the sum of the area of all faces. (Revised 09/01/99)~~

~~Sign, Candidate. A sign used for the purpose of soliciting votes for a public office or legislation. (Added 09/01/99)~~

~~Sign, Canopy. Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy. (Added 09/01/99)~~

~~Sign, Changeable Copy (Electronic). Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. (Added 09/01/99)~~

~~Sign, Changeable Copy (Manual). Any sign that has a reader board format serving as background for letters/messages that are manually changeable. (Added 09/01/99)~~

~~Sign, Freestanding. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure, but not including monument type signs. (Added 09/01/99)~~

~~Sign Height. See Height, Sign.~~

~~Sign, Identification Monument. A sign where the bottom of the sign structure is flush with the ground generally at the same horizontal width as the sign face, as distinguished from a pole sign. Identification monuments are permitted in lieu of other free standing business signage allowed herein or in conjunction with a residential development and the sign face shall be a continuous polygon flush with the base of the sign and sign copy shall be limited to the name of the development, tenant names, logo and address of the development or business.(Revised 09/01/99)~~

~~Sign, Illumination of. See Illumination.~~

~~Sign, Kiosk. A sign consisting of a list of names of businesses located on a property or in a building.(Revised 09/01/99)~~

~~Sign, Portable. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right of way, unless said vehicle is used in the normal day to day operations of the business.(Added 09/01/99)~~

~~Sign, Projecting. Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.(Added 09/01/99)~~

~~Sign, Roof. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.(Added 09/01/99)~~

~~Sign, Temporary. Any sign that is used only temporarily and is not permanently mounted. (Added 09/01/99)~~

~~Sign, Vehicle. A vehicle with sign(s) permanently painted, attached or magnetically designed to be affixed to a vehicle for the purpose of providing advertisements of products, services or events or directing people to a business or activity. Trailers or non-motorized vehicles are not to be classified as vehicles with signs.(Added 09/01/99)~~

~~Sign, Wall. Any sign attached parallel to, but within two feet of, a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building and which displays only one sign surface.(Added 09/01/99)~~

~~Sign, Wall (Entry). Any single faced sign attached to or erected and confined within the limits of an exterior wall generally located along the perimeter of a development. (Added 09/01/99)~~

~~Sign, Window. Any temporarily affixed sign of pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is displayed within one foot of a window, attached inside a window or placed upon a window (including windows on doors) and is visible from the exterior of the window. (Added 09/01/99)~~

~~Sign, Weekend Directional. Real estate signs for the purpose of marketing and providing directions to residential developments. (Amended 04/03/02)~~

Site Plan. A detailed plan, drawn to scale, based on a certified boundary survey, and reflecting conditions of zoning approval, various requirements of State law, and ~~County~~ Zoning Ordinances and other applicable Resolution ordinances.

Site Plan, Preliminary. 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 ~~County Ordinances and City Resolution Ordinances~~. A Preliminary Site Plan must be drawn to scale and shall contain information listed for such a plan in the as prescribed by the Community Development Department Development Review Guide.

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

Special Event. An event or happening organized by any person or organization which will generate or invite considerable public participation and/or spectators for a particular and limited purpose of time, including, but not limited to, special sales and service promotions, car shows, arts and crafts shows, horse shows, carnivals, festivals, exhibitions, circuses, fairs, show houses and tours of homes for charity. Special events are not limited to those events conducted on the public streets but may occur entirely on private property. Special events may be for profit or nonprofit. Events which will occur in the public right-of-way, such as roadway foot races, fundraising walks, bikeathons, parades, etc. are subject to the approval of the ~~Fulton County~~ City of Milton Police Department. (Added 04/05/06)

Specified Anatomical Areas. 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. (Added 06/05/96)

Specified Sexual Activities. Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts. (Added 06/05/96)

Spill Light. The light that illuminates surfaces beyond the intended area of illumination caused by the uncontrolled direct light component from the luminaires. (Added 02/01/06)

Stadium. A large open or enclosed structure used for sports and other major events and partly or completely surrounded by tiers of seats for spectators. (Added 09/01/04)

Story. A portion of a building between the surface of any floor and the floor or space above it, excluding basements and attics.

Story, Half. 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. (Amended 12/4/91)

Street. A roadway located and intended for vehicular or pedestrian traffic. Streets are public or they may be private if specifically approved by the Department of Community Development as part of a subdivision plat or approved through the privatization process. (Amended 11/03/93, 9/05/01)

Public streets are rights-of-way used for access owned and maintained by the federal, state, or local government.

Private streets are 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.

Stub-out Street –A street 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 turn-around. 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.

Driveway - 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 3 single-family detached residences.

Roadway - 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) but excluding driveway aprons, bridges, and large single and multi-cell culverts which in a hydrologic sense can be considered to function as a bridge.

Freeway - 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. (Added 04/03/02)

Principal Arterial - 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. (Added 04/03/02)

Minor Arterial - 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. (Added 04/03/02)

Collector Road - 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. (Added 04/03/02)

Local Road - 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. (Added 04/03/02)

Full Access Control - 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. (Added 04/03/02)

Partial Access Control - 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. (Added 04/03/02)

No Access Control - Preference is generally given to access to adjacent land rather than mobility. (Added 04/03/02)

~~Street - 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 Department of Environment and Community Development as part of a subdivision plat. (Amended 11/03/93, 9/05/01)~~

~~Public streets are rights of way used for access owned and maintained by the federal, state, or local government.~~

~~Private streets are roadways constructed to Fulton County Standards but owned and maintained by a private entity. Necessary easements for ingress and egress for police, fire, emergency all operating utilities shall be provided. Should Fulton County ever be petitioned to assume ownership and maintenance of the private streets prior to dedication of the streets, they must be brought to acceptable Fulton County standards subject to the approval of the Director of Public Works.~~

~~Stub streets are rights of way that dead ends into an interior property line.~~

~~Freeway—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. (Added 04/03/02)~~

~~Principal Arterial—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. (Added 04/03/02)~~

~~Minor Arterial—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. (Added 04/03/02)~~

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~~Partial Access Control—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. (Added 04/03/02)~~

~~No Access Control—Preference is generally given to access to adjacent land rather than mobility. (Added 04/03/02)~~

**Structure.** Anything built or constructed which occupies a location on, or is attached, to the ground. Driveways, surface parking lots, patios, and similar paved surfaces are not considered structures. (Amended 04/05/06)

**Structure, Accessory.** A subordinate structure, customarily incidental to a principal structure or use and located on the same lot. Examples of accessory structures in single-family dwelling districts include outbuildings, such as, tool sheds, woodsheds, workshops, outdoor kitchens, pool houses, gazebos, guest houses, storage sheds, detached garages and detached carports, etc. Fences and retaining walls are not considered accessory structures. Driveways, surface parking lots, patios, and similar paved surfaces are not considered accessory structures. (Amended 04/05/06)

**Structure, Principal.** A structure in which the principal use or purpose on a property occurs, and to which all other structures on the property are subordinate. Principal shall be synonymous with main and primary.

**Subdivision.** The division of land into two or more lots. A development consisting of subdivided lots.

**Surface, All-weather.** Any surface treatment, including gravel, which is applied to and maintained so as to prevent erosion, and to prevent vehicle wheels from making direct contact with soil, sod or mud; and which effectively prevents the depositing of soil, sod or mud onto streets from areas required to be so treated. (Added 7/5/89)

**Swimming Pool, Private.** A recreation facility designed and intended for water contact activities which serves a single family dwelling(s), duplex dwellings and/or multi-family dwellings, or combinations of dwelling types, including pools which are owned and/or controlled by a neighborhood club or similar organization. (Added 7/5/89)

**Swimming Pool, Public.** A recreation facility designed and intended 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. (Added 7/5/89)

**3.3.20.**

**T**

**Tenant Panels.** An on-premise sign panel(s) that list the name of tenants within a shopping center or development which the primary sign identifies.(Added 09/01/99)

Thoroughfare, Major. 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. Any street which is classified in the Transportation Element of the Comprehensive Plan as a minor collector or local street.

~~Thoroughfare, Major. 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. Any street which is classified in the Transportation Element of the Comprehensive Plan as a minor collector or local street.~~

Tower. 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. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and the like excluding amateur radio antenna. (Added 3/5/97)

Transfer station. A facility used to transfer solid waste from one transportation vehicle to another for transportation to a disposal facility or processing operation. (Added 10/02/02)

Transmission Line - 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) and/or (2) transports fuel oil/liquid petroleum product within a storage field.(Added 08/04/99)

Trespass Light. 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. (Added 02/01/06)

Truck Terminal. 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) (Amended 2/7/96).

**3.3.21. U**

Use. The purpose or function arranged or intended for a structure or property.

Use, Accessory. 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, Principal. The primary or main purpose or function of a lot or structure. Synonymous with **Main and Primary.**

Use Permit. A permit approved by the ~~Board of Commissioners~~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.

**3.3.22. V**

Variance, Primary. An application requesting relief from the standards of the Zoning ~~Resolution~~Ordinance, except relief from use, minimum lot area, or minimum lot frontage. (Added 06/02/99)

Variance, Secondary. An appeal of a decision and/or action of a department director ~~or deputy department director~~ authorized to hear a variance request or interpretation of the Zoning ~~Resolution~~Ordinance. (Added 06/02/99)

Vegetative Screen. 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 6 feet. A vegetative screen is composed of plant materials. (Added 12/4/91)

Vehicle, Junk or Salvage. 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, 4) drive train component for more than 30 days. (Amended 3/6/91)

Veterinary Clinic/Hospital. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (Added 7/7/99)

**3.3.23. W**

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

Waste Disposal Boundary. The limit of all waste disposal areas, appurtenances, and ancillary activities (including but not limited to internal access roads and drainage control devices). (Added 04/03/02)

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

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

**3.3.24. X**

**3.3.25. Y**

Yard. A land area extending between a structure and a lot line. (Amended 04/03/02)

Yard, Front. 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. (Amended 04/03/02)

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

Yard, Rear. The rear yard is 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 ~~the Department of Environment and~~ Community Development or his/her designee shall make the final determination of rear yards when in dispute or undefined by this definition. (Amended 04/03/02)

Yard, Side. A yard which is not a front or rear yard.

**3.3.26.**

**Z**

Zoning Conditions. Requirements placed on property by the ~~Board of Commissioners~~ Council at the time of approval of a rezoning and/or use permit. (Added 06/02/99)

Zoning Modification. An application to change approved zoning conditions on rezonings and use permits where it has been determined by the Director of ~~the Environment and~~ Community Development ~~Department~~ that the requested change involves a matter of significant public interest. (Added 06/02/99)

ADOPTED BY THE CITY OF MILTON CITY COUNCIL  
DECEMBER 21, 2006

**ARTICLE XXII**

**APPEALS**

22.1. **PURPOSE.**

The purpose of this Article is to establish procedures for appealing the strict application of regulations contained herein and conditions of zoning when those regulations impose a hardship on the development of the property, and to provide for interpretation of the text of this Resolution Ordinance and the Official Zoning Map. Appeals are authorized herein to be considered by various bodies and individuals depending on the type of appeal and its relationship to applications for Use Permits, or Rezoning or Chapter 14, Article 6, Section 5 of the Land Development and Environmental Protection of the City Code. Variances apply to the development standards and district standards per the Zoning Resolution Ordinance or Chapter 14, Article 6, Section 5 of the Land Development and Environmental Protection of the City Code. Modifications apply to the approved conditions of zoning or use permit.

22.2. **DECISION MAKING AUTHORITY.**

The following are the powers and jurisdiction of the various decision makers and administrative bodies.

22.2.1. MAYOR AND CITY COUNCIL ~~BOARD OF COMMISSIONERS (BOC).~~ The ~~Board of Commissioners (BOC)~~ Mayor and City Council shall have the following powers and duties under the provisions of this Zoning Resolution Ordinance:

- A. To hear and decide applications for rezonings, use permits, and modifications pursuant to Article 22 and Article 28;
- B. To hear and decide applications for concurrent variances in conjunction with applications for rezonings, use permits, and/or zoning modifications pursuant to Article 22 and Article 28;
- C. To hear and decide applications for stream buffer variances when the applicant requests a rezoning, use permit and/or zoning modification concurrently pursuant to Article 22 and Chapter 14, Article 6, Section 5 of the Milton Land Development City Code and;

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D. To hear and decide applications for variances from any Zoning Ordinance provision that involves more than 5 lots or more than ten percent 10% of lots in a subdivision, whichever is greater pursuant to Article 22; ~~and~~

E. To initiate a modification of approved zoning conditions.

22.2.2. **BOARD OF ZONING APPEALS (BZA).** The Board of Zoning Appeals (BZA) shall have the following powers and duties under the provisions of this Zoning Ordinance ~~Resolution~~:

A. To hear and decide applications for primary variance requests;

B. To hear and decide applications for primary variances from any Zoning Ordinance provision that involves up to 5 lots or up to ten percent (10%) of lots in a subdivision, whichever is greater.

C. To hear and decide applications for stream buffer variance requests referenced in Chapter 14, Article 6, Section 5 of the Milton Land Development Ordinance, that are not concurrent with a rezoning, use permit or modification;

D.B. To hear and decide appeals from the interpretation of any of the provisions of this ~~Resolution~~ Ordinance by the ~~Director of the Department of Environment and~~ Community Development Director in accordance with Section 22.2.3. ~~H.~~;

E.C. To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by any ~~Fulton County~~ City of Milton official in the enforcement of this Zoning ~~Resolution~~ Ordinance and;

F.D. To hear and decide appeals from a permitting or procedural decision of the Department Director ~~or Deputy Director~~ regarding minor or administrative variance requests.

22.2.3. **DIRECTOR OF THE DEPARTMENT OF CENVIRONMENT AND COMMUNITIY DEVELOPMENT (E&CD).** The Director of ~~the Department of Environment and~~ Community Development (~~E&CD~~) shall have the following jurisdiction, power and duties under the provisions of this Zoning

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Ordinance~~Resolution~~:

- A. To determine the type of appeal application or land use process the property owner/agent is required to apply for;
- B. To consider and decide on minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as property owners with standing do not object;
- C. To consider and decide on administrative minor variances of no more than 1 foot;
- D. To consider and decide on administrative variances;
- E. To consider and decide on administrative modifications to conditions of zoning;
- F. To interpret the provisions of the Zoning ~~Resolution~~Ordinance related to the following:
  - 1. Inconsistent, vague or obscure language;
  - 2. Provisions which are in conflict or are confusing; and
  - 3. Conflicting or redundant procedural requirements; and.
- G. To establish procedural requirements for review of appeal applications.

22.2.4. **LIMITATION ON AUTHORITY.** The authority and jurisdiction of Boards and individuals as provided herein shall be limited as outlined in the following. In exercising this jurisdiction, each hearing Board or individual shall have authority to determine whether it has jurisdiction.

- A. There shall be no variances to permitted uses or accessory uses as specified in the zoning district regulations, administrative/use permit or zoning conditions.
- B. There shall be no variances to the minimum lot area nor the minimum district size required in each zoning district.
- C. There shall be no variances to the minimum lot frontage on a street as required in designated zoning districts of the Zoning ~~Resolution~~Ordinance.

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- D. There shall be no modification to increase the density or change the use approved under the rezoning case, ~~except to allow for the development of a conservation subdivision.~~ (Amended 05/05/04)
- E. There shall be no modification to revise a site plan that, as determined by the Director of ~~the Department of Environment and~~ Community Development (~~E&CD~~) results in a significant change in the approved concept. Such a site plan revision shall require rezoning pursuant to Article 28.
- F. There shall be no relief or variance from the standards of Article 22 or Article 28.

22.3.

**VARIANCES.** A variance is a request for relief from the provisions of the Zoning ~~Resolution~~**Ordinance**. There are 6 types of variance applications. The type of variance necessary shall be determined by the Director of ~~the Department of Environment and~~ Community Development. The different types of appeals are listed below and described in the following sections:

- 1. Administrative Variance
- 2. Minor Variance/Administrative Minor Variance
- 3. Primary Variance
- 4. Secondary Variance
- 5. Interpretation
- 6. Concurrent Variance

22.3.1. **VARIANCE CONSIDERATIONS.** A variance must be based upon credible evidence submitted at a public hearing before the Board of Zoning Appeals, demonstrating the following:

A. The general purpose and intent of the Ordinance shall be observed;  
and

B. There are such extraordinary and exceptional situations or conditions pertaining to the particular piece of property that the literal or strict application of the City's Ordinance would create an unnecessary hardship due to size, shape or topography or other extraordinary and

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exceptional situations or conditions; and

C. Such conditions are not the result of actions of the property owner; and

D. These conditions existed at the time of the enactment of the applicable Ordinance or Ordinances or after; and

E. Relief, if granted would not cause a substantial detriment to the public good and surrounding properties; and

F. That the public safety, health and welfare are secured, and that substantial justice is done.

~~Variances may be considered in all districts. Primary variances and concurrent variances shall only be granted upon showing that:~~

~~A. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Resolution; or,~~

~~B. The application of the particular provision of the Zoning Resolution to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or,~~

~~C. Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements can not be read from an adjoining public road.~~

22.4.

#### **ADMINISTRATIVE VARIANCE.**

The Director ~~of the Department of Environment and~~ Community Development is authorized by this ~~Resolution~~Ordinance to consider an Administrative Variance whenever a property owner maintains that a provision contained in Article 34, DEVELOPMENT REGULATIONS, as applied to a specific situation, is not in the best interest of the public health, safety and welfare; whenever there is a request for the alteration of the 10 foot improvement setback required along all buffers as required in the conditions of zoning and/or in Article 4.23.1 MINIMUM LANDSCAPE STRIPS AND BUFFERS; and whenever there is a request up to a 10% reduction in the number of required parking spaces per Article 18.2.4, ADMINISTRATIVE REDUCTION OF SPACES CONSTRUCTED.(Amended 12/1/99)

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22.5. **ADMINISTRATIVE MINOR VARIANCE.**

The Director of ~~the Environment and~~ Community Development may grant an Administrative Minor Variance up to 1 foot from any minimum yard requirement.

22.6. **MINOR VARIANCE.**

The Director of ~~the Environment and~~ Community Development may grant minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as no objection has been submitted in writing to the Director of ~~Environment and~~ Community Development. An appeal to a minor variance decision must be filed as a Secondary Variance request.(Amended 12/1/99)

22.7. **PRIMARY VARIANCE.**

A request for a variance from any Zoning ~~Resolution~~Ordinance provision that is not being handled as a minor, administrative minor or concurrent variance and shall be heard and decided by the Board of Zoning Appeals in accordance with Section 22.3.1.

22.7.1 PRIMARY VARIANCE HEARD BY THE MAYOR AND CITY COUNCIL.

A request for a variance from any Zoning Ordinance provision that involves more than 5 lots or more than ten percent 10% of lots in a subdivision, whichever is greater in accordance with section 22.3.1.

22.8. **SECONDARY VARIANCE/INTERPRETATION.**

The Board of Zoning Appeals shall consider appeals of variance decisions and interpretations made by any Department Director ~~or Deputy Department Director~~ authorized to grant a variance request or interpretation. This type of appeal is considered a secondary variance.

22.9. **CONCURRENT VARIANCES.**

The ~~Board of Commissioners~~Mayor and City Council may consider a concurrent variance from any standards of the Zoning ~~Ordinance or Chapter 14, Article 6, Section 5 (Stream Buffers) of the Milton Land Development City Code~~Resolution which shall be filed simultaneously with rezoning, use permit or zoning modification requests on the same property based on the conceptual plan submitted with the

petition for the same agenda. The ~~Community Zoning Board~~Planning Commission shall also hear and make recommendations on concurrent variances filed with rezonings or use permit applications. The ~~Board of Commissioners~~Mayor and City Council shall consider such concurrent variance requests in accordance with the standards set forth in Section 22.3.1. Public notification shall be in accordance with Sections 22.13.9 and 28.3

**22.9.1 VARIANCE CONSIDERATIONS FOR STREAM BUFFERS.** The following factors will be considered in determining whether to issue a variance:

- A. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- B. The locations of all streams on the property including along property boundaries;
- C. The location and extent of the proposed buffer or setback intrusion; and,
- D. Whether alternative designs are possible which require less intrusion or no intrusion;
- E. The long term and construction water quality impacts of the proposed variance;
- F. Whether issuance of the variance is at least as protective of natural resources and the environment.

~~—(Amended 06/04/03)~~

22.9.1. **LIMITATIONS ON CONCURRENT VARIANCES.**

A. The ~~Board of Commissioners~~Mayor and City Council may only consider variance requests as part of, or in conjunction with, a rezoning, use permit or modification application.

~~B. Deleted 11/03/04.~~

C. If an application for a variance to the Board of Zoning Appeals duplicates a

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concurrent variance request denied by the ~~Board of Commissioners~~ Mayor and City Council, such an application shall not be accepted by the Director of ~~the Department of Environment and~~ Community Development prior to the expiration of 6 months from the date of the ~~Board of Commissioners'~~ Mayor and City Council's denial of the concurrent variance request. A variance request to the Board of Zoning Appeals cannot be considered simultaneously with the same concurrent variance request pending before the ~~Board of Commissioners~~ Mayor and City Council.

22.9.2. **APPLICATION FOR CONCURRENT VARIANCES.** Applications for a concurrent variance shall be submitted to the Director ~~of~~ ~~of the Department of Environment and~~ Community Development in accordance with the advertised filing deadlines for the ~~Board of Commissioners meetings~~ Mayor and City Council. A regular variance fee shall be charged and the application shall comply with all advertising and notification requirements specified in Article 28, REZONING AND OTHER AMENDMENT PROCEDURES. One notice sign may serve for both the rezoning, use permit, zoning modification, and concurrent variance request as long as the sign is marked to indicate all actions which are pending.

The variance case file number for each concurrent variance requested shall be included on the rezoning petition.

22.10. **MODIFICATIONS.** A modification is a request for relief from the conditions of zoning or use permit when a site development proposal does not comply with approved conditions. There are two different types of modifications which are listed below and described in the following sections:

1. Administrative Modification
2. Zoning Modification

22.10.1. **APPLICATION FOR MODIFICATION.** A request to modify a condition of zoning or Use Permit may be initiated by the property owner, ~~the Planning Commission or~~ the ~~Board of Commissioners~~ Mayor and City Council. Applications shall be submitted to the Director of ~~the Department of Environment and~~ Community Development in accordance with the deadline schedule adopted by the ~~Board of Commissioners~~ Mayor and City Council. A modification application shall include a legal description of the property for which the modification is requested and a written explanation of the circumstances upon which the requested change of condition is based including the reason why development or use of the property, as approved, cannot be accomplished without the modification of a condition. Applicants shall submit a

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revised site plan illustrating the requested modification. The type of modification necessary is determined by the Director of the ~~Department of Environment and~~ Community Development.

22.11. **ADMINISTRATIVE MODIFICATION.** An Administrative Modification application may be filed if the Director of ~~Environment and~~ Community Development determines that the modification request is not prohibited by Section 22.2.4 LIMITATION ON AUTHORITY and, will constitute only a technical change and does not involve significant public interest, or public interest has been addressed by letters expressing no objections from property owner(s) with standing and/or neighborhood associations. The Director shall send the administrative modification decision to the ~~Board of Commissioners~~ Mayor and City Council for confirmation at the next appropriate regular meeting.

22.11.1. **APPEAL OF AN ADMINISTRATIVE MODIFICATION DECISION.** If an applicant wishes to appeal the decision of the Director of ~~the Department of Environment and~~ Community Development regarding an Administrative Modification, or if it is determined by the Director that a request will involve a matter of public interest, the applicant must file a separate application requesting a Zoning Modification on forms available from the ~~Environment and~~ Community Development Department.

22.12. **ZONING MODIFICATION.** A Zoning Modification application shall be filed if an approved zoning condition cannot be met and it is determined by the Director that the application involves significant public interest and is in compliance with Section 22.2.4 LIMITATION ON AUTHORITY. The Zoning Modification request shall be presented to the ~~Board of Commissioners~~ Mayor and City Council for consideration in a public hearing.

22.13. **GENERAL PROCEDURES.**

This section contains basic steps common to all variances and modifications.

22.13.1. **APPLICATIONS.** All applications for variances, interpretations and modifications shall be filed with the Director of ~~the Department of Environment and~~ Community Development on forms available in the Department. The type of application process necessary to accomplish the change requested by the applicant shall be the determined by the Director of ~~E&CD~~ Community Development. The Director shall transmit the petition and all documents constituting the record to the appropriate hearing body or individual.

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22.13.2. **STANDING.** Standing refers to a party or parties allowed to initiate a request for variances or modifications which are limited to the following:

- A. Modification Petition - A request for a modification may be initiated by the property owner or its agent, the Planning Commission or the ~~Board of Commissioners~~ Mayor and City Council;
- B. Variance Petition - A request for a variance may be initiated by the property owner of subject property or its agent;
- C. Secondary Variance Petition - A request for a secondary variance appeal may be initiated by the property owner of the subject property or its agent, or the owner of other real property within 300 feet of the boundaries of the subject property; and
- D. Interpretation Petition - A request for an interpretation of a decision of the Director of ~~the Department of Environment and~~ Community Development may be requested by any individual.

22.13.3. **FILING DEADLINES.**

- A. Applications for variances, interpretations and modifications shall be submitted in accordance with the advertised filing deadlines, depending on the type of petition in accordance with Section 28.2.3 of the Zoning ~~Resolution~~ Ordinance.
- B. Concurrent Variance applications shall be filed in accordance with the filing deadline for the parent petition of either a use permit, rezoning, or zoning modification request in accordance with Section 28.2.3 of the Zoning ~~Resolution~~ Ordinance.
- C. The Director of ~~the Department of Environment and~~ Community Development has the discretion to extend the filing deadline by two days for all applications except Administrative Minor and Minor Variance Applications. A letter from the applicant explaining the delay in filing shall be submitted prior to the close of the filing deadline.

22.13.4. **WITHDRAWAL OF APPLICATION.**

- A. An application may be withdrawn by the applicant in writing at any time before the public hearing notice advertisement is published and /or the notice

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of the hearing is posted on the property.

- B. Applications which do not require a public hearing may be withdrawn at any time before notification of a decision is mailed.
- C. Once the public hearing has been properly advertised, the request for withdrawal of the application must be placed on the public hearing agenda and the appropriate decision-making body shall act on the withdrawal request.

22.13.5. **FEES.** At the time of application, applicants shall pay fees as established by the ~~Board of Commissioners~~ Mayor and City Council. Fees paid are not refundable except where the Director of ~~the Department of Environment and~~ Community Development determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

22.13.6. **LEGAL ACTION STAYED.** The filing of an appeal authorized by this Article shall operate as a stay of any enforcement proceedings by ~~Fulton County~~ the City of Milton until final resolution of the appeal. No ~~Board of Commissioners~~ Mayor and City Council or Board of Zoning Appeals action shall be taken on any property which is the subject of any litigation pending in state or federal court wherein ~~Fulton County~~ the City of Milton or its agents or officials are parties.

22.13.7. **PUBLIC HEARING.** A public hearing shall be conducted by the stated hearing body of each appeal application before taking action thereon except those authorized to be considered administratively. The schedule of public hearings and deadlines for the filing of an appeal shall be established by the ~~Board of Commissioners~~ Mayor and City Council.

Public hearings are not required for administrative variances, minor variances, administrative minor variances and administrative modifications; however, notification in accordance with Section 22.13.9 B is required.

22.13.8. **EVALUATIONS AND REPORTS.** The hearing body shall have before it, at the time of hearing, a report from the Director of ~~the Department of Environment and~~ Community Development which shall summarize the hardship or justification reported by the applicant as related to the application and background information for variances, modifications, and interpretations, and any other information requested by the hearing body. The hearing body shall, hear, analyze, consider, and make a written report of its decision in accordance with Section 22.13.12 NOTICE OF DECISIONS.

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22.13.9. **PUBLIC NOTIFICATION.** (Amended 09/05/01, 10/02/02, 06/04/03, 03/03/04)

A. For those applications requiring a public hearing (Primary Variances, Secondary Variances, Concurrent Variances, and Zoning Modifications), the Director of ~~the Environment and~~ Community Development ~~Department~~ shall:

1. Publish notice of the public hearing in a newspaper of general circulation at least 15 days, but no more than 45 days prior to the public hearing at which an application will be heard. The published notice shall contain the time, place and purpose of the hearing and the location of the property if applicable (secondary variances may not always be property specific). Renotification is not required when a petition is deferred by the ~~Board of Commissioners~~ Mayor and City Council or the Board of Zoning Appeals
2. The applicant or agent shall post a sign as issued by the ~~Environment and~~ Community Development Department in a conspicuous location on each public street frontage of the subject site, at least 20 days, but not more than 45 days, prior to the public hearing at which an application will be heard.

The sign shall be mounted and posted as specified by the ~~Environment and~~ Community Development Department. Property that is not posted on the 20th day before the scheduled hearing date will be administratively removed from the agenda. The sign will remain posted on-site until final action by the appropriate hearing body is taken.

When the Board of Zoning Appeals defers a petition, the applicant is required to post an updated sign with new hearing dates 20 days prior to the next scheduled hearing date. When the ~~Board of Commissioners~~ Mayor and City Council defers a petition, an updated sign is not required.

The posted sign shall contain the date, time, place and purpose of the hearing.

For zoning modifications, all notices shall contain all of the items listed in the previous sentence, the location of the property, the

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zoning and/or use permit case number to be modified and the condition number(s) to be modified.

The posting of a sign is not required when a secondary variance is not requested by the property owner or owner's representative.

3. Notice of the public hearing shall be postmarked 15 days prior to the hearing date and shall be given by regular mail to all property owners within 300 feet of the boundaries of the property who appear on the current tax records of Fulton County as retrieved by the ~~County~~City's Geographic Information System. Renotification is not required when a petition is deferred by the ~~Board of Commissioners~~Mayor and City Council or the Board of Zoning Appeals.

The mailing of public notices is not required when a secondary variance is sought by other than the property owner.

- B. For those applications not requiring a public hearing, notification shall be provided as follows:

1. Administrative Variance: The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified in accordance with Section 22.13.9(A)(3).
2. Minor Variance: The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified in accordance with Section 22.13.9(A)(3).
3. Administrative Modification: The Director of ~~the Environment and Community Development~~ Department shall determine what notification, if any, is reasonable on a case by case basis.
4. Administrative Minor Variance: No written notification.

22.13.10. **DECISIONS.** The ~~Board of Commissioners~~Mayor and City Council, Board of Zoning Appeals, and the Director of ~~the Environment and Community Department~~ in considering applications under this Article shall do one of the following:

- A. Approve or partially approve
- B. Approve and impose conditions related to the application being considered (Amended 04/03/02)
- C. Deny

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- D. Hold for further study not less than 30 days
- E. Withdraw

22.13.11. **BOARD OF ZONING APPEALS DECISION ON SECONDARY VARIANCES/INTERPRETATIONS.** The Board of Zoning Appeals may take the following actions pursuant to a secondary variance and/or an interpretation appeal:

- A. Affirm an order, requirement, or decision, wholly or partly.
- B. Reverse an order, requirement, or decision, wholly or partly.
- C. Clarify. Present an interpretation of the text in the form of a statement of clarification. Such statement shall not contain substitute language, but shall rely upon language and definitions contained in the ~~Fulton County Zoning Resolution~~ City of Milton Zoning Ordinance, and definitions contained in Merriam-Webster Collegiate Dictionary, tenth edition.

22.13.12. **NOTICE OF DECISIONS.** Written notice of all decisions shall be placed in the official case file and shall be forwarded to the applicant by regular mail within 7 working days from the date of the decision by the following authority:

- A. The Director of ~~the Environment and~~ Community Development ~~Department~~ shall provide written notification of the Board of Zoning Appeals' decisions;
- B. The Director of ~~the Environment and~~ Community Development ~~Department~~ shall, with respect to minor variances, administrative variances, and administrative modifications provide written notification of such decisions. The approval of a building permit shall constitute notice of approval for an administrative minor variance; and
- C. The ~~Clerk to the Board of Commissioners~~ Director of Community Development shall, with respect to zoning modifications and concurrent variances, provide written notification of the ~~Board of Commissioners'~~ Mayor and City Council's decisions.

22.13.13. **RECONSIDERATION OF DENIED APPLICATION.** If a variance or modification application is denied by an authorized Department Director, ~~Board of Commissioners~~ Mayor and City Council or the Board of Zoning Appeals, an application for the same variance or modification item shall not be considered until:

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- A. At least six months has elapsed from the date of the decision; or
- B. New information pertinent to the subject, not previously considered, is submitted by the petitioner and the 6-month period is waived by the hearing body.

\_\_\_\_\_ If an application is denied by the Director of ~~the Environment and~~ Community Development Department, the applicant may appeal the decision to the appropriate hearing body depending on the type of petition.

This provision is not intended to supersede provisions of Article 28.2 as related to decisions regarding rezonings and/or use permits.

22.13.14. **TIME LIMITATION ON APPEALS TO SUPERIOR COURT.** (Amended 12/1/99) The decision of the Board of Zoning Appeals is a final decision; therefore, any appeal of such a decision shall be pursued by application for writ of certiorari filed with the Superior Court of Fulton County within 30 days of the date of the decision. The applicant’s petition, application for writ of certiorari, the writ of certiorari and any other initial filings with the Superior Court shall be served upon the named defendants/respondents in accordance with O.C.G.A. Section 9-11-4.

Upon filing such an appeal, the Clerk of Superior Court shall give immediate notice thereof to the Director of ~~the Environment and~~ Community Development Department, and within 30 days from the date of such notice, the Director of ~~Environment and~~ Community Development shall cause to be filed with the Clerk of Superior Court a certified copy of the proceedings and the decision of the Board of Zoning Appeals.

Appeals of decisions (Secondary Variances/Interpretation) of the Director of ~~the Environment and~~ Community Development ~~Department~~, or the Director of Public Works shall be brought within 30 days from the date of the decision.

~~22.13.15. **EXPIRATION OF VARIANCE.** If not used, a variance shall be valid only for a period of 36 months from the date it is granted. Extensions may be sought under the provisions of Article 28, REZONING AND OTHER AMENDMENT PROCEDURES, Section 28.6 EXPIRATION AND EXTENSIONS OF ZONINGS.~~

22.14. **BOARD OF ZONING APPEALS.**

22.14.1. **MEMBERSHIP.** The ~~Fulton County~~ City of Milton Board of Zoning Appeals shall consist of seven members appointed by the ~~Board of Commissioners of Fulton~~

**MILTON ZONING ORDINANCE**

~~County~~Mayor and City Council. The members shall serve terms concurrent with the terms of their respective appointed Council member or Mayor ~~the Fulton County Planning Commission~~. Members shall not hold any other public office or position in ~~Fulton County~~the City of Milton. Annual elections shall be held by the Board of Zoning Appeals to elect one of its ~~members~~member's chairperson for a one-year term. The chairperson may serve an unlimited number of one-year terms.

22.14.2. **VACANCIES**. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

22.14.3. **REMOVAL OF MEMBERS**. Members may be removed for cause by the ~~Board of Commissioners of Fulton County~~Mayor and City Council upon written charges and after a public hearing.

~~22.14.4. **PAY**. Fees to be paid to the members of the Fulton County Board of Zoning Appeals for attending official meetings shall be fixed from time to time by the Board of Commissioners of Fulton County.~~

22.14.45. **SECRETARY**. The Director of ~~the Department of Environment and~~ Community Development shall serve as Secretary to the Board of Zoning Appeals. The Secretary shall keep minutes of proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of evidence, examinations and official actions, all of which shall be filed and shall be a public record.

22.14.56. **POLICIES AND PROCEDURES**. The ~~Fulton County B~~City of Milton Board of Zoning Appeals shall adopt and publish policies, procedures and rules in keeping with the provisions of this ~~resolution~~ordinance. Such shall be available in the Community Development Department.

22.14.67. **MEETINGS**. Meetings of the Board of Zoning Appeals shall be held at least once each month to dispose of matters scheduled. Additional meetings may be called by the chairman. The Board of Zoning Appeals scheduled meetings, places and dates, and deadlines for the filing of applications shall be approved by the ~~Board of Commissioners~~Mayor and City Council and published by the Director of ~~the Environment and Community~~ Development Department.

## MILTON ZONING ORDINANCE

**City of Milton**

**Chapter 14: Land Development and Environmental Protection**

Article 3: Floodplain Management/Flood Damage Prevention Ordinance.

Section 1: General Provisions.

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(a) Purpose and Intent

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, streambank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed to:

- (i) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (ii) Restrict or prohibit uses which are dangerous to health, safety and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion;
- (iii) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- (iv) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
- (v) Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and,
- (vi) Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

(b) Applicability

This ordinance shall be applicable to all Areas of Special Flood Hazard within the City of Milton, Georgia.

(c) Designation of Ordinance Administrator

The Manager or his/her designee is hereby appointed to administer and implement the provisions of this ordinance.

(d) Basis for Area of Special Flood Hazard – Flood Area Maps and Studies

For the purposes of this ordinance, the following are adopted by reference:

- (i) The Flood Insurance Study (FIS) for Fulton County, dated May 7, 2001, with accompanying maps and other supporting data and any revision thereto.
- (ii) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the 100-year floodplain include:
  - (a) Any flood or flood-related study conducted by the United States Corps of Engineers, the United States Geological Survey, or any other local, state or Federal Agency applicable to the City of Milton; or
  - (b) Any base flood study authored by a registered Professional Engineer in the State of Georgia which has been prepared by FEMA approved methodology and approved by the Manager.
- (iii) Other studies which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain and flood prone areas include:
  - (a) Any flood or flood-related study conducted by the United States Corps of Engineers , the United States Geological Survey, or any other local, state, or Federal Agency applicable to the City of Milton; or
  - (b) Any future-conditions flood study authored by a registered Professional Engineer in the State of Georgia which has been approved by FEMA approved methodology approved by the Manager.
- (iv) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at Milton City Hall.

(e) Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environment shall control.

(f) Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

(g) Warning and Disclaimer of Liability

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

*Section 2: Definitions.*

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For the purpose of this Article, the following definitions apply.

- (a) *“Addition (to an existing building)”* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered New Construction.
- (b) *“Appeal”* means a request for a review of the Manager’s interpretation of any provision of this ordinance.
- (c) *“Area of Shallow Flooding”* means a designated AO or AH Zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
- (d) *“Area of Special Flood Hazard”* is the land subject to a one percent or greater chance of flooding in any given year. This includes all floodplain and flood prone areas at or below the base flood elevation (including A, A1-30, A-99, AE, AO, AH, and AR on the FHBM or the FIRM), all floodplain and flood prone areas at or below the future-conditions flood elevation, and all other flood prone areas as referenced in Section 1(d). All streams with a drainage area of 100 acres or greater shall have the area of special flood hazard delineated.
- (e) *“Base Flood”* means the flood having a one percent chance of being equaled or exceeded in any given year [i.e., the “100-year flood”].

- (f) *“Base Flood Elevation”* means the highest water surface elevation anticipated at any given point during the base flood.
- (g) *“Basement”* a level below a floor of a building with a portion of the floor below grade.
- (h) *“Building”* means any structure built for support, shelter, or enclosure for any occupancy or storage.
- (i) *“Development”* means any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, and any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials,
- (j) *“Manager”* means Manager of City of Milton Community Development Department.
- (k) *“Elevated Building”* means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.
- (l) *“Existing Construction”* Any structure for which the “start of construction” commenced before July 5, 2006.
- (m) *“Existing Manufactured Home Park or Subdivision”* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before July 5, 2006.
- (n) *“Expansion to an Existing Manufactured Home Park or Subdivision”* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.
- (o) *“FEMA”* means the Federal Emergency Management Agency.
- (p) *“Flood”* or *“Flooding”* means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (i) the overflow of inland or tidal waters; or

- (ii) the unusual and rapid accumulation or runoff of surface waters from any source.
- (q) "*Flood Hazard Boundary Map*" or "*FHBM*" means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.
- (r) "*Flood Insurance Rate Map*", or "*FIRM*", means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.
- (s) "*Flood Insurance Study*" or "*FIS*" means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.
- (t) "*Floodplain*" means any land area susceptible to flooding.
- (u) "*Floodproofing*" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (v) "*Floodway*" or "*Regulatory Floodway*" means the channel of a stream or other watercourse and the adjacent areas of the floodplain which is necessary to contain and discharge the base flood flow without cumulatively increasing the base flood elevation more than one foot.
- (w) "*Functionally Dependent Use*" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.
- (x) "*Future-Conditions Flood*" means the flood having a one percent chance of being equaled or exceeded in any given year based on future-conditions hydrology. Also known as the 100-year future-conditions flood.
- (y) "*Future-conditions Flood Elevation*" means the flood standard equal to or higher than the Base Flood Elevation. The Future-conditions Flood Elevation is defined as the highest water surface anticipated at any given point during the future-conditions flood.
- (z) "*Future-conditions Floodplain*" means any land area susceptible to flooding by the future-conditions flood.
- (aa) "*Future-conditions Hydrology*" means the flood discharges associated with projected land-use conditions based on a community's zoning map, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic

modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

- (bb) *"Highest Adjacent Grade"* means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.
  
- (cc) *"Historic Structure"* means any structure that is;
  - (i) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  
  - (ii) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  
  - (iii) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
  
  - (iv) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
    - (A) By an approved state program as determined by the Secretary of the Interior, or
  
    - (B) Directly by the Secretary of the Interior in states without approved programs.
  
- (dd) *"Lowest Floor"* means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this ordinance.
  
- (ee) *"Manufactured Home"* means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures

placed on a site for 180 consecutive days or longer and intended to be improved property.

- (ff) “*Mean Sea Level*” means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance the term is synonymous with National Geodetic Vertical Datum (NGVD) and/or the North American Vertical Datum (NAVD) of 1988.
- (gg) “*National Geodetic Vertical Datum (NGVD)*” as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (hh) “*New Construction*” means any structure (see definition) for which the “start of construction” commenced after July 5, 2006 and includes any subsequent improvements to the structure.
- (ii) “*New Manufactured Home Park or Subdivision*” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after July 5, 2006.
- (jj) “*North American Vertical Datum (NAVD) of 1988*” is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (kk) “*Owner*” means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.
- (ll) “*Permit*” means the permit issued by the City of Milton Community Development Department to the applicant which is required for undertaking any land development activity.
- (mm) “*Recreational Vehicle*” means a vehicle which is:
  - (i) built on a single chassis;
  - (ii) 400 square feet or less when measured at the largest horizontal projection;
  - (iii) designed to be self-propelled or permanently towable by light duty truck; and,
  - (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (nn) “*Site*” means the parcel of land being developed, or the portion thereof on which the land development project is located.

- (oo) *“Start of Construction”* means the date the permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are not exempt from any ordinance requirements). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (pp) *“Structure”* means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.
- (qq) *“Subdivision”* means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.
- (rr) *“Substantial Damage”* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (ss) *“Substantial Improvement”* means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a 10-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building means (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred “substantial damage” regardless of the actual amount of repair work performed. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project.
- (tt) *“Substantially Improved Existing Manufactured Home Park or Subdivision”* is a condition in which the repair, reconstruction, rehabilitation or improvement of the

streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

- (uu) “*Variance*” is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.
- (vv) “*Violation*” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Section 3: Permit Procedures and Requirements.

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(a) Permit Application Requirements

No owner or developer shall perform any land development activities on a site where an Area of Special Flood Hazard is located, without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Unless specifically excluded by this ordinance, any owner or developer desiring a permit for a land development activity shall submit to the City of Milton a permit application on a form provided by the City of Milton for that purpose.

No land development permit will be approved for any land development activities that do not meet the requirements, restrictions and criteria of this ordinance.

(b) Floodplain Management Plan Requirements

An application for a development project with any Area of Special Flood Hazard located on the site will be required to include a floodplain management / flood damage prevention plan. This plan shall include the following items:

- (1) Site plan drawn to scale, which includes but is not limited to:
  - (a) Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;
  - (b) For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;
  - (c) Proposed locations of water supply, sanitary sewer, and utilities;
  - (d) Proposed locations of drainage and stormwater management facilities;
  - (e) Proposed grading plan;
  - (f) Base flood elevations and future-conditions flood elevations;

- (g) Boundaries of the base flood floodplain and future-conditions floodplain;
  - (h) If applicable, the location of the floodway; and
  - (i) Certification of the above by a registered Professional Engineer or surveyor.
- (2) Building and foundation design detail, including but not limited to:
- (a) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
  - (b) Elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
  - (c) Certification that any proposed non-residential floodproofed structure meets the criteria in Section 5(b)(ii);
  - (d) For enclosures below the base flood elevation, location and total net area of foundation openings as required in Section 5(a)(v).
  - (e) Design plans certified by a registered Professional Engineer or architect for all proposed structure(s).
- (3) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;
- (4) Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre-and post development conditions base flood elevations, future-conditions flood elevations, flood protection elevations, Special Flood Hazard Areas and regulatory floodway widths, flood profiles and all other computations and other information similar to that presented in the FIS;
- (5) Copies of all applicable State and Federal permits necessary for proposed development; and
- (6) All appropriate certifications required under this ordinance.

The approved floodplain management / flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.

(c) Construction Stage Submittal Requirements

For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder shall provide to the Manager a certified as-built Elevation Certificate or Floodproofing Certificate for non-residential construction including the lowest floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is completed. A final Elevation

Certificate shall be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or Professional Engineer and certified by same. When flood-proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a Professional Engineer and certified by same.

Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. The Manager shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

(d) Duties and Responsibilities of the Administrator

Duties of the Manager shall include, but shall not be limited to:

- (i) Review all land development applications and permits to assure that the requirements of this ordinance have been satisfied/and to determine whether proposed building sites will be reasonably safe from flooding;
- (ii) Require that copies of all necessary permits from governmental agencies from which approval is required by Federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, be provided and maintained on file;
- (iii) When Base Flood Elevation data or floodway data have not been provided, then the Manager shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, state or other sources in order to meet the provisions of Sections 4 and 5;
- (iv) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;
- (v) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed;
- (vi) When flood-proofing is utilized for a structure, the Manager shall obtain certification of design criteria from a registered Professional Engineer;
- (vii) Notify affected adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- (viii) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the Manager shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Where floodplain elevations have been defined,

the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps; and,

- (ix) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Manager, and shall be open for public inspection.

*Section 4: Standards for Development.*

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(a) Definition of Floodplain Boundaries

- (i) Studied "A" zones, as identified in the FIS, shall be used to establish base flood elevations whenever available.
- (ii) For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations shall be provided by the City of Milton. If future-conditions elevation data is not available from the City of Milton, then it shall be determined by a registered Professional Engineer using a method approved by FEMA and the City of Milton.

(b) Definition of Floodway Boundaries

- (i) The width of a floodway shall be determined from the FIS or FEMA approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway shall be provided by the City of Milton. If floodway data is not available from the City of Milton, then it shall be determined by a registered Professional Engineer using a method approved by FEMA and the City of Milton.

(c) General Standards

- (i) No construction or structures, including grading, filling, cutting or displacement of earth shall be allowed within the regulatory floodplain that could result in any of the following:
  - (a) Raising the base flood elevation or future-conditions flood elevation equal to or more than 0.01 foot.
  - (b) Reducing the base flood or future-conditions regulatory flood storage capacity.
  - (c) Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the property or,
  - (d) Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.
- (ii) Any development within the future-conditions floodplain allowed under (i) above shall also meet the following conditions:

- (a) Compensation for storage capacity shall occur between the average ground water table elevation and the base flood elevation for the base flood, and between the average ground water table elevation and the future-condition flood elevation for the future-conditions flood, and lie within the boundaries of ownership of the property being developed and shall be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;
- (b) Cut areas shall be stabilized and graded to a slope of no less than 2.0 percent;
- (c) Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;
- (d) Verification of no-rise conditions (0.01 foot or less), flood storage volumes, and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of Section 4(d);
- (e) Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, shall be located and constructed to minimize or eliminate infiltration or contamination from flood waters; and
- (f) Any significant physical changes to the base flood floodplain shall be submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the City of Milton Community Development Department using the Community Consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as-built surveys for a final Letter of Map Revision (LOMR).

(d) Engineering Study Requirements for Floodplain Encroachments

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of Section 5 (d) apply. This study shall be prepared by a currently registered Professional Engineer in the State of Georgia and made a part of the

application for a permit. This information shall be submitted to and approved by the City of Milton Community Development Department prior to the approval of any permit which would authorize the disturbance of land located within the future-conditions floodplain. Such study shall include:

- (i) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- (ii) Step-backwater analysis, using a method approved by the City of Milton Community Development Department. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood profiles and future-conditions flood profiles;
- (iii) Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development;
- (iv) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

(e) Floodway Encroachments

Located within Areas of Special Flood Hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore the following provisions shall apply:

- (i) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except when required for the construction of bridges, culverts, roadways and utilities, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered Professional Engineer must provide supporting technical data and certification thereof; and,
- (ii) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the City of Milton until an affirmative Conditional Letter of Map Revision (CLOMR) is issued by FEMA and no-rise certification is approved by the City of Milton Community Development Department

(f) Maintenance Requirements

The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood storage capacity is not diminished. The City of Milton may direct the property owner (at no cost to the City of Milton) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the City of Milton Community Development Department.

*Section 5: Provisions for Flood Damage Reduction.*

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(a) General Standards

In all Areas of Special Flood Hazard, the following provisions apply:

- (i) New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain.
- (ii) New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (iii) New construction or substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (iv) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (v) Elevated Buildings. All new construction and substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished and flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
  - (a) Designs for complying with this requirement must be certified to comply by a Professional Engineer and meet the following minimum criteria:
    - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - (2) The bottom of all openings shall be no higher than one foot above grade; and,
    - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

- (b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and,
  - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (vi) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located three (3) feet above the base flood elevation or one (1) foot above the future conditions flood elevation, whichever is higher so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - (vii) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces;
  - (viii) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  - (ix) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
  - (x) Onsite waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,
  - (xi) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.
  - (xii) If the proposed development is located in multiple flood zones or multiple base flood elevations cross the proposed site, the higher or more restrictive base flood elevation or future-condition elevation and development standards shall take precedence.
- (b) Building Standards for Structures and Buildings Within the Future-Conditions Floodplain
    - (i) Residential Buildings
      - (a) *New construction.* New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future-conditions floodplain.
      - (b) *Substantial Improvements.* Substantial improvement of any principal structure or manufactured home shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation adjacent to the building or at least as high as one (1) foot above the future conditions flood elevation whichever is highest. Should solid foundation perimeter walls be used to elevate a

structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 5 (a)(v).

(ii) Non-Residential Buildings

- (a) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future-conditions floodplain.
- (b) Substantial Improvements. Substantial improvement of any principal non-residential structure located in A1- 30, AE, or AH zones, may be authorized by the Manager to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is highest, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Manager.

(iii) Accessory Structures and Facilities

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar structures and facilities) which are permitted to be located within the limits of the floodplain shall be constructed of flood-resistant materials and designed to pass all floodwater in accordance with Section 5(a)(v) and anchored to prevent flotation, collapse, or lateral movement of the structure.

(iv) Standards for Recreational Vehicles

All recreational vehicles placed on sites must either:

- (a) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
- (b) The recreational vehicle must meet all the requirements for “Residential Buildings—Substantial Improvements”, including the anchoring and elevation requirements above.

(vi) Standards for Manufactured Homes

- (a) New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain.

- (b) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:
      - (i) The lowest floor of the manufactured home is elevated no lower than three (3) feet above the level of the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher; or
      - (ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
    - (c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with standards of Section 5.(a)(vii).
- (c) Building Standards for Structures and Buildings Authorized Adjacent to the Future-Conditions Floodplain
  - (i) *Residential Buildings.* For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the level of the highest base flood (100 year) elevation adjacent to the building or, at least one (1) foot above the future-conditions flood elevation, whichever is higher.
  - (ii) *Non-Residential Buildings.* For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the level of the highest base flood elevation adjacent to the building or at least, one (1) foot above the future-conditions flood elevation, whichever is higher.
- (d) Building Standards for Residential Single-Lot Development on Streams without Established Base Flood Elevations and/or Floodway (A-Zones)
 

For a residential Single-Lot development not part of a subdivision that has Areas of Special Flood Hazard, where streams exist but no base flood data have been provided (A-Zones), the Manager shall review and reasonably utilize any available scientific or historic flood elevation, data, base flood elevation floodway data or future-conditions flood elevation data available from a Federal, State, or other source, in order to administer the provisions and standards of this Ordinance. If sufficient data are not available from these sources, then the Manager may require a hydrologic assessment performed by a registered Professional Engineer to determine the base flood elevation and future-conditions flood elevation. Development for this situation shall comply with Section 5(a-c) of this Article.
- (e) Building Standards for Areas of Shallow Flooding (AO-Zones)

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

- (i) All substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards for "Elevated Buildings"

The applicant's or owner's engineer shall certify to the Manager the lowest floor elevation level complies and the record shall become a permanent part of the permit file;

- (ii) Substantial improvement of a non- residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and,
- (iii) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(f) Standards for Subdivisions

- (i) All subdivision proposals shall identify the special flood hazard area and provide base flood elevation data, and future-conditions flood elevation data.
- (ii) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future-conditions flood plain such that encroachments into the future-conditions floodplain for residential structures will not be required. Buildable area shall not be less than what is required per the Milton Zoning Ordinance.
- (iii) All subdivision plans will provide the elevations of proposed structure(s) in accordance with Section 3(b).
- (iv) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (v) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate infiltration of flood waters and discharges from the systems into flood waters; and,

- (vi) All subdivision proposals shall have adequate drainage and stormwater management facilities per the requirements of the City of Milton to reduce potential exposure to flood hazards
- (g) Standards for Utilities
  - (i) All new and replacement water supply and sanitary sewerage systems shall be designed to minimize or eliminate:
    - (a) infiltration of flood waters into the systems; and,
    - (b) discharges from the systems into flood waters.
  - (ii) Onsite waste disposal systems shall be located outside the floodplain to avoid impairment to them, or contamination from them during flooding.

*Section 6: Variance Procedures.*

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- (a) The City of Milton Board of Zoning Appeals shall hear and decide requests for appeals or variances from the requirements of this ordinance. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (b) The City of Milton Board of Zoning Appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Manager in the enforcement or administration of this ordinance. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (c) Any person aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the Superior Court of Fulton County, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.
- (d) All decisions of the Fulton County Board of Zoning Appeals regarding properties located within the City limits of the City of Milton prior to December 1, 2006 are hereby adopted and incorporated by reference. Such decisions of the Fulton County Board of Zoning Appeals will have the same legal effect as if they were decisions of the City of Milton Board of Zoning Appeals.
- (e) Variances may be issued for the repair or rehabilitation of Historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic structure and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.
- (f) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (g) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (h) In reviewing such requests, the Board of Zoning Appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
- (i) Conditions for Variances:
  - (i) A variance shall be issued only when there is:
    - (a) a finding of good and sufficient cause;
    - (b) a determination that failure to grant the variance would result in exceptional hardship; and,
    - (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud on or victimization of the public.
  - (ii) The provisions of this ordinance are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a Historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
  - (iii) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
  - (iv) The Manager shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (j) Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

*Section 7: Violations, Enforcement, and Penalties.*

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(a). Notice of Violation

If the City of Milton Community Development Department determines that an applicant or other responsible person has failed to comply with the terms and

conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- (i) The name and address of the owner or the applicant or the responsible person;
- (ii) The address or other description of the site upon which the violation is occurring;
- (iii) A statement specifying the nature of the violation;
- (iv) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
- (v) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (vi) A statement that the determination of violation may be appealed to the City of Milton Community Development Department by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).

(b) Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Milton Community Development Department shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City of Milton Community Development Department may take any one or more of the following actions or impose any one or more of the following penalties.

- (i) *Stop Work Order.* The City of Milton Community Development Department may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations

described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

- (ii) *Withhold Certificate of Occupancy.* The City may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (iii) *Suspension, Revocation or Modification of Permit.* The City may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City of Milton Community Development Department may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (iv) *Civil Penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the City of Milton Community Development Department shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the Department has taken one or more of the actions described above, it may impose a penalty not to exceed \$1,000 per day (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (v) *Criminal Penalties.* For intentional and flagrant violations of this ordinance, the City of Milton Community Development Department may issue a citation to the applicant or other responsible person, requiring such person to appear in magistrate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 per day or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Article 4: Illicit Discharge and Illegal Connection.

Section 1: General Provisions.

(a) Purpose and Intent

The purpose of this ordinance is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the City of Milton separate storm sewer system to the maximum extent practicable as required by Federal law. This ordinance establishes methods for controlling the

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introduction of pollutants into the City of Milton separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are to:

- (i) Regulate the contribution of pollutants to the storm sewer system by any person;
- (ii) Prohibit illicit discharges and illegal connections to the storm sewer system;
- (iii) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the storm sewer system; and,
- (iv) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this ordinance

(b) Applicability

The provisions of this ordinance shall apply throughout the City of Milton.

(c) Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(d) Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

(e) Responsibility for Administration

The City of Milton Community Development Department shall administer, implement, and enforce the provisions of this ordinance.

*Section 2: Definitions.*

- (a) “*Accidental Discharge*” means a discharge prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.
- (b) “*Clean Water Act*” means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

- (c) *“Construction Activity”* means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (d) *“Manager”* means Manager of City of Milton Community Development Department.
- (e) *“Illicit Discharge”* means any direct or indirect non-stormwater discharge to the (municipal/county) separate storm sewer system, except as exempted in Section 3 of this ordinance.
- (f) *“Illegal Connection”* means either of the following:
  - (i) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
  - (ii) Any pipe, open channel, drain or conveyance connected to the Milton separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (f) *“Industrial Activity”* means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
  - (g) *“National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit”* means a permit issued by the Georgia EPD under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (h) *“City of Milton Separate Storm Sewer System”* means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, City of Milton streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:
  - (i) Owned or maintained by the City;
  - (ii) Not a combined sewer; and
  - (iii) Not part of a publicly-owned treatment works.
- (i) *“Non-Stormwater Discharge”* means any discharge to the storm drain system that is not composed entirely of stormwater.

- (j) *“Person”* means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.
- (k) *“Pollutant”* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.
- (l) *“Pollution”* means the contamination or other alteration of any water’s physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- (m) *“Premises”* mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (n) *“State Waters”* means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Georgia which are not entirely confined and retained completely upon the property of a single person.
- (o) *“Stormwater Runoff”* or *“Stormwater”* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (p) *“Structural Stormwater Control”* means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

*Section 3: Prohibitions.*

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(a) Prohibition of Illicit Discharges

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the City of Milton separate storm

sewer system any pollutants or waters containing any pollutants, other than stormwater.

The following discharges are exempt from the prohibition provision above:

- (i) Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;
- (ii) Discharges or flows from fire fighting, and other discharges specified in writing by the Manager as being necessary to protect public health and safety;
- (iii) The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the State and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the City of Milton separate storm sewer system.

(b) Prohibition of Illegal Connections

The construction, connection, use, maintenance or continued existence of any illegal connection to the storm sewer system is prohibited.

- (i) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (ii) A person violates this ordinance if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.
- (iii) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Public Works Department.
- (iv) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City of Milton Community Development Department requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other

discharge point be identified. Results of these investigations are to be documented and provided to the Community Development Department.

*Section 4: Industrial or Construction Activity Discharges.*

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Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Milton Community Development Department prior to allowing discharges to the municipal separate storm sewer system.

*Section 5: Access and Inspection of Properties and Facilities.*

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The City of Milton Community Development Department shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance.

- (a) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the City of Milton Community Development Department.
- (b) The owner or operator shall allow the City of Milton Community Development Department ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.
- (c) The City of Milton Community Development Department shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Department to conduct monitoring and/or sampling of flow discharges.
- (d) The City of Milton Community Development Department may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the its designees. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the City of Milton Community Development Department and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (f) Unreasonable delays in allowing the City of Milton Community Development Department access to a facility is a violation of this ordinance.
- (g) If the City of Milton Community Development Department has been refused access to any part of the premises from which stormwater is discharged, and the Department is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health,

safety, environment and welfare of the community, then the Community Development Department may seek issuance of a search warrant from any court of competent jurisdiction.

*Section 6: Notification of Accidental Discharges and Spills.*

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Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the (City of Milton) separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge. .

Said person shall notify the authorized enforcement agency in person or by phone, facsimile or in person no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Milton Community Development Department within three business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.

Failure to provide notification of a release as provided above is a violation of this ordinance.

*Section 7: Violations, Enforcement and Penalties.*

(a) Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City of Milton Community Development Department is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Community Development Department is authorized to seek costs of the abatement as outlined in Section 7.5.

(b) Notice of Violation

Whenever the City of Milton Community Development Department finds that a violation of this ordinance has occurred, the Department may order compliance by written notice of violation.

- (i) The notice of violation shall contain:
  - (A) The name and address of the alleged violator;
  - (B) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
  - (C) A statement specifying the nature of the violation;
  - (D) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
  - (E) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
  - (F) A statement that the determination of violation may be appealed to the City of Milton Community Development Department by filing a written notice of appeal within thirty (30) days of service of notice of violation.
- (ii) Such notice may require without limitation:
  - (A) The performance of monitoring, analyses, and reporting;
  - (B) The elimination of illicit discharges and illegal connections;
  - (C) That violating discharges, practices, or operations shall cease and desist;
  - (D) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (E) Payment of costs to cover administrative and abatement costs; and,
  - (F) The implementation of pollution prevention practices.
- (c) Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the City of Milton Community Development Department. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the Manager or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the appropriate authority or their designee shall be final.

- (d) Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the appropriate authority upholding the decision of the City of Milton Community Development Department, then representatives of the Department may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(e) Costs of Abatement of the Violation

Within 60 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within 30 days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the City of Milton by reason of such violation.

(f) Civil Penalties

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the City of Milton Community Development Department shall deem appropriate, after the Department has taken one or more of the actions described above, the Department may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(g) Criminal Penalties

For intentional and flagrant violations of this ordinance, the City of Milton Community Development Department may issue a citation to the alleged violator requiring such person to appear in magistrate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(h) Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

(i) Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Milton Community Development Department may seek cumulative remedies.

The City of Milton Community Development Department may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Article 5: Post-Development Stormwater Management for New Development and Redevelopment.

*Section 1: General Provisions.*

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(a) Purpose and Intent

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. This ordinance seeks to meet that purpose through the following objectives:

- (i) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
- (ii) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
- (iii) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- (iv) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
- (v) Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable. Coordinate site design plans, which include greenspace, with the county's greenspace protection plan;

- (vi) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and,
- (vii) Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

(b) Applicability

(i) This ordinance shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection 2 below. These standards apply to any new development or redevelopment site that meets one or more of the following criteria; or as otherwise required by the Manager;

(A) New development that involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of 5,000 square feet or more;

(B) Redevelopment that includes the creation, addition or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of 5,000 square feet or more;

(C) Any new development or redevelopment, regardless of size, that is defined by the Manager to be a hotspot land use; or,

(D) Land development activities that are smaller than the minimum applicability criteria set forth in items A and B above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

(ii) The following activities are exempt from this ordinance:

(A) Agricultural or silvicultural land management activities within areas zoned for these activities; and,

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(B) Repairs to any stormwater management facility or practice deemed necessary by the Manager.

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(c) Designation of Ordinance Administrator

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

(d) Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(e) Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

(f) Stormwater Design Manual

The City of Milton will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the Georgia Stormwater Management Manual and any relevant City addenda (*or equivalent City stormwater management design manual*), for the proper implementation of the requirements of this ordinance. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

*Section 2: Definitions.*

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- (a) “*Applicant*” means a person submitting a post-development stormwater management application and plan for approval.
- (b) “*Channel*” means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- (c) “*Conservation Easement*” means an agreement between a land owner and the City of Milton or other government agency or land trust that permanently protects open space or greenspace on the owner’s land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.
- (d) “*Detention*” means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.
- (e) “*Detention Facility*” means a detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.
- (f) “*Developer*” means a person who undertakes land development activities.

- (g) “*Development*” means a land development or land development project.
- (h) “*Manager*” means Manager of City of Milton Community Development Department
- (i) “*Drainage Easement*” means an easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.
- (j) “*Erosion and Sedimentation Control Plan*” means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.
- (k) “*Extended Detention*” means the detention of stormwater runoff for an extended period, typically 24 hours or greater.
- (l) “*Extreme Flood Protection*” means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.
- (m) “*Flooding*” means a volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.
- (n) “*Greenspace*” or “*Open Space*” means permanently protected areas of the site that are preserved in a natural state.
- (o) “*Hotspot*” means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
- (p) “*Hydrologic Soil Group (HSG)*” means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.
- (q) “*Impervious Cover*” means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.
- (r) “*Industrial Stormwater Permit*” means a National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies onsite pollution control strategies.
- (s) “*Infiltration*” means the process of percolating stormwater runoff into the subsoil.
- (t) “*Jurisdictional Wetland*” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of

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vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

- (u) *“Land Development”* means any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.
- (v) *“Land Development Activities”* means those actions or activities which comprise, facilitate or result in land development.
- (w) *“Land Development Project”* means a discrete land development undertaking.
- (x) *“Inspection and Maintenance Agreement”* means a written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.
- (y) *“New Development”* means a land development activity on a previously undeveloped site.
- (z) *“Nonpoint Source Pollution”* means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- (aa) *“Nonstructural Stormwater Management Practice”* or *“Nonstructural Practice”* means any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.
- (bb) *“Offsite Facility”* means a stormwater management facility located outside the boundaries of the site.
- (cc) *“Onsite Facility”* means a stormwater management facility located within the boundaries of the site.
- (dd) *“Overbank Flood Protection”* means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.

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- (ee) “*Owner*” means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.
- (ff) “*Permit*” means the permit issued by the City of Milton to the applicant which is required for undertaking any land development activity.
- (gg) “*Person*” means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.
- (hh) “*Post-development*” refers to the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.
- (ii) “*Pre-development*” refers to the time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.
- (jj) “*Project*” means a land development project.
- (kk) “*Redevelopment*” means a land development project on a previously developed site, but excludes ordinary maintenance activities limited to , remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.
- (ll) “*Regional Stormwater Management Facility*” or “*Regional Facility*” means stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for onsite controls is either eliminated or reduced.
- (mm) “*Runoff*” means stormwater runoff.
- (nn) “*Site*” means the parcel of land being developed, or the portion thereof on which the land development project is located.
- (oo) “*Stormwater Better Site Design*” means nonstructural site design approaches and techniques that can reduce a site’s impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

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- (pp) “*Stormwater Management*” means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation as determined by engineering studies, in a manner which enhances and promotes the public health, safety and general welfare.
- (qq) “*Stormwater Management Facility*” means any infrastructure that effects stormwater management and which controls or conveys stormwater runoff.
- (rr) “*Stormwater Management Measure*” means any stormwater management facility or nonstructural stormwater practice.
- (ss) “*Stormwater Management Plan*” means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this ordinance.
- (tt) “*Stormwater Management System*” means the entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.
- (uu) “*Stormwater Retrofit*” means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.
- (vv) “*Stormwater Runoff*” means the flow of surface water resulting from precipitation.
- (ww) “*Structural Stormwater Control*” means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.
- (xx) “*Subdivision*” means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

*Section 3: Permit Procedures and Requirements.*

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(a) Permit Application Requirements

No owner or developer shall perform any land development activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Unless specifically exempted by this ordinance, any owner or developer proposing a land development activity shall submit to the City of Milton Community Development

Department a permit application on a form provided by the City for that purpose or as part of the land disturbance or building permitting process.

Unless otherwise exempted by this ordinance, a permit application shall be accompanied by the following items in order to be considered:

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- (i) Stormwater concept plan and consultation meeting certification in accordance with Section 3(b);
- (ii) Stormwater management plan in accordance with Section 3( c );
- (iii) Inspection and maintenance agreement in accordance with Section 3(d), if applicable;
- (iv) Performance bond or surety, if deemed applicable; and,
- (v) Permit application and plan review fees in accordance with Section 3(f).

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(b) Stormwater Concept Plan and Consultation Meeting

Before any stormwater management permit application is submitted, it is recommended that the land owner or developer shall meet with the City of Milton Community Development Department for a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This consultation meeting shall take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-development stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential ideas for stormwater management designs before the formal site design engineering is commenced.

To accomplish this goal the following information shall be included in the concept plan which shall be submitted in advance of the meeting:

(i) Existing Conditions/Proposed Site Plans

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); limits of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(ii) Natural Resources Inventory

A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, potential wetlands, and other native vegetative areas on the site,

as well as the location and limits of other natural feature protection and conservation areas such as jurisdictional wetlands, lakes, ponds, floodplains, state waters, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(iii) Stormwater Management System Concept Plan

A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

Local watershed plans, the City greenspace projection plan (if applicable), and any relevant resource protection plans will be consulted in the discussion of the concept plan.

(c) Stormwater Management Plan Requirements

The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this ordinance, including the performance criteria set forth in Section 4 below.

This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the state of Georgia, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the Stormwater Design Manual.

The stormwater management plan must ensure that the requirements and criteria in this ordinance are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the Stormwater Management Site Plan checklist found in the Stormwater Design Manual. This includes:

- (i) Common address and legal description of site
- (ii) Vicinity Map
- (iii) Existing Conditions Hydrologic Analysis

The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing

site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each subbasin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by offsite areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, predevelopment conditions shall be modeled using guidelines established by the Manager for the portion of the site undergoing land development activities.

(iv) **Post-Development Hydrologic Analysis**

The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each subbasin affected by the project; calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in Section 4; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50 percent of the site area for the entire site, then the performance criteria in Section 4 must be met for the stormwater runoff from the entire site.

(v) ***Stormwater Management System***

The description, scaled drawings and engineering design calculations for the proposed post-development stormwater management system, which shall include: A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management

performance criteria in Section 4; drawings, engineering design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.

(vi) *Post-Development Downstream Analysis*

A downstream peak flow analysis which includes the assumptions, results and supporting engineering calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is 10 percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the stormwater design manual.

(vii) Construction-Phase Erosion and Sedimentation Control Plan

An erosion and sedimentation control plan in accordance with the Georgia Erosion and Sedimentation Control Act or NPDES Permit for Construction Activities. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.

(viii) Landscaping and Open Space Plan

A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.

(ix) Operations and Maintenance Plan

Detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. These plans will identify the parts or components of a stormwater management facility or practice that

need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(x) Maintenance Access Easements

The applicant must ensure access for the parties responsible for maintenance, from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property.

(xi) Inspection and Maintenance Agreements

Unless an onsite stormwater management facility or practice is dedicated to and accepted by the City of Milton Community Development Department as provided in Section (3) (d) below, the applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an onsite stormwater management facility or practice in accordance Section (3) (d).

(xii) Evidence of Acquisition of Applicable Local and Non-local Permits

The applicant shall certify and provide documentation to the City of Milton Community Development Department that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.

(d) Stormwater Management Inspection and Maintenance Agreements

Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder and for which the City of Milton Community Development Department requires ongoing maintenance, the applicant or owner of the site must, unless an onsite stormwater management facility or practice is dedicated to and accepted by the City of Milton Community Development Department, execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that shall be binding on all subsequent owners of the site.

The inspection and maintenance agreement, if applicable, must be approved by the City of Milton Community Development Department prior to plan approval, and recorded in the deed records upon final plat approval.

The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance. Responsibility for the operation and maintenance of the stormwater management facility or practice, unless expressly accepted by a governmental agency in writing, shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof.

In addition to enforcing the terms of the inspection and maintenance agreement, the City of Milton Community Development Department may also enforce all of the provisions for ongoing inspection and maintenance in Section 6 of this ordinance.

The City of Milton Community Development Department, in lieu of an inspection and maintenance agreement, may expressly accept in writing dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

- (e) Application Procedure
  - (i) Applications for land development permits shall be filed with the City of Milton Community Development Department.
  - (ii) Permit applications shall include the items set forth in Section 3 above (two copies of the stormwater management plan and the inspection maintenance agreement, if applicable, shall be included).
  - (iii) The City of Milton Community Development Department shall inform the applicant whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved.
  - (iv) If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, the City of Milton Community Development Department shall notify the applicant of such fact in writing. The

applicant may then revise any item not meeting the requirements hereof and resubmit the same, in which event subparagraph iii above and this subparagraph shall apply to such resubmittal.

- (v) Upon a finding by the City of Milton Community Development Department that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this ordinance, the City of Milton Community Development Department may issue a permit for the land development project, provided all other legal requirements for the issuance of such permit have been met. The issuance of a land development, building or land disturbance permit in conjunction with a related inspection and maintenance agreement, does not indicate or create an acceptance by the City of any inspection or maintenance responsibilities under the terms of said inspection or maintenance agreement.
- (vi) Notwithstanding the issuance of the permit, in conducting the land development project, the applicant or other responsible person shall be subject to the following requirements:
  - (A) The applicant shall comply with all applicable requirements of the approved plan and this ordinance and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
  - (B) The land development project shall be conducted only within the area specified in the approved plan;
  - (C) The City of Milton Community Development Department shall be allowed to conduct periodic inspections of the project;
  - (D) No changes may be made to an approved plan without review and written approval by the City of Milton Community Development Department; and,
  - (E) Upon completion of the project, the applicant or other responsible person shall submit the engineer's report and certificate and as-built plans required by Section 5.

(f) Application Review Fees

The fee for review of any stormwater management application shall be based on the fee structure established by the City of Milton Community Development Department and shall be made prior to the issuance of any building or land disturbance permit for the development.

(g) Modifications for Offsite Facilities

The stormwater management plan for each land development project shall provide for stormwater management measures located on the site of the project, unless

provisions are made to manage stormwater by an offsite or regional facility. The offsite or regional facility must be located on property legally dedicated for the purpose, must be designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by onsite practices and there must be a legally-obligated entity responsible for long-term operation and maintenance of the offsite or regional stormwater facility. In addition, onsite measures shall be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the offsite facility.

A stormwater management plan must be submitted to the City of Milton Community Development Department which shows the adequacy of the offsite or regional facility.

To be eligible for a modification, the applicant must demonstrate to the satisfaction of the Director that the use of an offsite or regional facility will not result in the following impacts to upstream or downstream areas:

- (i) Increased threat of flood damage to public health, life, and property;
- (ii) Deterioration of existing culverts, bridges, dams, and other structures;
- (iii) Excessive (damaging) streambank or streambed erosion or siltation;
- (iv) Degradation of in-stream biological functions or habitat; or
- (v) Water quality impairment in violation of State water quality standards, and/or violation of any state or federal regulations.
- (vi) Premature loss of overbank trees, critical vegetation, or utilities.

*Section 4: Post-Development Stormwater Management Performance Criteria.*

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The following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this ordinance:

(a) Water Quality

All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:

- (i) It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;
- (ii) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and,
- (iii) Runoff from hotspot land uses and activities identified by the City of Milton Community Development Department are adequately treated and addressed

through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

(b) Stream Channel Protection

Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:

(i) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;

(ii) 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event;

(iii) Erosion prevention measures such as energy dissipation and velocity control.

(c) Overbank Flooding Protection

Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm under Section 4(b) is exempted, then peak discharge rate attenuation of the 2-year through the 25-year return frequency storm event must be provided.

(d) Extreme Flooding Protection

Extreme flood and public safety protection shall be provided by controlling and safely conveying the 100-year, 24 hour return frequency storm event such that flooding is not exacerbated.

(e) Structural Stormwater Controls

All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the City of Milton Community Development Department before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the City may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of

stormwater runoff or increased nonpoint source pollution loads created on the site in question.

Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

(f) Stormwater Credits for Nonstructural Measures

The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under Section 4(a). The applicant may, if approved by the City of Milton Community Development Department, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

(g) Drainage System Guidelines

Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:

- (i) Methods to calculate stormwater flows shall be in accordance with the Stormwater Design Manual;
- (ii) All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the Stormwater Design Manual; and,
- (iii) Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the stormwater design manual.

(h) Dam Design Guidelines

Any land disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

*Section 5: Construction Inspections of Post-Development Stormwater Management System.*

(a) Inspections to Ensure Plan Compliance During Construction

Periodic and annual inspections of the stormwater management system construction may be conducted by the staff of the City of Milton Community Development

Department and/or as required by the City, and shall be conducted and certified by a registered Professional Engineer in Georgia who has been approved by the City of Milton Community Development Department using certification forms as may be required by the City.. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.

All inspections shall be documented with written reports that contain the following information:

- (i) The date and location of the inspection; the specific measurements, volumes, elevations, and outlet control structure dimensions.
- (ii) Whether construction is in compliance with the approved stormwater management plan;
- (iii) Variations from the approved construction specifications; and,
- (iv) Any other variations or violations of the conditions of the approved stormwater management plan.

If any variations or violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.

(b) Final Inspection and As Built Plans

Upon completion of a project, and before a final plat and certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual "as built" plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications and dimensions for all stormwater management facilities and practices and must be certified by a registered Professional Engineer in Georgia. A final inspection by the City of Milton Community Development Department is required before the release of any performance securities can occur.

*Section 6: Ongoing Inspection and Maintenance of Stormwater Facilities and Practices.*

(a) Long-Term Maintenance Inspection of Stormwater Facilities and Practices

Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this ordinance.

A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the City of Milton Community Development Department shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to

the person specified in the inspection and maintenance agreement. The notice shall specify the need to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City of Milton Community Development Department, may correct the violation as provided in Subsection 6(d) hereof.

Inspection programs by the City of Milton Community Development Department may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

(b) Right-of-Entry for Inspection

The terms of the inspection and maintenance agreement shall provide for the City to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

(c) Records of Maintenance Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the City of Milton Community Development Department when requested.

(d) Failure to Maintain

If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City of Milton Community Development Department, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The City of Milton Community Development Department may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

*Section 7: Violations, Enforcement and Penalties.*

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent

such equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(a) Notice of Violation

If the City of Milton Community Development Department determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- (i) The name and address of the owner or the applicant or the responsible person;
- (ii) The address or other description of the site upon which the violation is occurring;
- (iii) A statement specifying the nature of the violation;
- (iv) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
- (v) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (vi) A statement that the determination of violation may be appealed to the City of Milton Community Development Department by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice by the City shall be sufficient).

(b) Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Milton Community Development Department shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the

City of Milton Community Development Department may take any one or more of the following actions or impose any one or more of the following penalties.

- (i) *Stop Work Order.* The City of Milton Community Development Department may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
- (ii) *Withhold Certificate of Occupancy.* The City of Milton Community Development Department may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (iii) *Suspension, Revocation or Modification of Permit.* The City of Milton Community Development Department may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated [upon such conditions as the City may deem necessary] to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (iv) *Civil Penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the City of Milton Community Development Department shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the City has taken one or more of the actions described above, the Department may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (v) *Criminal Penalties.* For intentional and flagrant violations of this ordinance, the City of Milton Community Development Department may issue a citation to the applicant or other responsible person, requiring such person to appear in magistrate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Article 6: Stream Buffer Protection

*Section 1: Title.*

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This ordinance shall be known as the “City of Milton Stream Buffer Protection Ordinance.”

*Section 2: Findings and Purposes.*

(a) Findings

Whereas, the Community Development Department of the City of Milton finds that buffers adjacent to streams provide numerous benefits including:

- (i) Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources
- (ii) Removing pollutants delivered in urban stormwater
- (iii) Reducing erosion and controlling sedimentation
- (iv) Protecting and stabilizing stream banks
- (v) Providing for infiltration of stormwater runoff
- (vi) Maintaining base flow of streams
- (vii) Contributing organic matter that is a source of food and energy for the aquatic ecosystem
- (viii) Providing tree canopy to shade streams and promote desirable aquatic habitat
- (ix) Providing riparian wildlife habitat
- (x) Furnishing scenic value and recreational opportunity
- (xi) Providing opportunities for the protection and restoration of greenspace

(b) Purposes

It is the purpose of this Ordinance is to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:

- (i) Create buffer zones along the streams of the City of Milton for the protection of water resources; and,
- (ii) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

*Section 3: Definitions*

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- (a) “*Buffer*” means, with respect to a stream, a natural or enhanced vegetated area lying adjacent to the stream.
- (b) “*Director*” means Director of City of Milton Community Development Department.
- (c) “*Impervious Cover*” means any man-made paved, hardened or structural surface regardless of material. Impervious cover includes but is not limited to rooftops, buildings, streets, roads, decks, swimming pools and any concrete or asphalt.
- (d) “*Land Development*” means any land change, including but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.
- (e) “*Land Development Activity*” means those actions or activities which comprise, facilitate or result in land development.
- (f) “*Land Disturbance*” means any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.
- (g) “*Land Disturbance Activity*” means those actions or activities which comprise, facilitate or result in land disturbance.
- (h) “*Floodplain*” means any land area susceptible to flooding, which would have at least a one percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.
- (i) “*Parcel*” means any plot, lot or acreage shown as a unit on the latest county tax assessment records.
- (j) “*Permit*” means the permit issued by the City of Milton Community Development Department required for undertaking any land development activity.
- (k) “*Person*” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

- (l) “*Protection Area, or Stream Protection Area*” means, with respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.
- (m) “*Riparian*” means belonging or related to the bank of a river, stream, lake, pond or impoundment.
- (n) “*Setback*” means, with respect to a stream, the area established by Section 5.1.2 extending beyond any buffer applicable to the stream.
- (o) “*Stream*” means any stream, beginning at:
  - (i) The location of a spring, seep, or groundwater outflow that sustains streamflow; or
  - (ii) A point in the stream channel with a drainage area of 25 acres or more; or
  - (iii) Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the City of Milton Community Development Department may require field studies to verify the existence of a stream.
- (o) “*Stream Bank*” means the sloping land that contains the stream channel and the normal flows of the stream.
- (p) “*Stream Channel*” means the portion of a watercourse that contains the base flow of the stream.
- (q) “*Watershed*” means the land area that drains into a particular stream.

#### Section 4: Applicability

This ordinance shall apply to all land development activity on property containing a stream protection area as defined in Section 3 of this ordinance. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

#### (a) Grandfather Provisions

This ordinance shall not apply to the following activities:

- (i) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this ordinance.
- (ii) Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance

activities on such properties will be subject to all applicable buffer requirements.

- (iii) Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this ordinance.
- (iv) Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two years of the effective date of this ordinance.

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(b) Exemptions

The following specific activities are exempt from this ordinance. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

- (i) Activities for the purpose of building one of the following:
  - (A) a stream crossing by a driveway, transportation route or utility line;
  - (B) public water supply intake or public wastewater outfall structures;
  - (C) intrusions necessary to provide access to a property;
  - (D) public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
  - (E) unpaved foot trails and paths;
  - (F) activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
- (ii) Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least 25 feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in Item (b)(i), above.
- (iii) Land development activities within a right-of-way existing at the time this ordinance takes effect or approved under the terms of this ordinance.
- (iv) Within an easement of any utility existing at the time this ordinance takes effect or approved under the terms of this ordinance, land disturbance

activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.

(v) Emergency work necessary to preserve life or property. However, when emergency work is performed under this section, the person performing it shall report such work to the City of Milton on the next business day after commencement of the work. Within 10 days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the City of Milton to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.

(vi) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.

(vii) After the effective date of this ordinance, it shall apply to new subdividing and platting activities.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to Section 5.2 below.

*Section 5: Land Development Requirements*

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(a) Buffer and Setback Requirements

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All land development activity subject to this ordinance shall meet the following requirements:

(i) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wrested vegetation.

(ii) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

(iii) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

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(b) Variance Procedures

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Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

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(i) Where a parcel was platted prior to the effective date of this ordinance, and its shape, topography or other existing physical condition prevents land development consistent with this ordinance, and the City of Milton finds and determines that the requirements of this ordinance prohibit the otherwise lawful use of the property by the owner, the Mayor and City Council of the City of Milton may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel. Once established by the Mayor and City Council, the Board of Zoning Appeals of the City of Milton may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.

(ii) Except as provided above, and until such time as the Mayor and City Council establishes the Board of Zoning Appeals, the Mayor and City Council shall grant no variance from any provision of this ordinance without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Mayor and City Council. Once established by the Mayor and City Council, the Board of Zoning Appeals of the City of Milton shall grant no variance from any provision of this ordinance without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Board of Zoning Appeals. The City of Milton shall give public notice of each such public hearing in a newspaper of general circulation within the City. The City of Milton shall require that the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way.

[\(iii\) When a variance request is concurrent with a Rezoning, Use Permit or a Modification application it shall be considered by the Mayor and City Council and shall follow the process contained in Article 22.9, "Concurrent Variances" of the City of Milton Zoning Ordinance.](#)

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VARIANCES WILL BE CONSIDERED ONLY IN THE FOLLOWING CASES:

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(A) WHEN A PROPERTY'S SHAPE, TOPOGRAPHY OR OTHER PHYSICAL CONDITIONS EXISTING AT THE TIME OF THE ADOPTION OF THIS ORDINANCE PREVENTS LAND DEVELOPMENT UNLESS A BUFFER VARIANCE IS GRANTED.

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(B) UNUSUAL CIRCUMSTANCES WHEN STRICT ADHERENCE TO THE MINIMAL BUFFER REQUIREMENTS IN THE ORDINANCE WOULD CREATE AN EXTREME HARDSHIP.

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VARIANCES WILL NOT BE CONSIDERED WHEN, FOLLOWING  
ADOPTION OF THIS ORDINANCE, ACTIONS OF ANY PROPERTY  
OWNER OF A GIVEN PROPERTY HAVE CREATED CONDITIONS OF A  
HARDSHIP ON THAT PROPERTY.

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- (iii) At a minimum, a variance request shall include the following information:
- (A) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
  - (B) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
  - (C) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
  - (D) Documentation of unusual hardship should the buffer be maintained;  
  
At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
  - (E) A calculation of the total area and length of the proposed intrusion;  
  
A stormwater management site plan, if applicable; and,
  - (F) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

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- (iv) The following factors will be considered in determining whether to issue a variance:
- (A) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
  - (B) The locations of all streams on the property, including along property boundaries;
  - (C) The location and extent of the proposed buffer or setback intrusion; and,

- (D) Whether alternative designs are possible which require less intrusion or no intrusion;
- (E) The long-term and construction water-quality impacts of the proposed variance;
- (F) Whether issuance of the variance is at least as protective of natural resources and the environment.

v. Any variance approved shall be site plan specific.

*Section 6: Compatibility with Other Buffer Regulations and Requirements.*

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This ordinance is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

Additional standards which apply and will be enforced by Milton are:

- (a) Metropolitan River Protection Act and Chattahoochee Corridor Plan: Requires a 50-foot undisturbed vegetative buffer and 150-foot impervious surface setback on the Chattahoochee and its impoundments and a 35-foot undisturbed vegetative buffer (all measured from the edge of the water) on perennial tributary streams in a Corridor extending 2000 feet from either bank of the river and its impoundments. The Corridor extends from Buford Dam to the downstream limits of the Atlanta region (Douglas and Fulton Counties). Streams in the basin of the Corridor are required to be protected by buffers, but no required width is specified. (Georgia Code 12-5-440 et seq.)
- (b) DNR Part 5 Criteria for Small (under 100 square miles) Water Supply Watersheds  
Authorized under Part V of the Georgia Planning Act of 1989, these criteria require 100-foot undisturbed buffers and 150-foot setbacks on all perennial streams within 7 miles upstream of a public water supply reservoir or public water supply intake. Beyond 7 miles, the required buffer is 50 feet and the required setback is 75 feet. Equivalent protection measures can be adopted with approval from Georgia DCA and DNR.
- (c) DNR Part 5 Criteria for River Protection Authorized under the 1991 Mountains and River Corridors Protection Act of 1991, these criteria require a 100-foot buffer along rivers with average annual flows of greater than 400 cfs (excepting the portion of the Chattahoochee referenced above). The buffer is measured from the top of the stream bank.
- (d) Other such State and Federal regulations as may be adopted from time to time.

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While the requirements of this ordinance are intended to apply to all streams in the City of Milton, special conditions may exist that require greater protection. Nothing in this ordinance should be construed as preventing the establishment of wider and/or more restrictive buffers and setbacks as required under any other existing or future legislation. In addition, nothing in this ordinance should be construed as preventing the establishment of wider buffers for purposes of protecting greenspace, preserving habitat or other goals that may not be specifically mandated by legislation.

*Section 7: Additional Information Requirements for Development on Buffer Zone Properties.*

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- (a) Any permit applications for property requiring buffers and setbacks hereunder must include the following:
- 
- (i) A site plan showing:
- 
- (A) THE LOCATION OF ALL STREAMS ON THE PROPERTY
- 
- (B) LIMITS OF REQUIRED STREAM BUFFERS AND SETBACKS ON THE PROPERTY
- 
- (C) BUFFER ZONE TOPOGRAPHY WITH CONTOUR LINES AT NO GREATER THAN FIVE (5)-FOOT CONTOUR INTERVALS
- 
- (D) DELINEATION OF FORESTED AND OPEN AREAS IN THE BUFFER ZONE
- 
- (E) DETAILED PLANS OF ALL PROPOSED LAND DEVELOPMENT IN THE BUFFER AND OF ALL PROPOSED IMPERVIOUS COVER WITHIN THE SETBACK
- (ii) A description of all proposed land development within the buffer and setback; and,
- (iii) Any other documentation that the City of Milton may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process.
- (iv) All buffer and setback areas must be recorded on the final plat of the property following plan approval.

*Section 8: Responsibility.*

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Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this ordinance shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon the City of Milton, its officers or employees, for injury or damage to persons or property.

*Section 9: Inspection.*

The Department of Community Development may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the department in making such inspections. The Department of Community Department shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area.

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No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

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*Section 10: Violations, Enforcement and Penalties.*

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Any action or inaction which violates the provisions of this ordinance or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(a) Notice of Violation

If the City of Milton determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured the appropriate permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

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The notice of violation shall contain:

- 
- (i) The name and address of the owner or the applicant or the responsible person;
  - (ii) The address or other description of the site upon which the violation is occurring;
  - (iii) A statement specifying the nature of the violation;
  - (iv) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this ordinance and the date for the completion of such remedial action;
  - (v) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,

- (vi) A statement that the determination of violation may be appealed to the City of Milton by filing a written notice of appeal within thirty (30) days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).

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(b). Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Milton shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City of Milton may take any one or more of the following actions or impose any one or more of the following penalties.

- 
- (i) *Stop Work Order.* The City of Milton Community Development Department may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
  - (ii) *Withhold Certificate of Occupancy.* The the City of Milton may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
  - (iii) *Suspension, Revocation or Modification of Permit.* The the City of Milton may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City of Milton may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
  - (iv) *Civil Penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the City of Milton shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety,

24 hours notice shall be sufficient) after the City of Milton has taken one or more of the actions described above, the City may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

- (v) *Criminal Penalties.* For intentional and flagrant violations of this ordinance, the City of Milton may issue a citation to the applicant or other responsible person, requiring such person to appear in (appropriate municipal, magistrate or recorders) court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

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*Section 11: Administrative Appeal and Judicial Review.*

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(a) Administrative Appeal

Any person aggrieved by a decision or order of the City of Milton Community Development Department, may appeal in writing within 30 days after the issuance of such decision or order to the Director of the Department and shall be entitled to a hearing before the Mayor and City Council of the City of Milton within 30 days of receipt of the written appeal. Once established by the Mayor and City Council, the Board of Zoning Appeals of the City of Milton shall hear such appeals.

(b) Judicial Review

Any person aggrieved by a decision or order of City of Milton, after exhausting all administrative remedies, shall have the right to appeal de novo to the Superior Court of Fulton County.

(c) Severability

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

Article 7: Soil Erosion and Sedimentation Control

*Section 1: Authority and Title of Article*

This article is adopted pursuant to the authority and mandate of the Georgia Erosion and Sedimentation Act of 1975 (O.C.G.A 612-7-1 et seq.), as amended. A Memorandum of Agreement authorizes the City of Milton as a local issuing authority. As a local issuing authority, Milton is certified to provide and maintain an erosion control program which includes, but is not limited to, development plan review, permitting and erosion control enforcement. This article will be known as "The Milton Soil Erosion and Sedimentation Control Ordinance of 2006."

*Section 2: Intent.*

It is the intent of this ordinance to establish Soil Erosion and Sedimentation Control minimum requirements, standards, and enforcement procedures for land disturbance activities in order to conserve and protect the environment, public health, and the general welfare of the citizens of the City of Milton.

*Section 3: Definitions.*

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

Best Management Practices (BMPs): A collection of structural practices and vegetative measures will, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means designed in accordance with hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified 26 O.C.G.A. 12-7-6 subsection (b).

Board: The Georgia Board of Natural Resources.

Board of Zoning Appeals: The Board appointed by the Milton City Council that hears appeals of stop work orders.

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

Commission: The State of Georgia Soil and Water Conservation Commission.

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

Department: ~~City of Milton Department of Community Development~~ The Department of Natural Resources

Development: The alteration of property for any purpose involving building, subdividing, and/or the preparation of land for any of the above purposes. Development includes, but is not limited to, providing utilities, access, parking, storm water management, sewage disposal systems, and/or construction of a structure

Development Sequence: The sequence of activities to be completed, in order, during the development of a land disturbance project as per approved construction plans

Director: The Director (or his/her designees) of the Milton Department of Community Development.

Director DPW: The Director of Department of Public Works or his/her designee

~~Director, EPD: The Director of the Environmental Protection Division of the Georgia Department of Natural Resources~~

District: The Fulton County Soil and Water Conservation District

Division: The Environmental Protection Division of the Department of Natural Resources

~~District: The Fulton County Soil and Water Conservation District~~

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

EPD: The Environmental Protection Division of the Georgia Department of Natural Resources

EPD Director: The Director of the Environmental Protection Division of the Georgia Department of Natural Resources

~~Erosion and Sedimentation Control Manual: A field manual produced by the Georgia Soil and Water Conservation Commission that illustrates Vegetative and Structural Best Management Practices (BMPs), and their use for land-disturbing activities.~~

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

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Erosion and Sediment Control Plan: A plan for the control of soil erosion and sedimentation resulting from land disturbance activity. ~~to be maintained until project completion, that is designed to minimize soil erosion, protect State Waters and prevent off-site sedimentation.~~ Also known as the "plan".

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

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

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

Ground Elevation: The original prior to cutting or filling elevation of the ground surface as measured from sea level ~~prior to cutting or filling~~.

Land Disturbing Activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 4 (e).

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

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

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

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

Original site topography/ground surface prior to land disturbance activities.

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Nephelometric Turbidity Units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a

substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed particles are present.

Notice to Comply: Enforcement action based on noncompliance through failure to either properly install or maintain BMPs, where sediments remain within the boundaries of the property. This enforcement action provides the violator 5 days to achieve compliance.

Official Notice: A posting of a notice re comply or stop work order on a property that is non-compliant or in violation.

Operator: The party or parties that have:

- (a) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
- (b) day-to-day operational control of those activities that there are necessary to insure compliance with a stormwater pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.

100-year Flood Plain: Land in the flood plain subject to a one percent or greater statistical occurrence probability of flooding in any given year.

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

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

Phased Development: The Development of tracts in maximum of 25-acre increments.

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

Qualified Personnel: Any person who meets or exceeds the education and training requirements of O.C.G.A. 12-7-19.

Reinspection Fee: A fee assessed to the developer/owner/operator or responsible party for reinspecting the project if requested by the developer/owner/operator or responsible party prior to the end of the compliance period, provided that upon that reinspection the project remains out of compliance.

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

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

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

Soil and Water Conservation District Approved Plan: An Erosion and Sedimentation Control Plan approved in writing by the Fulton County Soil and Water Conservation District.

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

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

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

Stop Work Order: Enforcement action that ceases all work onsite or a portion of the site.

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

Trout Streams: All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown, or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Turbidity: A measure of clarity of a water sample.

Underbrush: Any small shrubs, ground cover, or similar plants growing beneath the canopy of mature trees.

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

- (a) Permanent seeding, sprigging, or planting, producing long-term vegetative cover;
- (b) Temporary seeding, producing short-term vegetative cover, or
- (c) Sodding; covering areas with a turf of perennial sod-forming grass. Such practices can be found in the Erosion and Sediment Control Manual.

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

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

(96-0113, § 28-3-2, 1-3-96; 99-0151, § 1, 2, 3, 2001)

Cross reference(s): Definitions generally, § 1-2.

State law reference(s): Similar provisions, O.C.G.A. §12-7.3

▲ *Section 4: Exemptions to Article.*

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

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- (a) Surface mining, as the same is defined in O.C.G.A. §12-4-72, "Mineral Resources and Caves Act";
- (b) Granite quarrying and land clearing for such quarrying;
- (c) Such minor land disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences and other related activities which result in minor soil erosion;
- (d) The construction of single-family residences when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this Section; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in this paragraph and Section 5 of this article. For single-family residence construction covered by provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of O.C.G.A. Title 12, the Georgia Water Quality Control Act. In any such buffer, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been *wrested by normal streams* flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout *waters*, the buffer zone shall be at least 50 horizontal feet, but the Director, EPD may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to smaller buffer shall be granted. The minimum requirements of Section 5 of this article and the buffer zones provided by this section shall be enforced by the issuing authority;
- (e) Agricultural operations as defined in O.C.G.A. §1-3-3 to include raising, harvesting, or storing of products of the field or orchard; feeding, breeding, or managing livestock

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or poultry; producing or storing feed for use in the production of livestock including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chicken, hens and turkeys; producing plants, trees, fowl, or animals; the production of aquaculture, horticultural, dairy, livestock, poultry, eggs, and apiarian products; and farm buildings and farm ponds;

- (f) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (xiv) and (xvi) of Section 5 (c) of this article, no other land disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (g) Any project carried out under the technical supervision of the Natural Resource Conservation Service of the United States Department of Agriculture;
- (h) Any project involving ~~disturbance of one acre or less~~ less than 5,000 square feet of disturbance; provided, however, that this exemption shall not apply to any land disturbing activity within a larger common plan of development or sale with a planned disturbance equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this ~~subsection~~ paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves ~~one acre or less~~ less than one acre, which involves land disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by paragraphs ~~(a)4, (b)2, (c)3, (d)4, (e)5, (f)6, (g)7, (i)9, (j) or (k)40~~ of ~~this~~ section;
- (i) Construction or maintenance projects, or both, undertaken or financed, in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or ~~both~~, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or State Road and Tollway Authority which disturb once or more contiguous acres of land shall be subject to provisions of O.C.G.A.12-7-7,1; except where the Department of Transportation, The Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the ~~county LIA, the LIA, the county~~ shall enforce compliance with the minimum requirements set forth in U.C.G.A 12-7-6 and Section 5 of this Article as if a permit had been issued,

and violations shall be subject to the same penalties as violations by permit holders; copies of any plans approved under that code section shall be provided to the Director,

- (j) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power, except where an electric membership corporation or municipal electric system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the county shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 and Section 5 of this Article as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders; and
- (k) Any public water system reservoir.

State law reference(s)--Exemptions, O.C.G.A. § 12-7-17.

*Section 5: Minimum Requirements for Erosion and Sedimentation Control Using Best Management Practices (BM).*

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- (a) General provisions. ~~Excessive S~~soil erosion and resulting sedimentation can take place during land disturbing activities. Therefore, plans for those land disturbing activities which are not ~~excluded-exempted~~ by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices ~~"shall~~ conform to the minimum requirements of subsection 5 (Bb) and (Cc) of this ~~section~~article. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land disturbing activity.

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- (b) Minimum Requirements BMPs

- (i) Best Management Practices as set forth in subsections 5 (Bb) and (Cc) of this ~~section~~article shall be required for all land disturbing activities. Proper

design, installation, and maintenance of BMPS shall constitute a complete defense to any action by the [EPD Director](#) or to any other allegation of noncompliance with [subsection-paragraph \(HX2j\)](#) of this section or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f) of the "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).

- (ii) A discharge of stormwater runoff from disturbed areas where BMPs have not been properly designed, installed, and maintained shall constitute a separate violation of any land disturbing permit issued by [Milton LIA](#) or of any state general permit issued by the division, pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act" for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 [Nephelometric turbidity units](#) for waters supporting warm water fisheries or by more than ten [Nephelometric turbidity units](#) for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines issued by the [EPD Director](#), ~~EPD~~. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common [plea-plan](#) of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
  - (iii) Failure to properly design, install, or maintain BMPs shall constitute ~~non~~ [compliance-a violation](#) with any land disturbing permit issued by Milton or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, The "Georgia Water Quality Control Act" for each day on which such failure occurs. When such non-compliance is identified by the Director, official notice will be posted on that property.
  - (iv) The [EPD Director](#) may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur as outlined by the National Pollution Discharge Elimination System requirements.
- (c) The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and BMPs, including sound conservation and engineering practices to prevent and/or minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the "Manual for Erosion and Sediment Control in Georgia," published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbing activity was permitted, as well as the following:

(i) Proper erosion control measures must be installed along site boundaries prior to stripping of vegetation, regarding, and other development activities as deemed by the Manager-Community Development Director to minimize erosion and prevent soil erosion/sediment from leaving the site.

(ii) Cut-fill operations must be kept to a minimum.

(iii) Development plans must conform to topography and soil type so as to minimum erosion potential.

(iv) When ever feasible, Natural vegetation that is beyond the permitted limits of land disturbance shall be retained, and when ever feasible, natural vegetation shall be retained, protected and supplemented.

(v) Disturbed soil shall be stabilized by the close of each business day for utilities, and within five to ten days of initial land disturbance for other commercial/residential sites. The disturbed area and duration of exposure to erosive elements shall be kept to a practicable minimum. Disturbed soil shall be stabilized as quickly as practicable.

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(vi) Temporary vegetation or mulching shall be employed to protect all exposed areas (especially steep cuts and/or banks, etc.) during development.

(vii) Permanent vegetation and structural erosion control measures shall be installed upon achieving final grade as soon as practicable.

(viii) Sediment in runoff water must be trapped by the use of debris basins, sediment basins, sediment barriers, construction exits or similar BMPs as outlined in the Erosion and Sediment Control Manual until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of this section, and O.C.G.A. 12-7-1 et seq.

(ix) Adequate provisions must be provided to minimize damage from, surface water to the cut face of excavations or the sloping surface of fills. Cuts and fills must not endanger adjoining properties.

- (x) ~~In cases where cuts and fills endanger adjoining properties, s~~ Sound engineering practices or methods shall be employed to protect ~~these~~ adjoining properties.
- (A) ~~All slopes shall be stabilized immediately and shall remain so for a period of no less than one year from the issuance of the project's final certificate of occupancy and/or the recording of a final plat.~~
- (B) ~~All slopes greater than or equal to 3H:IV must be permanently stabilized with structural or vegetative BMPs.~~
- (C) ~~A plan must be submitted to demonstrate that all slopes associated with fill/cut sections have been adequately designed to be stabilized structurally (such as retaining walls) or vegetatively (erosion mat/blanket, tree bark mulch, etc). Such analysis, reports, or design shall be prepared and approved by a certified design professional.~~
- (xi) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
- (xii) Migrated soil materials or soil materials displaced by mechanical means from land disturbing sites to adjacent water courses, such as lakes, ponds, streams and creeks etc. must be remediated. The remedial work shall be conducted as per a remedial plan approved by Milton.
- (xiii) Grading equipment must cross flowing streams by means of temporary or permanent bridges or culverts except when such methods are not feasible, provided, in any case, ~~these that~~ such crossings are kept to a minimum.
- (xiv) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 5(b)(ii) of this ordinance.
- (xv) Except as provided in paragraph (xvi) of this subsection, there is established a 25 foot buffer along banks of all state waters. ~~Land disturbing activities shall not be conducted within 25 feet of the banks of any state waters,~~ as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the ~~Director, EPD~~ Director determines to allow a variance that is at least as protective of natural

resources and the environment where otherwise allowed by the Director, EPD Director pursuant to O.C.G.A. §12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications are implemented; provided, however, that buffers of at least 25 feet established pursuant to Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act" shall remain in force unless a variance is granted by the Director, EPD Director as provided in this subsectionparagraph. The following requirements shall apply to any such buffer.

- (A) No land-disturbance activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed, (except as otherwise provided by this paragraph.) Temporary structural best management practices are required to be removed at the completion of project. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim underbrush in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- (B) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines. Except as otherwise described in this Article, there is established a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrestled by normal stream flow or wave action, except where the Director, EPD determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director, EPD pursuant to O.C.G.A. 12.2-8, or where drainage structures or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by Director, EPD as

provided in this paragraph. The following requirements shall apply to any such buffer.

~~(C)~~ Except as otherwise described in this Article, there is established a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrestled by normal stream flow or wave action, except where the Director, EPD determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director, EPD pursuant to O.C.G.A. 12-2-8, or where drainage structures or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by Director, EPD as provided in this paragraph. The following requirements shall apply to any such buffer.

~~(D)~~ The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

(xvi) There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrestled by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. For single-family residence construction covered by the provisions of ~~this subsection~~ Section 4 (d), there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to the Article 2 of Chapter 5 of the "Georgia Water Quality Control Act" ~~(O.C.G.A. 112-5-20 et seq.)~~. In any such buffer zone, no land disturbing activity shall be conducted between the residence and the point where vegetation has been wrestled by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the ~~Director, EPD~~ Director may grant variances to no less

than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Section 5 and Section 10 of this article and the buffer zones provided by this section shall be enforced by the Community Development Director. The ~~Director~~, EPD Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to ~~such~~ buffer:

- (A) No land-disturbance activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetation cover remains to protect water quality and aquatic habitat and natural canopy is left in sufficient quality to keep shade on the stream bed; and
- (B) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

(d) ~~(C)~~—Nothing contained in this chapter shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements in Section 5 (b) and 5 (c) of this ordinance.

(e) ~~(D)~~—The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided in this ordinance or terms of the permit.

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~~(E)~~(f) Additional Requirements. Where the Manager finds, through inspection, that property owners have been adversely affected due to violations clearly identified by the Manager, or that the approved current plans do not adequately address the features of the site, the Manager can require additional BMPs, drawings, and revisions to comply with the minimum requirements as outlined in Section 5.

*Section 6: Land Disturbance Application/Permit Process.*

(a) General.

The property owner, developer, and designated planners and engineers shall review the general development plans and detailed plans of Milton that affect the tract to be developed and the area surrounding it. They shall review the zoning resolution, stormwater management ordinance, subdivision ordinance, flood damage prevention resolution, this article, and other ordinances which regulate the development of land within the, jurisdictional boundaries of Milton. However, the property operator is the only party who may obtain a permit.

(b) Application Requirements.

- (i) Prior to any land-disturbing activity, the property in question must be part of an approved and recorded legal lot of record (exemption plat, minor plat, or final plat). Additionally, no land-disturbing activity, including grading, excavating, filling, and/or foundation work, shall be conducted within the City of Milton, until a land-disturbance permit or a building permit (for those projects not requiring a land-disturbance permit under this Article) shall have been issued by the ~~Manager~~ Community Development Director allowing such activity, pursuant to the provisions herein provided. If a project is to be developed in phases, then a separate land disturbance permit or building permit is required for each phase not to exceed 25-acre increments and the development sequence should be followed on all projects issued a land disturbance permit.
- (ii) No person shall conduct any land disturbing activity within the jurisdictional boundaries of Milton without first obtaining a permit from the Milton Department of Community Development or its successor to perform such activity.
- (iii) All developments, construction, improvements, utilities, and demolitions that occur within the boundaries of the incorporated limits of the City of Milton that disturb more than 5,000 square feet of land shall be required to submit an application for a land-disturbance permit.

(iv) The application for a permit shall be submitted to the Community Development Department ~~of Community Development~~ and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this section. Soil erosion and sedimentation control plans shall conform to the provisions of Section 5 (b) and (c) of this article. Applications for a permit will not be accepted unless accompanied by ~~the specified number of~~ three (3) copies of the applicant's soil erosion and sedimentation control plans and a physical address of the property owner (Post Office Box not acceptable). All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the Board.

(v) A minimum fee, as set by the Milton City Council, shall be charged for each acre, or fraction thereof, of the project area.

(vi) In addition to Milton' permitting fees, fees also will be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A.12-5-23, and these provided such that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. Half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.GA 12-7-17 shall be submitted in full to the Division. regardless of the existence of a Local Issuing Authority in the jurisdiction.

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(vii) The permit applicant shall be required to post a bond (surety) in the form of cash prior to issuing the permit. The bond amount shall be determined as established by the Milton Community Development Department, but not exceeding \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity. If the applicant does not comply with this article or with the conditions of the permit after issuance, Milton may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land disturbing activity and bring it into compliance. These corrective actions may include, but are not limited to, desilting detention ponds, water bodies, stormwater facilities, roadways, installing a fence with locking device, reestablishing damaged buffers, and similar or related actions. If a permit applicant has had two or more outstanding violations of previous permits, this Article, or the Erosion and Sedimentation Act of 1975 (O.C.G.A. §12.7-1 et seq.), as amended within three years prior

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to the date of filing of the application under consideration, the City of Milton may deny the permit application.

- (viii) If applicable, immediately upon receipt of an application and plan for a permit, Milton shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to Milton. No permit will be issued unless the plan has been approved by the District, and any variances required by Section ~~26-445 (C)~~ (14xv) ~~or and~~ (15xvi) and bonding, if required as per subsection (b)(vii) of this section, have been obtained. Such review will not be required if Milton and the District have entered into an agreement which allows Milton to conduct such review and approval of the plan without referring the application and plan to the District.

(c) Plan Requirements.

(i) Plans must be prepared to meet the minimum requirements as contained in Section 5 (b). & (c) of this ordinance. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sedimentation Control in Georgia*, published by the State Soil and Water Conservation as a guide; or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sedimentation*

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*Control in Georgia* is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and State laws. Refer to the Milton Erosion and Sedimentation Control Plan Administrative Guidelines for procedures and requirements concerning the review and approval of construction plans.

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(ii) Data Required for Site Plan

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(A) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sedimentation control notes.

(B) Description of existing land use at project site and description of proposed project.

(C) Name, address, and phone number of the property owner.

(D) Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls.

(E) Size of project, or phase under construction, in acres.

(F) Activity schedule showing anticipated started and completion dates for the project. Include the statement in **bold letters**, that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."

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(G) Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.

(H) Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.

(I) Detail drawing for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.

(J) Maintenance statement- "Erosion and sedimentation control measures will be maintained at all times. If full implementation

of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source.

(iii) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sediment control. After December 31,2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the commission pursuant to O.C.G.A.12-7-20. The certified plans shall contain:

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(A) Graphic scale and north point or arrow indicating magnetic north.

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(B) Vicinity maps showing location of project and existing streets.

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(C) Boundary line survey

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(D) Delineation of disturbed areas within project boundary.

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(E) Existing and planned contours, with an interval in accordance with the following:

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Map Scale	Ground Slope	Contour Interval, ft.
<u>1 inch = 100 ft. or larger scale</u>	Flat 0-2% Rolling 2-8% Steep 8% +	<u>0.5 or 1</u> <u>1 or 2</u> <u>2, 5 or 10</u>

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(F) Adjacent areas and feature areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

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(G) Proposed structures or additions to existing structures and paved areas.

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(H) Delineate the 25-foot horizontal buffer adjacent to state waters and the specified width in MRPA areas.

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(I) Delineate the specified horizontal buffer along designated trout streams, where applicable.

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(J) Location of erosion and sedimentation control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*.

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(iv) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

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(d) Permits and Development Activity.

(i) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by Milton of a completed application, provided that any necessary variances have been obtained, bonding has been provided, and specifications developed and maintained by the Public Works Department of Public Works and permitted by the Community Development Department of Community Development have been met.

(ii) No permit shall be issued by Milton unless the erosion and sedimentation control plan has been approved by the District or by Milton, and unless Milton has affirmatively determined that the plan is in compliance with this article, any variances required by Section 5(c) (xiv) or (xvi) are obtained, bonding requirements, if necessary, as per Section 6 (b) (vii) are met and all ordinances and rules and regulations in effect within the jurisdictional

boundaries of ~~unincorporated the City of~~ Milton are met. If the permit is denied, the reason for denial shall, be furnished to the applicant.

- (iii) If the tract is to be developed in phases, then a separate permit shall be required for each phase to include the Development Sequence.
- (iv) The permit may be suspended, revoked, or modified by Milton, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to him of the conditions contained in the permit as to all or any portion of the land affected by the approved plan.
- (v) Sedimentation basins shall not be allowed in ~~state waters or other perennially flowing streams~~ a live stream.
- (vi) The permittee shall ensure that engineering and construction on any land within Milton shall be carried out in such a manner as to protect neighboring persons and property from damage or loss resulting from stormwater runoff, soil erosion, or deposition upon private property or public streets or water-transported silt or debris.
- (vii) ~~If through inspection, the Community Development Director determines that full implementation of the approved plan does not provide for effective erosion and sedimentation control, additional erosion and sedimentation control measures shall be implemented to control or treat the sediment source. The Manager during field inspections may require revisions, addendum, and modifications that address any and all features to ensure compliance with this article and any permit issued hereunder.~~  
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- (viii) It shall constitute non-compliance with this article to engage in land-disturbance activity involving clearing, grading, ~~timber harvesting~~, or grubbing without a permit, which activity may immediately warrant citation(s).
- (ix) Design and installation of properly functioning detention facilities, including outflow and overflow control devices, shall be the responsibility of the owner. If any erosion control devices are damaged or destroyed during grading or construction; all construction processes shall cease until the devices are restored to their functioning capability. The owner, through application for grading or construction permits, accepts the responsibility of maintenance of the control devices.

- (x) The owner and operator shall be responsible for the maintenance of the storm drainage facilities during grading, construction, and for a 15 month period following the final approval of the completed project. Maintenance will be construed to include preserving the enclosing walls or impounding embankment or the detention basin and sedimentation ponds, in good condition; ensuring structural soundness, functional adequacy, and freedom from sediment of all drainage structures; and rectifying any unforeseen erosion problems.
  
- (xi) The developer shall provide stabilization by covering the soil with: permanent seeding, sprigging, or pivoting, producing long-term vegetative cover, temporary seeding producing short-term vegetative cover, sodding or covering areas with a turf of perennial sod forming grass; and security fences for safety purposes at detention facilities as prescribed by and prior to approval by Milton.

(96-0113, §28-3-5, 1-3-96; 99-0151, § 4, 2001)

State law reference(s)--Permits for land disturbing activities, O.C.G.A. § 12-7-7, 12-7-9.

*Section 7: City or County Construction; Compliance with Article.*

All engineering and construction involving land disturbance performed by or on behalf of Milton and under the direction of the ~~Department of~~ Public Works ~~Department~~ or any other Milton entity, whether such engineering or construction is being accomplished on existing and proposed public land or on public easement, shall comply with the requirements of Sections 5 and 11.

(96-0113, § 28-3-6, 2001)

*Section 8: Residential Construction.*

Notwithstanding any other provisions of this article, the Construction of single-family detached dwellings shall be subject to the following rules:

- (a) Building permit, No land disturbing activity or other work (including moving and demolition) shall commence on a project until the owner or the contractor undertaking the work shall have applied for, and been issued, a land disturbance permit or building permit by the ~~Manager~~ Community Development Director. The

owner/contractor shall prominently display on site the building permit, a signed erosion and sedimentation control agreement and approved site plan in full public view, until issuance of certification of occupancy. Demolition projects shall be required to install BMPs where necessary to prevent erosion. Failure to install BMPs shall constitute non compliance with this ordinance.

- (b) Notice to Comply. The ~~Manager~~ Community Development Director shall issue a Notice to Comply for failure to either install or maintain Best Management Practices (BMPs), even though sediments remain contained within the boundaries of the property by the use of debris basins, sediment basins, sediment barriers, and construction exits in accordance with this article. Subsequently, a stop work order shall be issued if compliance with a Notice to Comply is not achieved by the end of the specified compliance period of 5 days.
  
- (c) Stop Work Order. The ~~Manager~~ Community Development Director or representative shall issue an order to cease all work ("stop work order") on a project covered by this section if any work on that project is proceeding without a land disturbance permit or building permit, or, when silt, mud, or other waterborne debris leave the property boundary, or (if such a permit has been issued) it is found by the ~~Manager~~ Community Development Director or representative that all or any portion of the project remains out of compliance with any requirements of Sections 5 (b) or (c), any other provision of this article or any other City of Milton ordinance, regulation or requirement after the specified compliance period or a site has been in violation at least two prior occurrences, to include any applicable fines and penalties. All other requirements of Section 11 (~~b~~) of this article also apply to projects covered by this section.

(96-0113, §28-3-7, 1-3-96; 99-0151, §§5, 6 ,2001)

Section 9: ~~Progress Report Required~~ Design Professional Inspection.

- (a) The ~~licensed design~~ professional referenced in the state general permit (except when the primary permittee has requested in writing and EPD has agreed to an alternative design professional) Administrative Guidelines (see Section 6 (c) or his representative as approved by the Manager shall ensure, must inspect and evaluate the installation of BMPs which the design professional designed within seven days ~~one week~~ after the initial construction activities commenced, and the initial phase BMPs have been installed. The design profession shall determine if these BMPs have been installed and are being maintained as designed. The design professional shall report the results of the inspection to the primary permittee within seven days and the All primary permittee must correct all deficiencies shall be corrected within two business days after inspection, and a written report with a summary of corrective measures taken shall be submitted to the Manager within three days after inspection. This report shall be the responsibility of the owner or

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~~developer and shall be prepared by a professional licensed to practice such activity within Georgia, as stipulated in the City of Milton Soil Erosion and Sediment Control Administrative Guidelines. The report shall record the quality and progress of the work required to show full compliance with the provisions of this article, including compliance with or adherence to vegetative practices. In order to ensure full compliance with the approved construction plans, final approval will be withheld until as-built drawings, prepared by a professional engineer or land surveyor licensed to practice such work in Georgia, have been submitted and accepted by the Manager of receipt of the inspection report from the design professional unless weather related site conditions are such that additional time is required. The Manager-Community Development Director shall withhold the occupancy permit until full compliance has been achieved.~~

(96-0113, §28-3-8, 1-3-96; 99-0151, § 7, 2001)

(b) Additional Reporting Requirements.

Applicants/owners/operators shall provide the ~~Manager-Community Development Director~~ with a copy of any monitoring results submitted to EPD regarding National Pollutant Discharge Elimination System (NPDES). Reports shall be in a format as prescribed by EPD. A copy of the Notice of Intent which has been sent to EPD in compliance with the permit requirements must be presented to the ~~Department of Community Development Director~~ prior to the issuance of any land-disturbance permit.

*Section 10: ~~i~~ Inspection and Enforcement of Article.*

- (a) The ~~Manager-Community Development Director~~ will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the approved plan, permit and this article and to determine if the measures required in the plan are effective in controlling soil erosion and sedimentation. Also, the City of Milton shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, an official notice shall be posted on-site, and as a courtesy a written notice to comply shall also be served upon that person, except for working without a permit or working under a stop work order, which warrant immediate citation(s). The notice shall set forth the measures necessary to achieve compliance and shall state the time within

which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply with the corrective measures specified in the posted official notice within the time specified, he or she shall be found in violation of this article, and the Manager-Community Development Director may take such additional enforcement actions as he/she deems appropriate.

- (b) The Manager-Community Development Director shall have the power to conduct such investigation as the Manager-Community Development Director may deem reasonably necessary to carry out duties as prescribed in this article, and for this purpose shall have the power to enter at reasonable times upon any property, public or private, for the purposes of investigation and inspection of the sites of land disturbance or building activities.
- (c) No person shall refuse entry or access to any authorized representative or agent of the City of Milton, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, not shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties including, but not limited to, the review of reports, studies, calculations, drawings, revisions, practices, actions and bonds.
- (d) A copy of a current approved plan shall be kept on site until project completion or issuance of certificate of occupancy.
- (e) The District or the Commission or both shall periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A-12-7-8 (a). The Districts or the Commission, or both, may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the counties or municipality's erosion and sedimentation control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective legal program is found.
- (f) The Board shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to G.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.-12-7-7 (e), 14 the Division shall notify the governing authority of the county or municipality in writing. The governing authority of

any county or municipality so notified shall have 30 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 30 days after notification by the division, the division may revoke the certification of the county or municipality as a Local issuing Authority.

*Section 11: Penalties and Incentives.*

- (a) Failure to obtain a permit for land-disturbing activity. If any person commences any land disturbing activity requiring a land-disturbing permit, as prescribed in this article, without first obtaining said permit, the person shall be subject to revocation of his business license, work permit, or other authorization to conduct any business and associated work activities within the jurisdictional boundaries of Milton. Failure to comply may result in a citation being issued to appear in state magistrate court which may result in monetary fines.
  
- (b) Stop Work Orders and Notice to Comply.
  - (i) ~~On development and residential land disturbance sites~~ For the first and second violations of the provisions of this article, the ~~Manager-Community Development Director or the EPD Director~~ shall post an official notice to comply and as a courtesy issue a written letter. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the ~~Manager-Community Development Director or the EPD Director~~ shall issue a stop-work order requiring the land-disturbance activity be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the ~~Manager-Community Development Director or the EPD Director~~ shall issue an immediate stop-work order in lieu of notice to comply. For the third and each subsequent violation, the ~~Manager-Community Development Director or the EPD Director~~ shall issue an immediate stop-work order.
  
  - (ii) All stop-work orders shall be in ~~effective immediately upon issuance and shall be in~~ effect until the necessary corrective action ~~or mitigation~~ has occurred.
  
  - (iii) It shall be unlawful for any representative of the owner to remove an official Notice to Comply or Stop Work posting. If this action is observed by a ~~county city~~ representative, the owner will be responsible for any and all possible fines. Upon issuance of a stop work order, the ~~Manager-Community Development Director~~ or representative shall post official notice at such locations on the project site as deemed appropriate. Such posted official

notice(s) shall be prominently displayed on the owner's property until the stop work order is rescinded by the ~~Manager~~Community Development Director, at which time said posted notice(s) will be removed by the ~~Manager~~Community Development Director or representative. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by ~~Manager~~Community Development Director or the EPD Director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the ~~Manager~~Director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

- (c) The ~~Manager~~Community Development Director shall assess a minimum \$50.00 Reinspection Fee to a project if a reinspection is requested prior to the end of a compliance period and the site is found to remain out of compliance upon that inspection. Such fees (to cover administrative, field inspections, and transportation costs) must be satisfied prior to the issuance of a final erosion inspection or a certificate of occupancy.
  
- (d) Bond Forfeiture. If, through inspection, it is determined that a person engaged in land disturbing activities has failed to comply with the approved plan and permit, an official notice to comply shall be posted on-site and a letter will be issued as a courtesy. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 6 (b)(vi). The City of Milton may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site and bring it into compliance.
  
- (e) Non-Compliance. Non-Compliance with this article shall be dealt with as follows:  

Any person found to be in non-compliance with any provision of this article shall be served official notice by the ~~Department of~~Community Development Department. The offender shall, within the period of time stated in the notice, take all necessary action to gain compliance and shall permanently cease such noncompliance.
  
- (f) Monetary Penalties. Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this article or who negligently or intentionally fails or refuses to comply with any final or emergency order of the

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~~Manager-EPD Director~~ issued as provided in this article shall be liable for a civil penalty not to exceed \$2,500.00 per day for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county-city ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this article shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

- (i) The following minimum penalties shall be imposed:
  - Conducting land-disturbance activities without a land-disturbance permit or building permit (first offense)–\$250.00 for each violation or each day on which a violation exists.
  - Conducting land-disturbance activities without a land-disturbance permit or building permit (second or subsequent offense)–\$1,000.00 for each violation or each day on which a violation exists.
  - Lack of proper installation or maintenance of structural/vegetative best management practices–\$250.00 per violation.
  - Working under a Stop Work Order (first offense)–\$500.00.
  - Working under a Stop Work Order (second or subsequent offense)–\$1,500.00.
- (ii) Upon violation of the provisions of this article, Milton shall be entitled to take such remedial action as the Manager-Community Development Director deems necessary to ensure compliance, and the violator shall reimburse Milton for any cost or expense associated with such compliance efforts and Milton shall be entitled to place a lien on the property to secure payment and reimbursement for these expenses.
- (iii) The Manager-Community Development Director of the Department of Community Development has the primary responsibility for the enforcement of this article.
- (iv) Persons designated by the Manager-Community Development Director are hereby authorized to issue official notices, citations, and/or summons charging violations under this article, returnable to the State or Municipal Court of Milton, or any other court of competent jurisdiction.

#### *Section 12: Education and Certification*

After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of

involvement with the process, as developed by the Commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

*Section 13: Administrative Appeal; Judicial Review.*

- (a) Administrative remedies. The issuance of a stop work order, as well as the suspension, revocation, modification, or grant with condition of a permit by the City of Milton upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of this article shall entitle the person submitting the plan or holding the permit to a hearing before the Milton ~~City Council~~ **Construction Board of Appeals** within ~~30~~ **45** days after receipt by the ~~Manager~~ **Director** of written request for appeal.
- (b) Judicial review. Any person aggrieved by a decision or order of the City of Milton, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of Fulton County.

*Section 14: Effectivity, Validity, and Liability.*

- (a) This ordinance shall become effective on the first    day of December, 2006.
- (b) Validity. If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not affect the validity of remaining portions of this Article.
- (c) Liability.
  - (i) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article, shall relieve any person from responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon Milton, the District or their officers, employees or agents for damage to any person or property.
  - (ii) The fact that a land disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

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- (iii) No provision of this ordinance shall permit any person to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

▲ Article 8: Tree Preservation

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▲ *Section 1: Purpose*

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- ▲ (a) The purpose of this ordinance is to cultivate and encourage a high level of tree preservation, to promote the general provisions within this ordinance, and to develop detailed provisions within the administrative guidelines in order to implement the regulations set forth to preserve, maintain, and replant trees within the City of Milton, Georgia. The intent of the Ordinance and Administrative Guidelines is to provide standards for the preservation of trees as part of the land development, building construction and timber harvest processes. It is not the intent of this ordinance to regulate individual properties where activities do not require a land disturbance, building ~~construction or timber harvest~~ permit.

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- (b) Benefits to citizens derived from tree protection and replanting include:

- (i) Improved control of soil erosion.
- (ii) Moderation of storm water runoff and improved water quality.
- (iii) Interception of airborne particulate matter and the reduction of some air pollutants.
- (iv) Enhanced habitat for desirable wildlife.
- (v) Reduction of noise and glare.
- (vi) Climate moderation.
  
- (vii) Aesthetics and scenic amenity.
- (viii) Increased property value.

*Section 2: Authority and Applicability*

- (a) The Administrative Guidelines referenced in this Article are hereby adopted by the City of ~~Sandy Spring~~ Milton, copies have been, and are now on file in the office of the Clerk of the City of Milton, and the same are incorporated herein as if set out in full, and the provisions of the same shall be controlling.
- (b) Terms and provisions of the Tree Preservation Ordinance and the Administrative Guidelines established herein, shall apply to all activity which requires the issuance of a land disturbance permit on any real property within the City of Milton. No land disturbance permit shall be issued by the City of Milton Community Development Department or any successor to that Department, without it being determined that the proposed development is in conformance with the provisions of these regulations.

- (c) The terms and provisions of these regulations shall also apply to construction of new single family detached and duplex dwellings, including additions, renovations and/or alterations to existing single family detached and duplex dwellings.
- (d) The terms and provisions of these regulations shall also apply to timber harvesting activities.

*Section 3: Definitions*

All words in these standards have their customary dictionary definitions except as specifically defined herein. The words “shall” and “must” are mandatory, and the words “may” and “should” are permissive.

Administrative Guidelines: Those certain guidelines, including any Appendices, existing or as future amended, incorporated by reference into the Tree Preservation Ordinance of the City of Milton, Code of Milton, Georgia, Article 8, et. seq., which have been adopted by the City Council of the City of Milton from time to time to provide standards for the protection, preservation, and replacement of trees, and which are regulated and enforced by the City Arborist in conjunction with the Community Development Department or its designated agent(s) through development and construction permits and processes. Copies of the same are kept on file in the office of the Clerk of the City of Milton and available for public inspection during business hours. MiltonMiltonMilton

Agent(s), designated or authorized: an individual or entity authorized to administer and enforce the standards set forth in the City of Milton Tree Preservation Ordinance and Administrative Guidelines.

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Buildable Area: 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. That portion which is not located in the minimum setbacks, utility corridors, driveways, slopes to build streets, tree save areas, landscape strips, specimen tree areas, state water buffer, tributary buffers, zoning buffers, wetlands, storm water and sanitary sewer easements.

Buffer:

- (a) State Waters Buffer: An area along the course of any State waters to be maintained in an undisturbed and natural condition.
- (b) Tributary Buffer: 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 City of Milton Tree Preservation Ordinance and Administrative Guidelines.
- (c) Zoning Buffer: 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/or uses. Buffer is achieved with natural vegetation and must be replanted subject to the approval of the Manager-Director of the Community Development Department or his/her designated agent(s) when sparsely vegetated. Cleaning of undergrowth from a buffer is prohibited except when accomplished under

the supervision of the ~~Manager~~ Director of the Community Development Department or his/her designee.

Caliper: The standard for trunk measurements of nursery stocks. Caliper of the trunk shall be taken 6 inches above the ground for up to and including 4-inch caliper size and 12 inches above the ground for larger sizes.

Cambium: Tissue within the woody portion of trees and shrubs which gives rise to the woody water and nutrient conducting system and the energy substrate transport system in trees. Cambium growth activity results in a tree's radial development, i.e., increase in diameter.

Cambial Dieback: The irreparable radial or vertical interruption of a tree's cambium, usually caused by mechanical damage, such as "skinning bark" or from excessive heat.

Clear Cutting: The removal of all trees from a property, whether by cutting or other means, excluding stream buffer requirements.

Coniferous: Belonging to the group of cone-bearing evergreen trees or shrubs.

City Arborist: The agent(s) of the City of Milton assigned to the Community Development Department and having the primary responsibilities of administration and enforcement of the Tree Preservation Ordinance.

Critical Root Zone: The area of tree roots within the crown dripline. This zone is generally defined as a circle with a radius extending from a tree's trunk to a point no less than the furthest crown dripline. Disturbances within this zone will directly affect a tree's chance for survival.

Crown Drip Line: A vertical line extending down to the ground from the end of a tree's longest branches.

Deciduous: Not persistent; the shedding of leaves annually.

D.B.H.: Diameter-at-breast-height is a standard measure of tree size, (for trees existing on site) and is a tree trunk diameter measured in inches at a height of 4 ½ feet above the ground. If a tree splits into multiple trunks below 4 ½ feet, refer to chart in Appendix I.

Density Factor for the Site (DFS): A unit of measure used to prescribe and calculate required tree coverage on a site. Unit measurements are based upon tree size.

- (a) Site acreage multiplied by (15) for Agricultural Districts = DFS.
- (b) Site acreage multiplied by (20) for Single Family Residential Districts = DFS.
- (c) Site acreage multiplied by (30) for Commercial Districts and all other Non-Single Family Districts = (DFS).

Manager Director: ~~Manager~~ Director of ~~City of Milton~~ Community Development Department.

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Erosion and Sedimentation Control Ordinance: The ordinance adopted by the City that regulates soil erosion and its transportation to the City's lakes, rivers, and streams (latest revision).

Improvement Setback: An area adjacent to a zoning buffer in which no improvements and/or 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 [Manager-Director](#) of the Community Development Department or his/her designee.

Land Disturbing Activity: Any activity which may result in soil erosion from water or wind and movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in the City of Milton Soil Erosion and Sedimentation Control Ordinance.

Land Disturbance Permit: 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.

Landscape Plan: A plan that identifies areas of tree preservation and methods of tree protection within the protected zone, as well as all areas of replanting. Within replanting areas, the common and botanical names of the proposed species, the number of plants of each species, the size of all plant materials, the proposed location of all plant materials, and any unique features of the plant materials shall be indicated.

Landscape Strip: An area required by this ordinance, by the City of Milton Zoning Ordinance, or any condition of zoning, use permit or variance approval, which is reserved for the installation and/or maintenance of plant materials.

Minimum Setback: The minimum yards as specified in the regulations related to the zoning districts or use permit categories. A minimum required space between a property line and a structure. An area identified by a building line.

Protected Zone: Includes but is not limited to the following:

- (a) Critical root zone plus an additional 3 feet; all areas of a parcel required to remain in open space;
- (b) All areas required as landscape strips and/or buffers (including zoning buffers, state water buffers, and tributary buffers);
- (c) Tree save areas according to provisions of the City of Milton Zoning Ordinance, conditions of zoning, use permit or variance approval, and/or the Tree Preservation Ordinance and Administrative Guidelines.

Revegetation: The replacement of trees and landscape plant materials to satisfy the minimum tree density and landscape requirements, as determined by the City of Milton Zoning Ordinance, condition of zoning, use permit or variance approval, or the Tree Preservation Ordinance and Administrative Guidelines.

Roots:

- (a) **Feeder Roots**: A complex system of small annual roots growing outward and predominantly upward from the system of "transport roots". These roots branch four or more times to form fans or mats of thousands of fine, short, non-woody tips. Many of these small roots and their multiple tips are 0.2 to 1 mm or less in diameter and

less than 1 to 2 mm long. These roots constitute the major fraction of a tree's root system surface area and are the primary sites of absorption of water and nutrients.

- (b) **Major Woody Roots:** First order tree roots originating at the "root collar" and growing horizontally in the soil to a distance of between 3 and 15 feet from the tree's trunk. These roots branch and decrease in diameter to give rise to "rope roots". The primary functions of major woody roots include anchorage, structural support, the storage of food reserves, and the transport of minerals and nutrients.
- (c) **Rope Roots:** An extensive network of woody second order roots arising from major woody roots, occurring within the surface 12 to 18 inches of local soils, and with an average size ranging from .25 to 1 inch in diameter. The primary function of rope roots is the transport of water and nutrients and the storage of food reserves.
- (d) **Transport Roots:** The system or framework of tree roots comprised of major woody roots and rope roots.

**Root Collar:** The point of attachment of major woody roots to the tree trunk, usually at or near the groundline and associated with a marked swelling of the tree trunk.

**Root Respiration:** An active process occurring throughout the feeder root system of trees and involving the consumption of oxygen and sugars with the release of energy and carbon-dioxide. Root respiration facilitates the uptake and transport of minerals and nutrients essential for tree survival.

**Setback:** A space between a property line and the line to which a building or specified structure may be constructed.

**Soil Compaction:** A change in soil physical properties which includes an increase in soilweight per unit volume and a decrease in soil pore space. Soil compaction is caused by repeated vibrations, frequent traffic and weight. As related to tree roots, compacted soil can cause physical root damage, a decrease in soil oxygen levels with an increase in toxic gasses, and can be impervious to new root development.

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

**Thinning:** Selective cutting or removal of timber. The basal unit of (30) units per acre for Commercial Districts and all other non single family districts; (20) units per acre for Single Family Residential Districts; (15) units per acre for Agricultural Districts shall be maintained after selective cutting, or removal of timber has occurred.

**Timber Harvesting:** The felling of timber products (pulp wood, etc). The term "timber harvesting" may include both clear cutting and thinning of timber.

**Tree:**

- (a) Tree: Any self supporting woody perennial plant which has a trunk diameter of 2 inches or more measured at a point 6 inches above the ground level and which normally obtains a height of at least 10 feet at maturity, usually with one main stem or trunk and many branches.
- (b) Heritage Tree: A tree which is designated upon approval by the ~~Manager~~ Director of the Community Development Department or his/her designee to be of notable historical value or interest because of its age, size, or historical association.
- (c) Specimen Tree: Any tree which has been determined by the City Arborist to be of high value because of its type, size, age, or other professional criteria, and has been so designated according to administrative standards established by the Community Development Department.
- (d) Stand of Specimen Trees: A contiguous grouping of trees which has been determined to be of value by the ~~Manager~~ Director of the Community Development Department or authorized designee(s).

- (i) A relatively mature even aged stand.
- (ii) A stand with purity of species composition or of a rare or unusual nature.
- (iii) A stand of historical significance.
- (iv) A stand with exceptional aesthetic quality.

Tree Bank: A site such as a school or public park, where the owner/developer shall donate and plant the required trees when it is not feasible to plant the required trees within their site's project area.

Tree Preservation Ordinance: This Ordinance, approved and adopted by the City Council of the City of Milton to provide standards for the protection, preservation and replacement of trees regulated and enforced by the City Arborist in conjunction with the Department of Community Development or designated agent(s) through development and construction permits and processes.

Tree Save Area: All areas designated for the purpose of meeting tree density requirements, saving specimen trees, and/or preserving natural buffers.

Tributary: Any perennial stream (or portion thereof) within the affected area that is portrayed as a solid blue line on the United States Geological Survey 7.5 Quadrangle Maps, 1968 edition, or other perennial streams as identified by the City of Milton.

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

Zoning Regulations: The Zoning Ordinance of the City of Milton as amended or such regulations subsequently adopted by the City Council inclusive of conditions of zoning, use permit or variance approval established pursuant thereto.

All other terms: All other words or phrases as appropriate to the context of their uses shall be interpreted as defined in the Zoning Regulations.

#### *Section 4: Permit Procedures*

- (a) All applications for a Land Disturbance Permit shall provide a landscape plan and other documentation as required and as applicable for all areas of the tract of land within a protected zone. All applications and required supplemental information shall be submitted to the [Manager-Director](#) of the Community Development Department.
- (b) All landscape plans and related documentation shall be reviewed by the City Arborist for conformance to the provisions of these regulations and either approved, returned for revisions, or denied within 30 days of receipt. If denied or returned for revisions the reasons for denial or revision shall be annotated on the landscape plan or stated in writing.
- (c) Issuance of a valid Land Disturbance Permit shall constitute an approval of the required landscape plan and shall indicate conformance to the provisions of these regulations.
- (d) For issuance of any residential building permit, applicant must sign and agree to abide by the Residential Erosion & Sedimentation Control Tree Protection Agreement, (see Appendix H. to the Administrative Guidelines). This shall also apply to parcels upon which a land disturbance permit has been previously issued with a tree protection plan approved by the City Arborist. The [Manager-Director](#) of the Community Development Department, or his/her designee, is authorized to execute such Agreements on behalf of the City of Milton.
- (e) For issuance of a Timber Harvesting Permit, applicant agrees to maintain a 25-foot undisturbed buffer along the entire perimeter of the property. This buffer must be maintained for the duration of the timber harvesting activity.

#### *Section 5: Removal of Tree(s)*

- (a) If the owner/developer proposes to remove any tree(s) in the protected zone, then the owner/developer must document a hardship such as but not limited to economic or zoning restrictions and submit it as part of the application for a Land Disturbance Permit. The application shall be subject to the approval of the [Manager-Director](#) of the Community Development Department, or his/her designee before any trees are to be removed from the site. Nothing in these regulations shall be construed to allow the removal of vegetation in a natural, undisturbed buffer required by the Zoning Ordinance.
- (b) When no trees are present in the protected zone or when disturbance of any portion of the protected zone is approved, it shall be the responsibility of the owner/developer to revegetate said areas (in which improvements are not constructed) with trees or other plant materials subject to zoning regulations or, in lieu thereof, administrative standards established by the Community Development Department.

- (c) Notwithstanding any of the other requirements of these regulations, it shall be unlawful to remove a specimen tree without the express written permission of the City Arborist or authorized agent(s). Administrative standards have been established by the ~~Manager-Director~~ of the Community Development Department for the identification, preservation and protection of specimen trees.

*Section 6: Violations*

Citations for any of the following violations, by authorized City of Milton enforcement agent(s) may constitute issuance of an immediate stop work order.

- (a) Land disturbance and/or tree removal within state water, tributary, or zoning buffer(s).
- (b) Land disturbance and/or tree removal within tree save area(s).
- (c) Illegal removal or disturbance of specimen tree, heritage tree or stand of trees.
- (d) Improper installation of tree fencing.
- (e) Other violations of any provision(s) of this Ordinance or the Administrative Guidelines established pursuant thereto, including Appendices.

*Section 7: Enforcement*

- (a) \_\_\_ It shall be the duty of the ~~Manager-Director~~ of the ~~Department of~~ Community Development ~~Department~~ and designated agent(s) to enforce this Ordinance and Administrative Guidelines. The ~~Department of~~ Community Development ~~Department~~ and designated agent(s) shall have the authority to modify, revoke, suspend, or void any Land Disturbance Permit and shall have the authority to suspend all work on a site or any portion thereof.
- (b) \_\_\_ The ~~Manager-Director~~ of the Community Development Department and designated agent(s) shall serve as the issuing authority and shall have the power to withhold all permits, including, but not limited to, final certificates of occupancy, building permits and all permits on the subject site until it is determined by the issuing authority that the site complies with this ordinance and the provisions of the formal plan approved by the city.

*Section 8: Inspections*

- (a) \_\_\_ The Community Development Department is the issuing authority and may cause inspection of compliance to be made periodically by its designated agent(s) during the course of the project and shall make a final inspection following the completion of the work. Applicants shall cooperate with the issuing authority in conducting such inspections.
- (b) \_\_\_ The Community Development Department shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and Administrative Guidelines, including but not limited to the power to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land disturbing or tree removal activities.

- (c) \_\_\_ The **Manager-Director** of the Community Development Department is authorized to design and implement an inspection program involving private inspectors acceptable to the Department.
- (d) \_\_\_ No person shall refuse entry or access to any authorized representative or agent who requests entry for the purpose of inspection and who presents appropriate identification, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

*Section 9: Notice of Violation*

- (a) \_\_\_ If, through inspection, it is determined that a person, firm, or corporation has 1.) engaged in land disturbing or other activities, which have resulted in the removal of trees; or 2.) failed to comply with the terms and conditions of a validly issued permit, then a written notice of violation shall be served upon the property owner or the agent of record.
- (b) \_\_\_ Where a person, firm, or corporation has engaged in land disturbing or tree removal activities without having first secured a permit therefore in violation of this Ordinance and Administrative Guidelines, notices under the provisions of this section may be served upon the person in charge or any person representing the person in charge on the site. All construction and land disturbance activity shall be discontinued until the necessary measures to achieve compliance have been fulfilled.
- (c) \_\_\_ The notice shall set forth the measures necessary to achieve compliance with the permit and shall state the time within which such measures must be completed.
- (d) \_\_\_ If the person, firm, or corporation engaged in land disturbing activity fails to comply within the time specified, he/she shall be subject to citation for violation of this Ordinance and Administrative Guidelines.

*Section 10: Stop Work Orders*

- (a) \_\_\_ Upon notice from the **Manager-Director** of the Community Development Department, work on any project that is being done contrary to the provisions of this Ordinance and Administrative Guidelines shall be immediately stopped, until such time that the violation has been remedied to the satisfaction of the **Manager-Director** of the Community Development Department. Prior to remediation a plan shall be submitted to and approved by the City Arborist.
- (b) \_\_\_ Such Notice:
  - (i) \_\_\_ shall be in writing.
  - (ii) \_\_\_ shall state the specific violation(s).
  - (iii) \_\_\_ shall be given to the applicant, owner, the authorized agent of either, or the person in charge, or any person representing the person in charge of the activity on the subject property.
  - (iv) \_\_\_ shall state the conditions under which work may be resumed.
  - (v) \_\_\_ where an emergency exists, no written notice shall be required.
  - (vi) \_\_\_ shall allow only erosion control work to continue while stop work is in effect

*Section 11: Modification, Revocation, Suspension, Voidance of Permit*

A land disturbance permit and/or other permit(s) required by this Ordinance and Administrative Guidelines may be modified, revoked, suspended, or voided by the [Manager Director](#) of the Community Development Department upon finding that the holder is in violation of the terms of the permit or any portion of this Ordinance and Administrative Guidelines.

#### *Section 12: Bonding*

The [Manager Director](#) of the Community Development Department will evaluate all development projects (excluding timber harvesting) requesting property clear cutting. If upon completion of the site evaluation, the Community Development Department deems it appropriate to allow property clear cutting activities, a bond will be required. The bond will be required by the City of Milton as a mechanism to cover any potential cost associated with revegetation of the clear-cut property in the event of property abandonment.

The required bond amount will be 125 percent (%) of the total cost for replanting trees to satisfy the density standards for the project site. A tree replacement cost obtained from a plant nursery will be provided to [Manager Director](#) of the Community Development Department with the clear-cut request and the bond amount will be based on the tree replacement cost. The [Manager Director](#) of the Community Development Department reserves the right to request additional replacement cost if deemed appropriate. The [Manager Director](#) of the Community Development Department will hold the bond until the project activity, including tree replacement to satisfy the site density requirements, is completed. If upon issuing the land disturbance permit, the property is clear cut and there are no construction or development activities conducted within six (6) months, The [Manager Director](#) of the Community Development Department will attempt to contact the property owner (via certified mail) for a project update. Should the property owner not respond within thirty (30) days of receipt of the status request, the bond will be used to revegetate the project site.

#### *Section 13: Fines and Penalties*

- (a) Any person, firm, corporation or other entity violating any of the provisions of this Ordinance shall be liable for a fine of up to a maximum \$1000.00 per violation per day. Each calendar day a violation exists shall be considered a separate offense. There are no maximum limitations to the accrual of fines.
- (b) Each owner of any property wherein a violation exists shall be jointly and severally responsible for said violations. Each offense will be tried in the Municipal Court of Milton.

#### *Section 14: Appeals*

- (a) Any person aggrieved or affected by any decision of the City Arborist relating to the application of these regulations may file an appeal within thirty (30) days of the decision with the [Manager Director](#) of the Community Development Department for relief or reconsideration.
- (b) Any person aggrieved or affected by any decision of the [Manager Director](#) of the Department of Community Development relating to the application of these

regulations may file an appeal within 30 days of the decision with the Mayor and City Council (until such time as the Board of Zoning Appeals is established) and the Board of Zoning Appeals once established by the Mayor and City Council. The appeal shall be made through the ~~Manager~~Director of Community Development.

- (c) Appeals shall only be granted for errors of interpretation or where the unique natural features of the site are such that application of these regulations would create an undue hardship to the property owner, and in other instances where an undue hardship is created for the owner of the property.

#### *Section 15: Validity*

Should any section or provision of this Ordinance, or its accompanying Administrative Guidelines, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance in whole or any part thereof other than the part so declared invalid.

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