

ARTICLE 2

DEFINITIONS

2.1 USE OF WORDS AND INTERPRETATION

2.1.1 For the purposes of these Regulations, the following shall apply to the use of all words:

- a. When appropriate to the context, words used in the singular shall include the plural, and the plural the singular; words used in the present tense shall include the future tense, and vice versa.
- b. Words in the masculine gender shall include the feminine.
- c. The word "shall" is mandatory and not discretionary.
- d. The word "may" is permissive.
- e. Use of the word "and" is inclusive and requires that all of the component phrases so connected must be present or fulfilled for sufficiency.
- f. Use of the word "or" is not exclusive (as in "either ... or"), and requires that at least one of the component phrases so connected must be present or fulfilled for sufficiency. The word "or" may allow more than one component phrase to be present or fulfilled, as is implied by the common term "and/or."

2.1.2 The following shall control the interpretation of words and phrases as used in these Regulations:

- a. Words and phrases defined in this Article shall be interpreted as defined herein.
- b. Words or phrases not defined herein shall be interpreted as defined in the Zoning Ordinance of the City of Duluth, Georgia, or other applicable City ordinances, as applicable to the use of the word within the context of these Regulations.
- c. Words not defined herein or in the Zoning Ordinance or other applicable Ordinances of the City of Duluth shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence, section or article in which they occur.

2.2 DEFINITIONS OF WORDS AND PHRASES

Certain words or phrases in these Regulations are defined for their use herein as follows:

Alley or Service Drive - A minor, permanent, public service-way which is used primarily for

vehicular service access to the back or the side for properties otherwise abutting on a street.

Applicant - A person, either the owner or the bona fide representative of the owner of land or structures governed by these regulations, who seeks authority to use, develop, construct upon or otherwise enjoy the use of property through any of the procedures established under these regulations.

Arterial - A Principal Arterial, Major Arterial, or Minor Arterial street as defined and designated in the Comprehensive Plan of Gwinnett County.

"As-Built" Survey - See Record Drawing.

"Base Flood" - The flood which has a one percent probability of occurring in any calendar year (i.e., the 100 year frequency flood).

Base Flood Elevation - The highest water surface elevation anticipated at any given point during the base flood.

Block - A piece or parcel of land entirely surrounded by public streets, other than alleys.

Buildable Lot of Record - A lot or parcel of land which existed as a single parcel of ownership, recorded as such in its entirety and present boundaries with the Clerk to Superior Court prior to January 1, 1972, or which is shown in its entirety and present boundaries on a Final Plat or Exemption Plat duly approved under these or any previously applicable regulations providing for the subdivision of land in City of Duluth and recorded with the Clerk to Superior Court of Gwinnett County. (amended 9-22-97)

Building Setback Line - A line across a lot parallel to a street right-of-way or other property line establishing the minimum open space to be provided between any principal building and the street or other property line. All building setback lines shall be at least as restrictive as the corresponding minimum yard setbacks required in the Zoning Ordinance. On corner lots, the minimum required front yard setback shall be provided along all abutting streets.

Certificate of Development Conformance - Final approval issued by the Department for completion of land development activities for a subdivision or project for which a Development Permit was issued.

Certificate of Occupancy - Final approval by the Department for the use or occupancy of a structure for which a Building Permit was issued.

City - The City of Duluth, Georgia.

Clearing - The removal of trees or other vegetation, but not including grubbing activities.

Comprehensive Plan - A plan summarizing and illustrating the adopted goals and objectives of the City Council regarding the future location and character of anticipated land uses, transportation, and other public facilities in the City of Duluth. The term "Comprehensive Plan" includes component or functional plans for the City, including but not limited to a plan for land use (i.e., Land Use Plan) or a plan for transportation facilities, and includes the classification of streets and thoroughfares as shown on the adopted Major Thoroughfare Plan.

Concept Plan - A drawing which shows the overall concept (e.g., a concept plan) of a proposed development, and which may include lots and streets in a subdivision or the general location of buildings and improvements for a multi-family or non-residential project, and which may be drawn to approximate dimensions in a freehand style.

Condominium - A form of property ownership in which the buildings or portions of the buildings, whether residential or non-residential in use, are owned by individuals separate from the lands which surround the buildings, said lands held in common ownership by the owners of the several buildings.

Cul-De-Sac - A street having one end open to traffic and being permanently terminated within the development by a vehicular turnaround. For the purpose of designation, a cul-de-sac street shall be interpreted to begin at the intersection of two or more streets nearest to the vehicular turnaround.

Department - The Department of Planning and Development of the City of Duluth, Georgia.

Department of Transportation – The Gwinnett County Department of Transportation.

Developer - Any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit who directs the undertaking or purposes to undertake development activities as herein defined, whether the development involves the subdivision of the land for sale to individual users, the construction of buildings or other improvements on a single land ownership, or both.

Development - 1. (verb) All activities associated with the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy or habitation, other than for agricultural purposes devoted strictly to the cultivation of the land, dairying or animal husbandry. Such activities include land disturbance (clearing and grubbing the land of vegetation and stumps, and grading) and the construction of improvements such as but not limited to streets, driveways or parking areas, water or sewer mains, storm water drainage facilities, sidewalks or other structures permanently placed on or in the property. 2. (noun) Where appropriate to the context, the term "development" also may be used to denote a specific subdivision or project which is a single entity or intended to be constructed as in interrelated whole, whether simultaneously or in phases.

Development Agreement – A written contract between the City of Duluth and a property

owner or developer that specifies the System Improvements to be provided by the developer for a specific project.

Development Permit - An official authorization issued by the Department permitting clearing, grubbing, grading, or construction of storm drainage facilities, access drives, streets, parking or other improvements exclusive of buildings.

Development Plans - The detailed and professional plans showing the layout and design, site work and construction activities proposed for a project (other than architectural building plans) and including the Preliminary Plat or Site Plan (as applicable), Grading Plan, Tree Preservation/Replacement Plan, Erosion and Sediment Control Plan, Buffer and Landscape Plan, and construction drawings for streets, storm water drainage facilities, sanitary sewers, water supply facilities, and other site improvements.

Diameter Breast Height (dbh) – See the City of Duluth Buffer, Landscape and Tree Ordinance.

Director - The Director of the Department of Planning and Development or his designee.

Drainage Improvements - Those facilities and structures intended to control and direct the passage of storm waters and other surface water flows from and across a property; including, but not limited to, swales and ditches, cross drains and other piping systems, catch basins, detention ponds, and velocity dissipation devices.

Dripline – See the City of Duluth Buffer, Landscape and Tree Ordinance.

Driveway - A vehicular access way in private ownership, other than a Private Street, which provides access primarily to only one property.

Easement - Recorded authorization for a specified purpose by a property owner for the use of any designated part of the real property by another entity.

Erosion Control Regulations - The City's Soil Erosion and Sediment Control Ordinance.

Exemption Plat - A subdivision plat drawn to Final Plat standards, as contained herein, prepared in accordance with one of the exemptions provided under Article 3 of these Regulations.

Fee Simple - A form of property ownership in which the buildings and surrounding lands are owned by the same person.

Federal Emergency Management Agency (FEMA) - The Federal Agency which administers the National Flood Insurance Program. This Agency prepares, revises and distributes the maps and studies referenced in these Regulations.

Final Plat - A finished drawing of a subdivision showing completely and accurately all legal and boundary information and certification required by these Regulations.

Fire Marshal's Office – A section of the Gwinnett County Department of Fire and Emergency Services charged with the responsibility of enforcing the County's Fire Prevention and Protection Ordinance, the Standard Fire Prevention Code, the National Fire Prevention Code and Georgia Handicap Laws.

Fire Services Division - A division of the Gwinnett County Department of Public Safety charged with the responsibility of enforcing the County's Fire Prevention and Life Safety Codes, and Gwinnett Handicap Ordinance.

Flood or Flooding - A general and temporary condition or partial or complete inundation of normally dry land areas.

Flood Boundary and Floodway Map - The official map issued by the Federal Emergency Management Agency, where the boundaries of the floodways are shown and the areas of Special Flood Hazard have been defined as Zone "A".

Flood Insurance Rate Map (FIRM) - An official map on which the Federal Emergency Management Agency has delineated both the areas of Special Flood Hazard and the applicable risk premium zones.

Flood Insurance Study - The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary and Floodway Map and the water surface elevation of the base flood.

Flood Prone Area – See the Floodplain Management Ordinance of the City of Duluth.

Floodway - The channel of a river or other watercourse and the adjacent areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodplain - Those lands subject to flooding, which have at least a one percent (1%) probability of flooding occurrence in any calendar year; based on the basin being fully developed as shown on the current land use plan i.e., the regulatory flood. See Floodplain Management Ordinance for ancillary terms. (amended 8/27/01)

Flood Related Definitions – See the Floodplain Management Ordinance of the City of Duluth, for specific definitions of terms used in relation to flooding, alteration of floodplains, construction of structures in or adjacent to floodplains, etc.

Freeboard - The distance between the base flood elevation and the top of a storm water

detention structure.

Georgia DOT – The Department of Transportation of the State of Georgia.

Grading - The movement, removal or addition of earth on a site by the use of mechanical equipment.

Grading Permit - An official authorization issued by the Department permitting grading of a site, and may include installation of attendant storm water drainage facilities.

Grubbing - The removal of stumps or roots from a property.

Health Department - The Environmental Health Services Division of the Georgia Department of Human Resources for Gwinnett County.

Hotspot – An area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water or to violate water quality standards.

House Location Plan (HLP) - A drawing showing lot information and all improvements, as outlined in Article 6.

Impervious Surface – Any paved, hardened or structural surface, including but not limited to, buildings, dams, decks, driveways, parking areas, patios, streets, swimming pools, tennis courts, walkways and other structures.

Land Disturbance Permit - Any permit other than a Building Permit issued by the City of Duluth that authorizes clearing or grading activities on a site or portion of a site. Said permit may be a Clearing, Clearing and Grubbing, a Grading, or Development Permit as defined and authorized herein.

Lot - A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership or for development or both. In determining the area and dimensions of a lot, no part of the right-of-way of a road or crosswalk may be included.

Lot, Corner - A lot abutting upon two or more streets at their intersection.

Lot, Double Frontage - A lot other than a corner lot abutting upon two or more streets.

Major Intersection - The intersection of two or more public streets in which at least one of the streets is an arterial or collector as designated by the Comprehensive Plan.

Major Thoroughfare - Any public street, existing or proposed, which is shown in the Comprehensive plan as an arterial or collector.

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 these Regulations, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Minor Collector – A through street having the primary function of connecting subdivisions or other areas to Major Collector streets or other major thoroughfares, or functioning as a central route within a subdivision channeling traffic from the local streets to an abutting major thoroughfare or another Minor Collector street. For the purposes of these Regulations, a central but non-through route within a subdivision or other project will be considered a Minor Collector, if the Average Daily Traffic generated by the development on the route will exceed 2,000 trips.

Open Space, Big Haynes Creek Watershed – A parcel of land set aside, designated and reserved which shall remain in its natural state, undisturbed and unoccupied by any structures or impervious surfaces, and located within the Big Haynes Creek Watershed Protection Area.

Open Space – A portion of a development set aside, designated and reserved which will remain in its natural state, undisturbed and unoccupied by any structures or impervious surfaces. See the Zoning Ordinance, Section 615 for additional information.

Owner - A person having a majority fee simple interest in real property, or a majority interest through any other form of ownership.

Pedestrian Way - A right-of-way within a block dedicated to public use, intended primarily for pedestrians and from which motor vehicles are excluded.

Person - An individual, firm, partnership, corporation, joint venture, association, social club, fraternal organization, estate, trust, business trust, receiver, syndicate, or other group or combination acting singly or collectively for a common purpose, and the duly authorized agents thereof.

Planning Commission - The City of Duluth Planning Commission.

Plat - A map indicating the subdivision, resubdivision, or recombination of land.

Preliminary Plat - A drawing which shows the perimeter boundary, topography, lotting arrangements, street layout, and other features of a proposed subdivision, as specified in these Regulations.

Project - A principal building or structure, or group of buildings or structures, planned and designed as an interdependent unit together with all accessory uses or structures, utilities, drainage, access, and circulation facilities, whether built in whole or in phases. Examples include: a principal building on a lot, a residential subdivision, a multi-family development, a

shopping center or an office park.

Project Access Improvement – Any improvement or facility that is planned and designed to provide service or access for a particular project and which is necessary for the use and convenience of the occupants or users of the project and is not a System Improvement. A Project Access Improvement includes but is not limited to: pedestrian access improvements; site driveways; new streets; median cuts; right turn lanes; left turn lanes; acceleration lanes and deceleration lanes made necessary to serve site driveways or new streets leading to or from the project; traffic control measures made necessary to serve site driveways or new streets; intersection improvements whose primary purpose at the time of construction is to provide access to the Project; and, necessary right-of-way dedications required for any Project Access Improvement.

Public Utilities Department - The Gwinnett County Department of Public Utilities, which includes the Water Pollution Control Division and the Water System Division.

Record Drawing - A survey or other drawing based on a field survey which shows existing features or components and horizontal or vertical information (grades or location of improvements).

Redevelopment – Development of a previously developed site; but excludes ordinary maintenance activities, remodeling of existing building interiors, resurfacing of paved areas, and exterior building changes or improvements which do not materially increase or concentrate storm water runoff, or cause additional nonpoint source pollution.

Responsible Party - In the context of enforcement procedures, a person (as defined above) who is alleged to have committed, caused, continued or created a violation of the terms, requirements, regulations, or provisions of these Regulations whether as a direct act, through lack of action or neglect, or at the direction of or on behalf of others. A responsible party may be the owner of a premises where a violation has occurred; an occupant whether through ownership, lease or other tenancy; a contractor, builder or developer; an agent of or person otherwise acting on behalf of the aforementioned parties; or other person acting in violation of these regulations.

Roadway - The paved portion of a street from back of curb to back of curb (or edge to edge of pavement for streets not having curbs) but excluding driveway aprons, bridges, and large single and multi-cell culverts which in a hydrologic sense can be considered to function as a bridge.

Sheet Flow - Diffused water running overland to a defined watercourse.

Site Work - Development activity to prepare a property for construction of buildings or finished structures, including clearing, grubbing, grading, and installation of soil sedimentation and erosion control facilities.

Sketch Plan - See Concept Plan.

Street, Private - An access way similar to and having the same function as a public street, providing access to more than one property, but held in private ownership (as distinct from a "driveway").

Street, Public - A right-of-way dedicated to and accepted by the City of Duluth for vehicular traffic or over which the City of Duluth may hold a prescriptive easement for public access, and including designated and numbered U. S. and State Highways. For the purposes of these Regulations, the term "public street" shall be limited to those which afford or could afford a direct means of vehicular access to abutting property, and exclude limited access roadways which abut a property but from which direct access may not be allowed under any circumstances.

Street, Local Nonresidential - A surface street intended primarily to provide local access to adjacent existing or planned commercial or industrial development and not for through traffic.

Street, Local Residential - A surface street intended primarily to provide local access to adjacent residential development and not for through traffic.

Street, Marginal Access - A local street which is parallel to and adjacent to a major thoroughfare and which provides access to adjacent properties and protection from through traffic.

Structure - Anything constructed or erected on the ground or attached to something on the ground.

Subdivider - Any person, individual, firm partnership, association, corporation, estate, trust, or any other group or combination acting as a unit dividing or proposing to divide land so as to constitute a subdivision as herein defined, including an agent of the subdivider.

Subdivision - 1. (verb) Any division or redivision of a lot, tract or parcel, regardless of its existing or future use, into 2 or more lots, tracts or parcels. The term, "subdivision" shall mean the act or process of dividing property. 2. (noun) Where appropriate to the context, the term "subdivision" also may be used in reference to the aggregate of all lots held in common ownership at the time of division.

Subdivision Entrance – A public street, or publicly approved private street, that provides access to subdivided lots.

System Improvement – Any improvement or facility such as streets, bridges, or rights-of-way identified on the Long Range Road Classification Map (i.e., "the System"), and any traffic

control measures, landscaping or other features to same, that is included in the Comprehensive Plan and which is further designed to provide service to the community at large.

Tie Point - The point of reference for a boundary survey. Said point of reference shall be an established, monumented position which can be identified or relocated from maps, plats, or other documents on public record.

Traffic Engineer – The designated head of the Traffic and Operations Division of the Gwinnett County Department of Transportation, or his/her designee.

Tree – See the City of Duluth Buffer, Landscape and Tree Ordinance.

Tree Diameter - See the City of Duluth Buffer, Landscape and Tree Ordinance.

Tree Protection Area - See the City of Duluth Buffer, Landscape and Tree Ordinance.

Tree Preservation/Replacement Plan - See the City of Duluth Buffer, Landscape and Tree Ordinance.

Water Pollution Control Division - A division of the Gwinnett County Public Utilities Department charged with the responsibility for the design, installation, inspection, approval, and maintenance of the public sanitary sewer system and wastewater treatment in the City of Duluth.

Water System Division - A division of the Gwinnett County Public Utilities Department charged with the responsibility for the design, installation, and maintenance of the public water supply and distribution system in the City of Duluth.

Watercourse - A channel with a defined bed and banks, including lakes, ponds, and marshes.

Wetlands – Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marches, bogs and similar areas. The ecological parameters for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

Zoning Ordinance - The adopted Zoning Ordinance of the City of Duluth, Georgia, as amended from time-to-time.