

ORDINANCE 19-05

AMENDING THE LAND DEVELOPMENT CODE

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF BURKE COUNTY, GEORGIA, CHAPTER 26 LAND DEVELOPMENT, ARTICLE I.- GENERAL PROVISIONS, 26-1.09.02 – DEFINITIONS; AMENDING CHAPTER 26 LAND DEVELOPMENT CODE, ARTICLE III.- PROTECTION OF NATURAL FEATURES AND RESOURCES, SECTION 26-2.03.02. FLOOD DAMAGE PREVENTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Section 1.

The Code of Ordinances of Burke County, Georgia, Chapter 26 Land Development, Article I General Provisions, Section 26-1.09.02. Definitions, is hereby amended to read as follows:

26-1.09.02 - Definitions.

Access corridor. A strip of land which has been designated to connect a tract of land to a public or private road. An access corridor may be fee simple title or an easement.

Access drive. A private road or way giving access from a public road to land abutting the right-of-way thereof; a vehicular entrance to or exit from such abutting property to a public road.

Accessory. A use or structure which is incidental and subordinate to the principal use or structure, and which is located on the same lot as the principal use or structure.

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

Adult entertainment establishments. Adult entertainment establishments shall be defined as the following terms, with the exception that where "adult entertainment establishments" or "adult entertainment uses" or similar terms are defined elsewhere in the Burke County Code of Ordinances (as may be found in a locally adopted "adult entertainment ordinance"), the definitions not contained in this LDC shall apply:

Adult bookstore. An establishment having a substantial or significant portion of its stock in trade, magazines or other periodicals which are distinguished or

characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section comprising five percent or more of its total floor space, devoted to the sale or display of such materials or five percent or more of its net sales consisting of printed materials which are for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult dancing establishment. A business that features dancers displaying or exposing specified anatomical areas.

Adult mini-motion picture theater. An enclosed building with a capacity of less than 50 persons used for commercially presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motion picture arcade. Any place to which the public is permitted or invited wherein coins or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater. An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult video store. An establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter, anatomical areas or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Escort bureau; introduction services. Any business, agency or persons who, for a fee, commission, hire, reward, or profit, furnish or offer to furnish names of persons, or who introduce, furnish or arrange for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

Erotic dance establishment. A nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or

characterized by an emphasis on specified sexual activities or specified anatomical areas.

Agriculture, commercial. The raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits, or for use in the production of poultry, including but not limited to chickens, hens, turkeys, and ducks; producing plants, trees, fowl, or animals; or the production of aquacultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products. Excludes animal feeding and animal containment facilities for poultry, swine, livestock, and dairy production.

Agriculture, intensive commercial. Animal feeding operations and animal containment facilities for poultry, swine, livestock, and dairy production.

Airport. A tract of land maintained for the landing and takeoff of aircraft, including facilities for the shelter, parking, supply and repair of aircraft.

Private airport. An airport having restricted access based upon prior arrangements made with the airport sponsor. An example of a private use airport is a residential airstrip that is collectively owned, operated and utilized by adjacent residents (also known as a "residential fly-in" subdivision). A private airport may also be used for emergency purposes by aircraft used for life-saving or fire protection purposes.

Alley. See "road."

Animal care facilities. An establishment that provides animal and pet care services, including boarding, grooming, sitting, training, and veterinary services.

Animal containment/animal feeding operation. An agricultural facility (other than an aquatic animal production facility) where animals are stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetative, forage growth, or post-harvest residues in the normal growing season. Structures used for the storage of animal waste from animals in the operation also are part of the animal feeding operation. Two or more animal containment facilities for livestock or poultry production under common ownership shall be considered to be a single operation if they adjoin each other or if they share a common system for the disposal/management of wastes.

Antenna. Communication equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.

Appeal. A formal review of an administrative decision regarding provisions of the LDC.

Approach surface. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from the end of the runway. The approach surface extends 5,000 feet from the end of the runway at an approach slope of 20 feet horizontally for each one foot vertically (20:1). The inner edge of the approach surface (beginning at each end of the runway) is 250 wide, and expands uniformly to a width of 1,250 feet at a distance of 5,000 feet from the end of the runway.

Area of shallow flooding. A designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard. The land within the flood plain that is subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in the flood damage prevention section in article III of this LDC.

Assisted-living services. Services that are provided by board-and-care establishments, such as adult foster care homes and adult care group homes (personal care homes) in accordance with the Rules of Georgia Department of Community Health, Healthcare Facility Regulation Chapter 111-8-62. Services include daily activity assistance, such as dressing, grooming, and bathing for ambulatory adults. Homes cited herein are categorized as follows:

Congregate personal care home. A home for adults which offers care to 16 or more persons.

Family personal care home. A home for adults in a residence, non- institutional in character, which offers care to no more than six persons.

Group personal care home. A home for adults in a residence, or compatible building type that is non-institutional in character, which offers care to no more than 15 persons.

Back slope. The slope (gradient) of a drainage ditch from the bottom of the ditch to or toward the closest right-of-way line of a road.

Base flood. See "flood or flooding."

Basement. That portion of a building having its floor subgrade (below ground level) on all sides.

Bed and breakfast inn (B&B). A private home with one or more bedrooms that are rented for overnight lodging, and where the operator lives on the premises, and where meals may be provided subject to applicable Burke County codes, Board of Health regulations, and Rules of the Department of Human Resources, Chapter 290-5-18.

Block. A piece or parcel of land entirely surrounded by public streets, public lands, rights-of-way, watercourses or other well-defined and fixed boundaries.

Board of appeals. Burke County Board of Zoning Appeals.

Board of commissioners. Board of Commissioners of Burke County, Georgia.

Board of health. Burke County Board of Health.

Buffer. Land area (natural vegetation or man-made construction) that is intended to provide a visual and dimensional separation between dissimilar land uses and/or to shield or block noise, light, glare, or visual or other conditions.

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

Building. Any structure having a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals or chattels. For the purpose of the flood damage prevention section of article III in this LDC, see "Structure".

Accessory building. A detached, subordinate structure designed for a use which is clearly incidental to, customarily associated with, and related to the principal structure or use of the land, and which is located on the same lot as the principal structure or use.

Building addition. See "addition."

Building frontage. The linear feet of the exterior wall of a building that faces any road or street that provides a means of direct ingress and egress to the lot.

Building façade. The exterior surface or face of a building. The front facade is the building wall, which contains the primary entry of the building. The side facade means the exterior walls other than the main or front view.

Building height. The vertical distance of a building measured from the average elevation of the finished lot grade along the front of the building to the highest point of the building.

Building line. A line fixed at a certain distance from the front and sides of a lot beyond which the building may not project.

Building story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including basements used for the principal use.

Elevated building. 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.

Principal building. A building in which is conducted the primary use permissible on the lot.

Building official. The person appointed, employed or otherwise designated as the director of planning, permits and inspections; the county building official. Includes the term "building inspector."

Campground, commercial. A plot of ground on which two or more campsites are located, established, or maintained for temporary occupancy by camping units for recreation or vacation purposes and which are rented out for such purposes. A commercial campground charges fees for camping units to occupy campsites, as contrasted to recreational campgrounds.

Campground, recreational. A plot of ground on which two or more campsites are located, established, or maintained for temporary occupancy by camping units for recreation or vacation purposes. A recreational campground does not charge fees for camping units to occupy campsites, as contrasted to commercial campgrounds.

Camping unit. Any tent, trailer, cabin, lean-to, recreational vehicle or similar structure established or maintained and operated in a campground as temporary living quarters for recreational or vacation purposes.

Cemetery. A place dedicated to and used, or intended to be used, for permanent interment of human remains. A cemetery may contain land or earth interments; mausoleum, a vault, crypt interments; a columbarium or other structure or place used or intended to be used for the inurnment of cremated human remains; or any combination of one or more of such structures or places.

Centerline. The succession of midpoints between the identifiable limits of any improvements within the right-of-way of a road.

Certificate of occupancy. A document allowing the use or occupancy of a building and certifying the building, structure, land and/or use conforms to the requirements of the LDC.

Child day care. Establishments that are licensed or commissioned by the Georgia Department of Human Resources to care for infants and preschool children for less than 24 hours of day without transfer of legal custody. Some offer pre-kindergarten education programs or provide care services for older children. Child day care facilities are classified as follows:

Child day care center. Any place operated as day care for 19 or more children.

Family day care home. A private residence operated as day care for up to six children.

Group day care home. Any place operated as day care for not less than seven or more than 18 children.

Clerk of the superior court. The Clerk of the Superior Court of Burke County, Georgia.

Club or lodge, private. See "private club."

Commercial. Any use or activity involving the sale of goods or services carried out for profit.

Commercial slaughterhouse. An establishment for the killing, storage, dressing, manufacture, preparation, or processing of any animal, fowl or by-product thereof for human consumption. Includes the term "abattoir."

Comprehensive plan. The Burke County Comprehensive Plan, approved by the board of commissioners, including any amendments, extensions, or additions thereto as adopted by the board of commissioners.

Condominium. A building containing individually owned dwelling units and related, jointly owned common areas as defined by the laws of the State of Georgia.

Conical surface. The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet. Height limitations for the surface range from 150 feet above the airport reference elevation at the inner edge of the conical surface to 350 feet at the outer edge of the conical surface.

Construction. The erection of a new building or structure; the alteration of an existing building or structure in connection with its repair or renovation; an addition to an existing building or structure.

Existing construction. For the purpose of the flood damage prevention section of article III in this LDC, any structure for which the start of construction commenced before September 15, 1989.

New construction. For the purpose of the flood damage prevention section of article III in this LDC, any structure for which the start of construction commenced on or after September 15, 1989 and includes any subsequent improvements to the structure.

Start of construction. For the purpose of the flood damage prevention section of article III in this LDC, the date a development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. 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.

Conveyance. Property that is deeded from one entity to another for the purpose of constructing one single-family dwelling in accordance with the requirements of this LDC.

Conventional built dwelling. A dwelling unit constructed from building materials such as lumber, brick, or stone delivered to the site, where the building is intended to be situated. A conventional built may be construed to mean a modular home or industrialized housing. A conventional built dwelling shall not be construed to mean a manufactured home or mobile home.

County administrator. The person appointed, employed or otherwise designated as the county's chief administrative employee by the board of commissioners; the Burke County Administrator.

County board of health. The Board of Health of Burke County, Georgia.

County commission. The Burke County Board of Commissioners.

County health officer. The person appointed, employed or otherwise designated as the county sanitarian by the Burke County Board of Health.

County road superintendent. The person appointed, employed or otherwise designated by the board of commissioners as the county road superintendent. Includes the term "public works director."

County vehicular service road. See "road."

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

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
- (2) Hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
- (3) Emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and
- (4) Generating plants, and other principal points of utility lines.

Cross drain. A device, usually constructed of reinforced concrete or consisting of concrete or corrugated aluminum pipe, whose function is to transfer or drain surface water from one side of a roadway to the other, and located beneath the surface of the roadway.

Cross drain, size opening. The interior vertical dimension, usually the diameter, of a cross drain.

Cul-de-sac. See "road".

Curb cut. The providing of vehicular ingress and/or egress between property and an abutting public street.

Customary home occupation. See "home occupation."

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 excavated surface. Also known as excavation.

Dead-end road. See "road."

Decentralized wastewater management system. A privately installed, operated and maintained wastewater system that is designed and built to collect, treat and disperse wastewater on a development site and that acts as an alternative to traditional septic systems or public sewerage facilities where permitted in the LDC. Includes the terms "package plant" and "community sewerage disposal system."

Department. The Georgia Department of Natural Resources.

Density. The number of dwelling units per acre of land, with the exception that the term "density" as used in article VI of this LDC is used as a measurement related to road construction.

Developer. Any person, corporation or duly authorized agent responsible for any undertaking that requires development approval.

Development. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and storage of materials or equipment.

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

Dwelling or dwelling unit. A building or portion thereof which is designed or used for non-transient residential purposes, constituting a separate, independent housekeeping establishment containing independent cooking, sleeping and toilet facilities, and which is physically separated from any other dwelling units or uses which may be in the same structure. Dwelling units shall not be defined to include portable storage buildings, office trailers, or classrooms.

Accessory dwelling. A unit established within the principal building or in a separate structure, and on the same lot as the principal structure.

Caretaker dwelling. A freestanding accessory dwelling occupied by an employee of the property owner for the purpose of property maintenance, security or nighttime property management.

Duplex or two-family dwelling. A building containing two dwelling units, designed for occupancy by not more than two families living independent of each other.

Multi-family dwelling. A building either designed, constructed, altered, or used for more than two adjoining dwelling units, with each dwelling unit having a party wall or party floor ceiling connecting it to at least one other dwelling unit in the building. Includes the terms "apartments", "apartment building", and "condominium."

Single-family detached dwelling. A detached building used and either designed or constructed for one dwelling unit.

Tenant dwelling. A residential structure located on a farm, said structure being owned by the farm owner/operator and occupied by a non-transient farm worker who is employed by the owner/operator of the farm. At least one of the occupants must be an employee of the farm operation or their presence must be necessary and essential for the orderly operation of the farm.

Townhouse. One of a series of attached dwelling units on separate lots which are separated from each other by party wall partitions extending at least from the lowest floor level to the roof. Includes the term "townhome."

Easement. A grant of one or more property rights by a property owner to the general public, a public utility, a governmental unit, or a private individual or corporation for the use of a portion of the owner's land for a specific purpose, or use as a means of access to other property. Easements shall be designated "public" or "private" depending upon the nature of the usage.

Drainage easement. An agreement 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.

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

Erosion, sedimentation and pollution control plan. A plan for the control of soil erosion, sedimentation and pollution resulting from a land-disturbing activity.

Existing manufactured home park or subdivision. For the purpose the flood damage prevention section of article III in this LDC, 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 September 15, 1989.

Expansion to an existing manufactured home park or subdivision. 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.

Extensive business use. The use of land and structures for trade and services which are of low or moderate employment intensity, deal in large or bulky goods and equipment requiring considerable indoor or outdoor space or large and specialized equipment for display, handling, storage or service, and generate significant truck traffic, including:

(1) Sales and storage of lumber, metal and wood fencing, ornamental grill work, and building, electrical, heating, plumbing, welding and similar contractors and industrial supplies (including sale of sand and gravel but excluding sales of asphalt and concrete from batch plant or transit-mix plant); sales and tank storage of bulk fuel or motor oil, gasoline, heating, and illuminating gas, and the like (but not the refining or processing thereof), and sales and storage of coal; cold storage services; sale and service of physician/surgeons, barber/beauty and restaurant/hotel food service supplies and equipment; catering services, amusement and vending machines sales and service; uniform supply service; laundry plant (without individual patron service desk); manufacture, sale and service of electric and neon signs and advertising structures; and monument sales (but not manufacture);

(2) New and used motor vehicle (of three-quarter ton or less rated capacity) and small nonvehicular engines and equipment sales, rental and such services as repair, reconditioning, painting, body and fender work, upholstering and seat covering, and tire retreading and recapping; motor vehicle (of whatever size), manufactured home, travel and other trailer, marine craft, and small aircraft, and small aircraft sales and rental (but not servicing as above) and exterminating, fumigating, septic tank pumping, furnace cleaning, well drilling and like services;

(3) Sales and rental and maintenance (not involving heavy metal working) for motor vehicles of greater than three-quarter ton rated capacity and for large transportation, communications, utilities, industrial, commercial, agricultural, or contractors equipment;

(4) Sale, storage or sorting (but not disassembly or processing) of junk, waste, discarded or salvaged equipment, machinery, vehicles, or other similar materials.

Family. One or more persons occupying a single dwelling unit on a non-transient basis, where all members are related by blood, marriage, adoption, or foster care, provided that a related family may also have up to two additional unrelated individuals living with them. The term "family" shall also include a group of no more than four unrelated persons occupying a single dwelling unit on a non-transient basis. The term "family" does not include any organization or institutional group, or persons occupying a boarding house, rooming house, or hotel, as herein defined.

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

Final stabilization. See "stabilization."

Finished grade. See "grade."

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation. The elevation shown on the flood insurance rate map for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Flood hazard boundary map. An official map of a community, issued by the Federal Insurance Administration Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been defined as Zone A.

Flood insurance rate map. An official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood insurance study. The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

Floodplain. Any land area susceptible to flooding.

Floodproofing. 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.

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.

Frontage. The distance for which the front boundary line of the lot and the street line are coincident. In the case of corner lots or through lots, all sides of a lot adjacent to streets shall be considered frontage.

Front slope. The slope (gradient) of a drainage ditch from the shoulder of a roadway to the bottom of the ditch.

Funeral home. The use of land or structures for the preparation of the dead for burial or cremation, for the viewing of the body, and for conducting observances before burial or cremation.

Gasoline station. An establishment (with or without a convenience store) with gasoline pumps means the use of land and structures for services that primarily involve the retail sale of gasoline and related vehicular fuel and additives, oil and related lubricants and additives,

and minor accessories, batteries, packaged supplies, tires, tubes and the like and minor services such as lubrication, engine adjustments, minor parts adjustments, repair, replacement, polishing, tire and tube balancing, repair and replacement; washing, waxing, and the like for individual passenger vehicles and other vehicles of three-quarter ton or less rated capacity, but excluding: steam cleaning, spray painting, engine overhaul, overnight vehicular storage, commercial parking, wrecker operation, and vehicular repairs where such repair includes metal bumping, grinding or hammering or other noisy operations, or removing the head of engines.

General industry. See "industrial."

Governing authority. The governing authority of Burke County, which is the Burke County Board of Commissioners.

Grade, finished. The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Grade, highest adjacent. The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

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

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

Ground anchor. Any device at the manufactured house stand designed to secure a manufactured house to the ground.

Guest house. Accessory dwelling unit for use by a bona fide nonpaying guest or relative of the occupants of the premises, situated within a detached or semi-detached site-built structure located on the same premises with the principal residence.

Height. The vertical distance of any structure measured from the bottom of the base of the structure at ground level to the highest point of such structure. The following definitions shall be used to define "height" of wireless telecommunication towers and wind turbines, respectively:

Height (when referring to a wireless telecommunication tower or structure). The distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

Height (when referring to a wind turbine). The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Historic structure. See "structure."

Home occupation. An occupation, profession or trade customarily conducted by an occupant in a dwelling unit as a secondary use entirely within a principal dwelling, which use is clearly incidental and secondary to the use of the dwelling for residential purposes. Includes the term "customary home occupation."

Horizontal surface. The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs of 5,000 feet in length from the center of each end of the runway surface and connecting the adjacent arcs by lines tangent to those arcs.

Hotel. See "tourist accommodations."

Impervious surface. A manmade structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples include buildings, roads, driveways, parking lots, decks, swimming pools and patios.

Individual septic tank. A general term referring to a means of sewage disposal, other than a public or community system, serving buildings or structures designed or used for human occupancy, congregation or employment.

Indoor activity use. The use of land structures for predominately indoor activities of a cultural, educational or recreational nature including auditoriums, exhibit halls, gymnasiums, theaters (except drive-in outdoor types), billiard parlors, bowling alleys, penny arcades, skating rinks or other recreation centers.

Industrialized housing. A factory fabricated dwelling or commercial unit built in one or more sections designed to fit together on a permanent foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act and which bears the seal of approval issued by the Commissioner of the Georgia Department of Community Affairs. Includes the term "modular home." The term "industrialized housing" shall not be construed to mean "manufactured home" or "mobile home."

Industry. Any use of land or structures involving the manufacturing and/or processing of any material. Includes the term "industrial."

Industry, extractive. The use of land and structures for the preparation, distribution and processing of dust-producing mineral products such as gypsum, lime, abrasives, cement, fertilizer, plaster, crushed stone, monuments, sand, gravel and soil.

Industry, general. The use of land and structures for manufacturing involving indoor and outdoor industrial operations characterized by some emissions, but are not inherently offensive, dangerous or hazardous to abutting property or operations or to the general public, including: (a) brick, tile or terracotta manufacture; (b) furniture, feed, flour or other mill; (c) manufacturing, compounding, processing, packaging or treatment of bakery goods, beverages, candy, dairy products, feed, flour, and food products; (d) laundry plant (steam or wet wash); (e) barging, freight, or trucking yard or terminal; (f) manufacture of nongaseous or nontoxic or nonnoxious chemicals; (g)

manufacture of concrete products (but not manufacture of cement); (h) fabrication plant, foundry, machine shop, or metal working plant for light nonferrous metals (not involving the use of machines for stamping, pressing, or punching weighing in excess of five tons); (i) blacksmith shop; (j) vocational or trade schools in which the above activities are taught or performed.

Industry, light. The use of land and structures for manufacturing limited to predominately indoor industrial activities involving only moderate quantities and sizes of production materials and finished products and involving those operations only that generate no significant particulate or gaseous emissions that could create harmful or unpleasant effects outside the immediate area of activity, including operations such as assembly, binding, bottling, ceramic firing, compounding, engraving, fabricating, freezing, optical goods, grinding, packaging, printing, physical processing, research, storage or testing, but not involving large mills or machines for grinding, stamping, punching or pressing metals or planing or sawing of lumber or kilns fired by other than gas or electricity from previously manufactured components or previously prepared materials, and the like.

Inoperable vehicle. Any automobile, vehicle, trailer or any kind or type or contrivance, or a party thereof, the condition of which is one or more of the following: (a) wrecked; (b) dismantled; (c) partially dismantled; (d) inoperative; (e) abandoned; (f) discarded; (g) scrapped; or (h) does not have a valid license plate and current registration attached thereto.

Intersecting angle. The acute angle, measured in degrees, formed by the intersection of the centerlines of two roads.

Jog, road. See "road."

Jurisdictional control. The primary responsibility for regulatory control by a unit of government.

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 the state minimum standards for soil erosion, pollution, and sediment control.

Landfill. Any disposal facility where any amount of waste (of any variety) is disposed of except permit by rule for inert material.

Larger common plan of development. A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale.

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

Lot. A measured parcel or tract of land having fixed boundaries and designated on a plat or survey.

Lot by default. A lot which was once whole but divided into parts through the acquisition of public property or construction of a public road. Each piece of the once whole lot shall henceforth be considered a separate and independent lot. The lots shall be governed by the nonconforming lots of record section of this LDC.

Lot, corner. A lot having frontage on two or more public streets at their intersection.

Lot depth. The average horizontal distance between the front and rear lot lines.

Lot, double frontage or through lot. A lot other than a corner lot, that has frontage upon two or more streets that do not intersect at a point abutting the property.

Lot, flag. A lot having only its driveway fronting on a public street, with the result that only the width of the driveway is the frontage of the lot.

Lot, interior. A lot other than a corner lot or a through lot.

Lot line (property line). The property boundary, abutting a right-of-way line, or any line defining the exact location of a lot.

Lot of record. A lot which is part of a subdivision plat recorded in compliance with the LDC in the office of the clerk of superior court after the adoption of the LDC. Also, a lot which was created either by a legally recorded metes and bounds description or a legally recorded subdivision plat before the adoption of the LDC.

Lot width. The distance between side lot lines measured at the building line, parallel to the street right-of-way line.

Lowest floor. 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 LDC.

Manufactured home. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq. The term "manufactured home" shall not be construed to mean "mobile home" or "modular home."

Manufactured home park. A contiguous parcel of land, which has been developed into individual lots for the installation of manufactured, industrialized or modular homes. Said

lots may either be leased or for sale. Includes the term "manufactured housing development or subdivision."

Mean sea level. 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 the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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.

Mining. The use of land and structures for the excavation of minerals, rock, dimension stone, gravel, topsoil or fill dirt for purposes of removal from the site on which extracted (not including the preparation of a site for a nonextractive use).

Mobile home. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein and manufactured prior to June 15, 1976. The term "mobile home" shall not be construed to mean "manufactured home" or "modular home."

Modular home. A factory fabricated dwelling or commercial unit built in one or more sections designed to fit together on a permanent foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act and which bears the seal of approval issued by the Commissioner of the Georgia Department of Community Affairs. Includes the term "industrialized housing." The term "modular home" shall not be construed to mean "manufactured home" or "mobile home."

Motel. See "tourist accommodations."

National geodetic vertical datum. As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

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

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

New construction. See "construction."

New manufactured home park or subdivision. 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 September 15, 1989.

Nonconforming use or nonconformity. Any lawful use, whether of a building or other structure or of a tract of land, that does not conform to the regulations of this LDC, either on the effective date of this LDC or as a result of any subsequent amendment thereto.

Nonresidential land service road. See "road."

Operator. The party or parties that have: (a) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (b) day-to-day operational control of those activities that are necessary to ensure compliance with a storm water 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.

Outdoor activity use. The use of land and structures for passive or active outdoor activities characterized by neither inherently hazardous types nor significantly high levels of emissions, including: golf and country club courses, golf driving range, playground, playfield, swimming, golf, tennis courts, archery course, miniature golf, trampoline or other novelty area, arboretum, botanical garden, ornamental park, historical area, monument or sculpture.

Outdoor amusement use. The use of land and structures for outdoor activities characterized by significant levels of traffic hazards or emissions, including amusement park, amphitheater, ballpark, carnival, stadium, fairgrounds, drive-in theater, auto, go-cart or similar racetrack or drag, dog or similar competition course, rifle or other gun firing range.

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

Outside or outdoor storage. The keeping of any inventory, goods, junk, materials, merchandise, or commercial vehicles (includes raw, semi-finished and finished materials) in the same place for more than 24 hours.

Overlay district. A defined geographic area that applies supplementary regulations to land previously classified as belonging to a specific zoning district or land use category. An overlay district can share the same boundaries with existing zoning districts or can contain only parts of one or more such districts.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common or tenant in partnership, of the whole or of a part of such building or land.

Parcel. A piece of land formally described and recorded with block and lot numbers, by metes and bounds, by ownership, or in such manner as to specifically identify the dimensions and/or the boundaries.

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

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

Personal care home. See "assisted-living services."

Planning commission. The Burke County Planning Commission.

Plat. A map, plan or layout, of a county, city, town, lot, section, subdivision or development indicating the location and boundaries of properties prepared by a licensed surveyor or engineer. Includes the term "sketch plat."

Plat, final. The plat of the subdivision, meeting the requirements of these regulations, for recording in the office of the clerk of the superior court of the county.

Potable water. Water suitable for drinking purposes.

Pre-owned manufactured home. Any manufactured home that has been previously used as a residential dwelling.

Principal use. The primary purpose for which land or a building is used.

Private airport. See "airport."

Private club. A bona fide membership club affiliated with a nationally chartered organization which has at least 25 local regular dues-paying members and/or qualifies as a tax-exempt, nonprofit organization under the United States Internal Revenue Code.

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

Public. Any land or building owned, used or maintained by a federal, state, county or municipal government or their agencies, accessible to, supported or shared by all members of the community.

Public road. See "road."

Public sanitary sewerage. A sanitary system for the collection and treatment of waterborne wastes and is operated by a local unit of government or approved for operation by the local government.

Public works director. See "county road superintendent."

Qualified surveyor. A person licensed by the state to perform the duties of a land surveyor.

Recreational vehicle. A vehicle, which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recycling center. A facility with recycling areas where solid waste is separated or pretreated.

Registered engineer. A person licensed by the state to perform the duties of an engineer.

Religious facility. Church, synagogue, temple, mosque or other facility that is designed for worship, ceremonies, and rituals pertaining to a particular system of beliefs.

Residential. Any building, structure or unit thereof intended for occupancy as a dwelling, but not including a tourist accommodation as defined in O.C.G.A. Chapter 31-28 or an institution.

Residential land service road. See "road."

Restaurant, custom service. An establishment where food and drink are prepared to individual order, ordered and served at the table, and consumed primarily within the principal building or in established outdoor dining areas, as contrasted to a fast food restaurant.

Restaurant, fast food. See "restaurant, limited service."

Restaurant, limited service. Any establishment, building or structure where food or drink are served for consumption, either on or off the premises, by order from or service to persons either over an interior counter, outside the structure or from an outdoor service window or automobile service window, or by delivery. This definition shall not include otherwise allowed restaurants where outdoor table service is provided to customers in established outdoor dining areas or where drive-through or take-out service is provided incidental to a custom service restaurant.

Retail business. A business consisting primarily of buying merchandise or articles in gross and selling to general consumers in small quantities or broken lots or parcels and not in bulk and not for resale.

Rezoning action. To change the zoning classification of a parcel of land. A proposed rezoning action requires review by the planning commission and review and approval by the board of commissioners.

Right-of-way. An area or strip of land, either public or private, on which an irrevocable right of passage has been recorded or otherwise established for the use as a public street, road, thoroughfare, crosswalk, pipeway, drainage canal and/or other similar uses and designated by means of right-of-way lines.

Right-of-way line. The dividing line between a lot, tract or parcel of land and a contiguous right-of-way.

Road. A right-of-way which provides vehicular access to abutting property. Includes the term "street."

Alley. A road which affords only a secondary means of access to the back or side of abutting property, and is not intended for general traffic.

Collector road. A road which is intended to collect traffic from local streets and direct it safely to minor or major arterial streets. A collector may also provide direct access to adjacent properties.

County vehicular service road. A public road or right-of-way therefor not under the jurisdictional control of the state and is considered to be significant to intracounty vehicular travel.

Cul-de-sac. A road with only one outlet, closed and terminated with a permanent vehicular turnaround.

Dead-end. A road having only one end open for access to another street, and other end being abruptly terminated with no turnaround.

Local road. A street which is intended to serve a limited area for local circulation and whose primary function is to provide direct access to adjoining properties.

Major arterial road. A road which is intended to provide swift and safe movement of traffic through the county. Includes the term "principal arterial."

Minor arterial street. A road which is intended to provide easy and convenient traffic movement within the county.

Nonresidential land service road. A public road or right-of-way therefor not under the jurisdictional control of the state, nor intended for such control, and is not considered to be significant to intracounty vehicular travel, and provides or is intended to provide access to land in use or intended for use primarily for commercial and industrial purposes, or accommodates or is intended to accommodate frequent vehicular traffic to land areas whose use or intended use is primarily for such purposes.

Private road. A road, or any designated right-of-way or easement therefor, or vehicular access routes from public rights-of-way to private property, not under the jurisdictional control of the county or the state, nor intended or acceptable for such control, and is not owned and maintained or intended to be owned and maintained by the county as a public road.

Public road. A road or road right-of-way owned or maintained by a unit of government or an authorized agency thereof.

Residential land service road. A public road or right-of-way therefor not under the jurisdictional control of the state, nor intended for such control, and is not considered to be significant to intracounty vehicular travel, and which provided or is intended to provide vehicular access to land in use or intended for use primarily for residential purposes.

Road jog. The physical condition created when the centerline of a road, or two roads having approximately the same horizontal alignment, intersects the centerline of another road at more than one location.

Shoulder. That part of a road that extends from either edge of the travel or wearing surface to a drainage ditch.

State route. A public road or right-of-way therefor under the jurisdictional control of the state or is intended or acceptable of such control, and is not owned and maintained or intended to be owned and maintained by the county as a public road.

Stub street. A dead-end street at adjoining property lines intended for future extension to serve the development of adjoining areas.

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

Rooming and boarding. Temporary accommodations that serve a specific group or membership, such as a dormitory, fraternity or sorority house, or workers' camp and that may offer housekeeping, meals, and laundry services.

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.

Setback. The minimum required distance between a street right-of-way or the property boundary lines of a lot and the front, rear, or side lines of a building located on that lot.

Front setback. See "yard, front."

Rear setback. See "yard, rear."

Side setback. See "yard, side."

Shoulder. See "road."

Sign. Any object, device, display, structure, or design that is used or intended to be used to attract the attention of or to convey information to the public, and that is placed in such a way, whether out of doors or inside or near a window, as to be in the view of the general public from the exterior of any building on the property.

Billboard. A type of pole sign with a sign face exceeding 288 square feet.

Billboard, interstate. A billboard within 660 feet of nearest edge of the right-of-way of Interstate 1-75 and is visible to persons in vehicles traveling in the through lanes of Interstate 75.

Billboard, non-interstate. A billboard on a parcel having frontage on a state route that is a part of the primary highway system operated by the Georgia Department of Transportation.

Billboard sign. A type of freestanding sign with an area more than 120 feet and not larger than 672 square feet.

Freestanding sign. A permanent sign which is attached to or part of a completely self-supporting structure, other than a building. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure, whether portable or stationary.

Site plan. The development plan for one or more lots or parcels on which is shown the existing and proposed conditions of the lot(s) or parcel(s) including all of the requirements set forth in the LDC.

Soil and water conservation district approved plan. An erosion and sedimentation control plan approved in writing by the Briar Creek Soil and Water Conservation District.

Solar collection system. An onsite accessory panel, multiple panels, or other solar energy device that is roof-mounted or ground-mounted, the primary purpose of which is to provide the collection, inversion, storage, and distribution of solar energy for on-site electricity generation, space heating, space cooling or water heating for the structure(s) on the property and is not to be used as a commercially operating solar energy farm. Includes the term "solar array."

Solar energy farm. Property used in solar energy development; more specifically, land utilized in the construction and installation of an energy conversion system, including appurtenances, that converts solar energy to a usable form of energy to transfer to the public electric grid in order to sell electricity to a public utility entity. Also known as "solar farm."

Solar energy equipment. Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

Solid waste management facility. Any facility for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid wastes.

Special industry. The use of land and structures for manufacturing activity involving industrial operations that, by their nature, are offensive or noxious, and generally incompatible with residential or other nonspecial industry use of property.

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

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

Start of construction. See "construction."

State general permit. The National Pollution Discharge Elimination System general permit or permits for stormwater 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 O.C.G.A. § 12-5-30(f).

State route. See "road."

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.

Stormwater management. The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, stream bank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground. For the purpose of the flood damage prevention section of article III in this LDC, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Historic structure. Any structure that is: (1) 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; (2) 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; (3) 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 (4) 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.

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

Subdivider. A person who subdivides or causes land to be subdivided.

Subdivision. Any division or redivision of a tract or parcel of land into two or more lots, parcels, or building sites; or other division or redivision for the purpose, whether immediate or future, of sale, lease, legacy or building development.

Major subdivision. A subdivision of land which results in the creation of six or more lots.

Minor subdivision. A subdivision of land which results in the creation of five or less lots and does not result in the creation of any public or private street.

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

Substantial improvement. Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a five-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 should be: (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include 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.

Substantially improved existing manufactured home parks or subdivisions. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Surety bond. An agreement in which one person accepts legal liability for another's performance of a contract or obligation.

Timber. Softwood or hardwood trees harvested for commercial purposes.

Timber operations. Buying, cutting, harvesting, loading and/or hauling timber.

Timber operator. Any person engaged in timber operations.

Tourist accommodations. Means a tourist court as defined in O.C.G.A. Chapter 31-28 as any facility consisting of two or more rooms or dwelling units providing lodging and other accommodations for tourists and travelers and includes tourist courts, tourist cottages, tourist homes, motels, motor hotels, hotels, and any similar place by whatever name called and any food, beverage, laundry, recreational or other facilities or establishments operated in conjunction therewith, and as such shall be regulated in accordance with Chapter 290-5-18 of the Rules of the Department of Human Resources. This definition includes any facility consisting of two or more rooms or dwelling units either joined together or separate on a common piece of property, furnished for pay. For the purpose of this LDC, this definition shall not include campgrounds, recreational vehicle parks, bed and breakfast inns, trailer parks, and trailer courts.

Transitional surface. The transitional surface extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the runway and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.

Travel trailer/recreational vehicle. A vehicular-type portable structure, whether self-propelled or pulled by a power unit, designed as a temporary dwelling for travel, recreation, and vacation uses, which is identified on the unit by the manufacturer as a "camper" or "travel trailer" or "recreational vehicle."

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.

Truck stop. The use of land and structures for the rental and servicing of the en route sales of fuel, lubricants, minor accessories, and the like primarily to vehicles of greater than three-quarter ton rated capacity, but not sales of such vehicles.

Use. The purpose for which a building or other structure or a tract of land is designed, arranged, intended, maintained, or occupied; the activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Utility. Any community service available to the public by means of an overhead or underground distribution or collection system such as electricity, telephone, water, gas, cable television and sewerage disposal.

Public water and sewer system. Refers to public water distribution and wastewater collection systems, and all component parts, equipment, and structures necessary to provide such services.

Private water and sewage system. A system owned and operated by an individual or a community corporation serving two or more premises and approved by the Georgia Department of Natural Resources, Environmental Protection Division.

Variance. A grant of relief from the requirements of the LDC where specific enforcement would result in unnecessary hardship.

Vegetative erosion and sedimentation control measures. Measures for the stabilization of erodible or sediment-producing areas by covering the soil with (a) permanent seeding, sprigging or planting, producing long-term vegetative cover; or (b) temporary seeding, producing short-term vegetative cover; or (c) sodding, covering areas with a turf of perennial sod-forming grass. Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Violation. 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 certifications, or other evidence of compliance required by the community's floodplain management ordinance is presumed to be in violation until such time as that documentation is provided.

Warehouse. An establishment that operates warehouse and storage facilities for general merchandise, refrigerated goods, and other warehouse products. These establishments provide the facilities to store goods but do not sell the goods they handle. They may also provide a range of services related to the distribution of goods, such as labeling, breaking bulk, inventory control and management, light assembly, order entry and fulfillment, packaging, pick and pack, price marking and ticketing, and transportation arrangement.

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

Water supply, central. A water supply system, including pumps and distribution lines and other facilities appurtenant thereto, serving or designed to serve more than two buildings or structures used or designed to be used for human occupancy.

Wearing surface. That portion of a road designed and improved for the purpose of conveying vehicles.

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

Wholesale business. A business primarily engaged in the selling of goods or articles in gross to retailers or jobbers for resale and not to the ultimate consumer.

Wind energy facility. An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. Definitions related to wind energy facilities include the following:

Applicant. The person or entity filing an application for a permit to install a wind turbine under this chapter.

Environmental assessment. A detailed examination of the applicant's proposal and its potential local environmental context with an emphasis on avoiding, minimizing, and mitigating adverse impacts.

Facility operator. The entity responsible for the day-to-day operation and maintenance of the wind energy facility.

Facility owner. The entity or entities having equity interest in the wind energy facility, including their respective successors and assigns.

Non-participating landowner. Any landowner not under an agreement with the facility owner or operator.

Occupied building. A residence, school, hospital, church, public library or other buildings used for public gathering that is occupied or in use when the building permit application is submitted.

Participating landowner. A landowner under lease or other property agreements with the facility owner or operator pertaining to the wind energy facility.

Shadow flicker. The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Wind energy facility, Class I system. A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. An example of a Class I system is a small wind energy conversion system which is defined as a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 20 kW or less.

Wind energy facility, Class II system. A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A Class II system is a small wind energy conversion system consisting of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of more than 20 kW but no greater than 100 kW.

Wind energy facility, Class III system. A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 100 kW but not greater than two MW.

Wind energy facility, Class IV system. A wind energy conversion system consisting of one or more than one wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than two MW.

Wind power. The conversion of wind energy into electricity.

Wind turbine. A wind energy conversion system that converts wind energy into electricity.

Wind turbine height. The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Wireless telecommunication facility. The set of equipment and network components, exclusive of the underlying wireless support structure, including antennas, transmitters, receivers, base stations, power supplies, cabling, and accessory equipment, used to provide wireless data and wireless telecommunication services. Also known as "wireless facility." Definitions related to wireless telecommunication facilities include the following:

Accessory equipment. Any equipment serving or being used in conjunction with a wireless facility or wireless support structure and includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets, and storage sheds, shelters, or similar structures.

Accessory facility or structure. An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

Antenna. Communications equipment that transmit, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.

Application. A formal request submitted to the local governing authority to construct, collate collocate, or modify a wireless support structure or a wireless facility.

Camouflage (or stealth or stealth technology). Disguising a wireless support structure and facility so as to make it less visually obtrusive and not recognizable to the average person as a wireless telecommunications facility.

Collocate or collocation. The placement or installation of new wireless facilities on previously approved and constructed wireless support structures, including monopoles and towers, both self-supporting and guyed, in a manner that negates the need to construct a new freestanding wireless support structure. Such term includes the placement of accessory equipment within an existing equipment compound.

Complete application. An application containing all documents, information, and fees specifically enumerated in or required by the local governing authority's regulations, ordinances, and forms pertaining to the location, construction, collocation, modification, or operation of wireless facilities.

Equipment compound. An area surrounding or adjacent to the base of a wireless support structure within which accessory equipment is located.

Modification or modify. The improvement, upgrade, expansion, or replacement of existing wireless facilities on an existing wireless support structure or within an existing equipment compound, provided such improvement, upgrade, expansion, or replacement does not increase the height of the wireless support structure or increase the dimensions of the equipment compound.

Utility. Any person, corporation, municipality, county, or other entity, or department thereof or entity related or subordinate thereto, providing retail or wholesale electric, data, cable, or telecommunications services.

Wireless support structure. A freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing or alternative structure designed to support or capable of supporting wireless facilities. Such term shall not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service. Includes the term "wireless telecommunication tower."

Yard. A required open space on the same lot with a principal building open, unoccupied, and unobstructed by buildings or structures from ground to sky except for vegetation and permitted encroachments and accessory buildings.

Yard, corner. An open, unoccupied space on the same lot with the principal building, situated between the building and the street right-of-way and extending from front yard setback to the rear yard setback.

Yard, front. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street right-of-way and the minimum front building line setback. Where a corner lot exists, the front yard shall be determined by that portion of the lot with the shortest road frontage.

Yard, rear. An open, unoccupied space on the same lot with the principal building, situated between the building and sideline of the lot and extending from the rear line of the lot and the rear line of the building projected to the sidelines of the lot.

Yard, side. An open, unoccupied space on the same lot with the principal building, situated between the building and the sideline of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Zoning decision. The decision made by the board of commissioners to approve or deny a proposed rezoning action.

Zoning district. The use classification of parcels of land as generally defined under the LDC.

Zoological park. The use of land and structures for the keeping for purposes of exhibition of any native or exotic animal species, as approved and licensed by the Georgia Department of Natural Resources.

Section 2.

The Code of Ordinances of Burke County, Georgia, Chapter 26 Land Development, Article III Protection of Natural Features and Resources, Section 26-3.02. Flood Damage Prevention, is hereby amended to read as follows:

26-3.02.00 – Flood Damage Prevention.

26-3.02.01 - Statutory authorization.

Article IX, Section II of the Constitution of the State of Georgia and O.C.G.A. § 36-1-20(a) have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Burke County Board of Commissioners of Burke County, Georgia, does ordain as follows.

26-3.02.02 - Findings of fact.

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

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

26-3.02.03 - Purpose.

It is the purpose of this section 26-3.02.00 to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (b) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (c) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- (d) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (e) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

26-3.02.04 - Objectives.

The objectives of section 26-3.02.00 are to:

- (a) Protect human life and health;
- (b) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (c) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- (d) Minimize expenditure of public money for costly flood control projects;
- (e) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (f) Minimize prolonged business interruptions; and
- (g) Ensure that potential home buyers are notified that property is in a flood area.

26-3.02.05 - Lands to which section applies.

This section shall apply to all areas within the county.

26-3.02.06 - Basis for establishing the areas of special flood hazard.

- (a) The areas of special flood hazard identified by FEMA in its flood insurance study (FIS), dated December 17, 2010 with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this section.

- (b) For those land areas acquired by a municipality through annexation, the current effective FIS dated December 17, 2010, with accompanying maps and other supporting data and any revision thereto, for Burke County are hereby adopted by reference.
- (c) Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.
- (d) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at: Burke County Planning, Permits and Inspections Office.

26-3.02.07 - Development permit required.

A development permit shall be required in conformance with the provisions of this section prior to the commencement of any development activities.

26-3.02.08 - Compliance.

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this section and other applicable regulations.

26-3.02.09 - Abrogation and greater restrictions.

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

26-3.02.10 - Interpretation.

In the interpretation and application of this section, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

26-3.02.11 - Warning and disclaimer of liability.

- (a) The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration.
- (b) Larger floods can and will occur. Flood heights may be increased by manmade or natural causes.
- (c) This section 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.
- (d) This section shall not create liability on the part of the county or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

26-3.02.12 - Penalties for violation.

- (a) Failure to comply with the provisions of this section or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation.
- (b) Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case.
- (c) Each day such violation continues shall be considered a separate offense.
- (d) Nothing contained in this section shall prevent the county from taking such other lawful actions as is necessary to prevent or remedy any violation.

26-3.02.13 - Designation of floodplain coordinator.

The Building Official or his/her designee, hereby referred to as the floodplain coordinator, is hereby appointed to administer and implement the provisions of this section. According to FEMA's Community Information System (CIS) database, the Building Official is the floodplain administrator.

26-3.02.14 - Permit procedures.

Application for a development permit shall be made to the flood plain administrator on forms furnished by the community prior to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

- (a) *Application stage.*
 - 1) (1) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
 - 2) (2) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
 - 3) (3) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria in section 26-3.02.18(b) below;
 - 4) (4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- (b) *Construction stage.*
 - (1) For all new construction and substantial improvements, the permit holder shall provide to the flood plain administrator an as-built certification of the regulatory flood elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed.
 - (2) The permit holder shall provide the flood plain administrator sealed supplemental construction documents including, but not limited to foundation and structure anchoring

details prepared by a licensed professional engineer and/or registered architect. 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.

- (3) When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- (4) Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.
- (5) The flood plain administrator shall review the above referenced certification data submitted.
- (6) Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed.
- (7) Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

26-3.02.15 - Duties and responsibilities of floodplain coordinator.

The duties of the flood plain administrator shall include, but not be limited to:

- (a) Review proposed development to assure that the permit requirements of this section have been satisfied.
- (b) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- (c) When base flood elevation data or floodway data have not been provided in accordance with section 26-3.02.15, then the flood plain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources in order to administer the provisions of the LDC.
- (d) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (e) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with section 26-3.02.15(b).
- (f) When flood-proofing is utilized for a structure, the flood plain administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with section 26-3.02.15 and section 26-3.03.18.
- (g) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.

- (h) Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
- (i) For any altered or relocated watercourse, submit engineering data/analysis within six months to FEMA to ensure accuracy of community flood maps through the letter of map revision process.
- (j) Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (k) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the flood plain administrator 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 section.
- (l) All records pertaining to the provisions of this chapter shall be maintained in the office of the flood plain administrator and shall be open for public inspection.

26-3.02.16 - General standards.

In all areas of special flood hazard, the following provisions are required:

- (a) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.
- (c) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.
- (d) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (e) 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.
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (g) 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.
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

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

26-3.02.17 - Specific standards.

In all areas of special flood hazard the following provisions are required:

(a) *New residential construction and substantial improvements.*

- 5) (1) Where base flood elevation data are available, new construction and/or substantial improvement of any residential structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of subsection (c) of section 26-3.02.17.
- 6) (2) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other services facilities shall be elevated at or above one foot above the base flood elevation.
- (b) *Nonresidential construction.* New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in section 26-3.01.16(g).
- (c) *Elevated buildings.* All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - 7) (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - a. 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;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.
 - 8) (2) So as not to violate the "lowest floor" criteria of this section, 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

- 9) (3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (d) *Standards* . Standards for manufactured homes and recreational vehicles where base flood elevation data are available.

10) (1) All manufactured homes placed, and/or substantially improved:

- a. On individual lots or parcels;
 - b. In expansions to existing manufactured home parks or subdivisions;
 - c. In new and/or substantially improved manufactured home parks or subdivisions;
- or
- d. On a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement, elevated no lower than one foot above the base flood elevation.

11) (2) All manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

- a. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation; or
- b. 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.

12) (3) All recreational vehicles placed on sites must either:

- a. Be on site for fewer than 180 consecutive days,
- b. 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
- c. The recreational vehicle must meet all the requirements of section 26-3.02.18(a) including the anchoring and elevation requirements of section 26-3.02.18(d)(2)c, above.

- (e) *Floodways*. Located within areas of special flood hazard established in section 26-3.02.06 are areas designated as floodways. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

13) (1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is

demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

- 14) (2) Only if subsection (e)(1) above is satisfied, then any new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

26-3.02.18 - Standards for areas of special flood hazard (Zones AE) with established base flood elevations without elevated floodways.

Located within the areas of special flood hazard established in section 26-3.02.06 where streams with base flood elevations are provided but no floodways have been designated, (Zones AE) the following provisions apply.

- (a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with section 26-3.02.17.

26-3.02.19 - Standards for streams without established base flood elevation and/or floodways (A-Zones).

Located within the areas of special flood hazard established in section 26-3.02.06, where streams exist but where no base flood data has been provided (A-Zones), or where base flood data have been provided but a floodway has not been delineated, the following provisions apply:

- (a) When base flood elevation data or floodway data have not been provided in accordance with section 26-3.02.06, then the flood plain administrator shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this section. ONLY if data are not available from these sources, then the following provisions (b) and (c) shall apply:
- (b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 20 feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (c) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest

enclosed area (including basement) elevated no less than three (feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 26-3.02.17(c).

- (d) The flood plain administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

26-3.02.20 - Standards for areas of shallow flooding (AO Zones).

Areas of special flood hazard established in section 26-3.02.06 may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

- (a) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of section 26-3.02.18(c), "elevated buildings."
- (b) The flood plain administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- (c) New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in section 26-3.02.15(a)(3) and section 26-3.02.15(b).
- (d) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

26-3.02.21 - Standards for subdivision proposals.

- (a) All subdivision and/or development proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision and/or development proposals shall have public utilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (c) All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) For subdivisions and/or developments greater than 50 lots or five acres, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed

development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the "as-built" data to FEMA in order to obtain the final LOMR.

26-3.02.22 - Standards for critical facilities.

- (a) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.
- (b) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

26-3.02.23 - Standards for Appeals and Variances.

- (a) The planning commission as established by the board of commissioners shall hear and decide requests for appeals or variance from the requirements of this section.
- (b) The planning commission shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the flood plain administrator in the enforcement or administration of this section.
- (c) Any person aggrieved by the decision of the planning commission may appeal such decision to the Superior Court of Burke County, Georgia, as provided in O.C.G.A. § 5-4-1.
- (d) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) In reviewing such requests, the planning commission shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this section.
- (h) The conditions for the granting of variances shall be as follows:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the structure.
 - (2) Variances shall only be issued upon:
 - 15) a. A showing of good and sufficient cause;
 - 16) b. A determination that failure to grant the variance would result in exceptional hardship; and
 - 17) 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, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of

the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

- (4) The flood plain administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.
- (i) Upon consideration of the factors listed above and the purposes of this section, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

Section 3. Severability

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

Section 4.

This Ordinance shall take effect immediately upon passage after adoption on Second Reading.

Approved on First Reading

Seal

Date: July 9, 2019

Approved on Second Reading

Date: August 13, 2019

Terri Lodge Kelly, Vice-Chairman

Merv Waldrop, Manager