

Article 3. Definition of Terms

3.1 Definitions

Except as otherwise provided herein, all words shall have their customary dictionary meaning. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The word "person" includes a firm, corporation, association, organization, trust or partnership. The word "lot" includes "plot" or "parcel". The word "building" includes "structure". The word "shall" is always mandatory. The word "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied". The word "used" shall be deemed also to include "designed", "intended", or "arranged to be used". The term "erected" shall be deemed also to include "constructed", "reconstructed", "altered", "placed", or "moved". The word "land use" and "use of land" shall be deemed also to include "building use" and "use of building". The word "adjacent" means "nearby" and not necessarily "contiguous". The word "map" means the City of Elberton, Georgia, Elbert County, Zoning Map", dated _____, and as may be amended.

When used in this Ordinance, the following words and phrases shall have the meaning given in this Section.

Accessory Apartment, Attached: A second dwelling unit that is added to the structure of an existing site-built single-family dwelling, for use as a complete, independent living facility for a single household, with provision within the accessory apartment for cooking, eating, sanitation, and sleeping (e.g., "in-law suite"). Such a dwelling is considered an accessory use to the principal dwelling.

Accessory Apartment, Detached: A use or structure that is permitted on a property in conjunction with a principal use. An accessory use or structure is incidental to the principal use and would not exist independent of the principal use.

Accessory Structure or Use: A use or structure customarily incidental and subordinate to the principal use of the building.

Adjacent: Sharing at least one common property line. Or portion thereof, or located on the opposite side of a public right-of-way or private access drive or easement. Same as adjoining or abutting.

Aircraft Landing Area: Any landing area, runway, or other facility designed, used, or intended to be used for the taking off or landing of aircraft and which may include, aircraft storage, tie-down areas, hangars, and other necessary buildings and appurtenances. Includes private use heliports. May be a principal or accessory use.

Alley: A platted service way providing a secondary means of access to abutting properties which is not intended for general traffic circulation.

Alternative Tower Structure: See Telecommunications, Tower, Alternative Structure.

Alteration: Any change in the supporting member of a building, any modification or change in construction, any addition which increases the area or height, any change in use of or movement of a building from one location to another, or any increase in the amount or volume of space used for any activity.

Animal Shelter: A public or private facility exclusively for the temporary housing of stray or unwanted domestic animals.

Antenna: See Telecommunications Antenna.

Apartment: A suite of two (2) or more rooms and a bath which is designed according to the Southern Building Code and designed or intended for occupancy by one (1) family or one (1) person doing its cooking therein. For zoning purposes, an apartment is regarded as a dwelling unit. A structure containing two (2) apartments is a duplex. A structure containing three (3) or more apartments is a multi-family dwelling.

Apartment, Garage: A dwelling unit for one (1) family, erected above a private garage and detached from the main dwelling.

Apartment Building: A multi-family dwelling unit located on a parcel of land under a single ownership and consisting of 3 or more single-family dwelling units separated by fire resistant walls as required by the Building Code of Elberton, Georgia.

Applicant: Any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.

Automated Teller Machine: A mechanized consumer banking device offered by a bank, whether outside or in an access-controlled facility operated by walk-up customers only and not accessible to customers in vehicles.

Automated Teller Machine, Drive-through: A mechanized consumer banking device offered by a bank,

accessible to and operated by customers in vehicles.

Automobile Sales, Service or Repair Establishment: New or used car, truck, tractor, trailer, boat, recreational vehicle, camper, motorcycle, and other motorized vehicle sales, leasing, rental, and/or service, including manufactured home and modular building sales agricultural implements and equipment, and similar pieces of equipment or vehicle. This definition includes automotive service such as rental car facilities, top and body, paint, automotive glass, transmission, tire sales and repair shops, car washes, and oil change and lubrication facilities. This term includes boat dealers.

Automobile Wrecking Yard or Automobile Used Parts: Any place where three (3) or more vehicles not in running condition, or the parts thereof, are stored in the open, or any building or structure used principally for wrecking or storage of automobiles not in running condition.

Bank or Financial Establishment: A business that accepts money for deposit into accounts from the general public or other financial institutions, and which may include personal or business loans, wire transfers and safe deposit boxes. Such uses include but are not limited to banks, savings and loan institutions and credit unions, and security and commodity exchanges.

Best Management Practices: An engineering technique, or a management strategy, that has been determined and accepted to be an effective and practical means of preventing or reducing soil erosion or nonpoint source pollution in a local area.

Bed and Breakfast: A business establishment operated within a dwelling by the owner-occupant, offering temporary lodging and one or more meals to the traveling public while away from their normal places of residence.

Block: A piece or parcel of land entirely surrounded by public highways or streets, railroads, rivers, streams, or U.S. Government property, regardless of a size or shape of such land for the number of lots thereon.

Broadcasting Studio: A building or structure operated as a radio or television broadcasting studio or station with local broadcast capability or intended for satellite distribution of programs, and usually including satellite dishes, microwave dishes, and/or other communications equipment.

Mayor and Council: Elberton Mayor and Council.

Board of Adjustment: The board or body whose purpose is to hear appeals from decision of administrative officials.

Buffer/screening: The establishment or retention of an opaque fence, wall, dense natural or landscaped plant material, landscaped earthen berm, or combination thereof, for the purpose of minimizing the effects of incompatible or objectionable uses, sights, noise, or odors on surrounding properties.

Building: Any structure, either permanent or temporary, above or below ground, having a roof or other covering and designed, built or used as a shelter or enclosure for persons, animals or property of any kind, and including tents or awnings used for the purposes of a building.

Building, Height: The vertical distance measured from the average elevation of the proposed finished grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the gables of a pitch or hip roof.

Building, Principal: A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a principal building on the lot on which it is situated.

Buildable Area: The portion of a lot remaining and available for construction of a building or related facility after required yards, open space, and buffers have been provided.

Building Inspector: Elberton Building Inspector.

Building Line Setback: A line, set back a specified distance from and parallel to the front property line or street right-of-way line beyond which the foundation wall and any roofed porch, vestibule, or other such portion of a building shall not project.

Bulk Plant or Station: A place where petroleum products or other flammable liquids are stored for wholesale purposes only, where the total capacity of all storage tanks is more than 12,000 gallons.

Bulk Storage: An establishment where commodities, including both liquids and solids, are received by pipelines, tank car, tank vehicle, or other container, and are stored or blended in bulk for the purpose of distribution by pipeline, tank car, tank vehicle, or container.

Business Entity: Any corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust.

Campaign Contribution: A contribution as defined in paragraph (6) of O.C.G.A. §21-5-3.

Carnival: Any use which constitutes a traveling or transportable group or aggregation of rides, shows, gaming booths, and concessions and where the public either pays admission or participation fees.

Carport: A partially enclosed structure usually attached to a principal structure and used for the housing of motor vehicles, the property of, and for use only by, the occupants of the lot upon which said structure is located. For purposes of zoning, a carport attached to a principal structure shall be regarded as part of that principal structure, and not as an accessory structure.

Cemetery, Religious Institution: A plot of ground, building, mausoleum, or other enclosure owned by or adjacent to a religious institution and used for the burial of deceased persons who are generally members of that religious institution.

Cemetery, Private: Any plot of ground, building, mausoleum, or other enclosure used for the burial of deceased persons of one collateral line of descent.

Cemetery, Public: A plot of ground, building, mausoleum, or other enclosure not located on property owned by or adjacent to a religious institution but used for the burial of deceased persons.

Church: See "Religious Institution."

Clinic: An institution or professional office, other than a hospital or nursing home, where persons are counseled, examined, and/or treated by one or more persons providing any form of healing or medical health service. Persons providing these services may offer any combination of counseling, diagnostic, therapeutic or preventative treatment, instruction, or services, and which may include medical, physical, psychological, or mental services and facilities for primarily ambulatory persons. Patients are not lodged overnight and are admitted for examination or treatment requiring only short (e.g., a matter of a few hours) recovery time.

Co-location: The placement of antennas of two or more service providers on a single tower or alternative tower structure.

College or University: An education use, public or private, that provides training beyond and in addition to that training received in the 12th grade (i.e. undergraduate and graduate), and which has students regularly attending classes, and which confers an associate, bachelor, master, and/or doctoral degrees(s).

Commercial Operation: An activity involving the sale of goods or serves for financial gain.

Commercial Use: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Composting Facility: A facility where compost or organic matter that is derived primarily from off-site is processed by composting and/or processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.

Comprehensive Plan: The "Comprehensive Plan for Elbert County and the cities of Bowman and Elberton," adopted February 2004 by the Elberton Mayor and Council and as may be amended.

Conditional Use: The imposition of conditions in the grant of a rezoning application which are in addition to or different from the regulations set forth in the zoning ordinance. The rezoning conditions must promote the general welfare and not merely private interest, the rezoning does not otherwise constitute illegal spot zoning, the conditions imposed are reasonable and not otherwise illegal and there is no express agreement bargaining away the city's authority to make subsequent zoning changes to the property.

Construction Field Office: A building or structure temporarily located on a site under development and/or construction which houses offices of the construction contractor. Includes the term "construction trailer."

Continuing Care Retirement Community: A residential facility providing multiple, comprehensive services to older adults. Such facility normally contains a combination of independent living units, assisted living, and skilled nursing care units.

Contractor's Establishment: An establishment engaged in the construction of buildings, engaged in heavy construction (such as streets, bridges or utilities), or specialized in such construction trades as building, grading, paving, roofing, carpentry, plumbing, heating and air-conditioning, electrical wiring, masonry, well drilling, landscaping, or house painting. Such establishments usually involve the storage of material and the overnight parking of commercial vehicles.

Convenience Store: Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same. Convenience stores may also be grouped with restaurants and the retail sale of gasoline or diesel fuel, in locations where permitted.

Country Club: A club with recreational facilities for members, their families, and invited guests. This term is distinguished from community recreation and golf courses within planned residential communities.

County: Elbert County, Georgia.

City Official: Any member of the City staff.

Crisis Center: A facility or portion thereof and premises that are used for the purposes of emergency shelter,

crisis intervention, including counseling, referral, hotline response, and similar human social service functions. Said facility may include meal preparation, distribution, or service for residents of the center as well as nonresidents, merchandise distribution, or shelter, including boarding, lodging, or residential care. This term includes domestic violence and centers, homeless shelters, and halfway houses.

Cul-de-sac: A local street with only one (1) outlet, closed and terminated by a vehicular turnaround.

Day Care Facility: The use of a building or premises for the care and supervision of children or elderly adults who do not reside on the property, for periods of less than 24 hours.

Family Day Care Home: An accessory use within a private residence operated by the occupant of the dwelling that enrolls for pay, supervision and non-medical care, 5 or fewer children or elderly adults with no overnight stays, or no more than 6 children or elderly adults if the structure meets the Building Code requirements for institutional uses.

Group Day Care Home: A day care facility that enrolls for pay, supervision and non-medical care, up to 18 children or elderly adults with no overnight stays.

Day Care Center: A day care facility that enrolls for pay, supervision and non medical care, 19 or more children or elderly adults with no overnight stays.

Deed Restrictions/Private Covenants: Private stipulations which govern lot size, minimum floor area, uses permitted, dedicated open space, and in some instances, architectural design. These may be stricter than provisions included in this Zoning Ordinance.

Density: The number of dwelling units permitted per net acre of land. (Net acre = gross acre less streets, easements, water, open space, etc.)

District: A section of Elberton, Georgia where the zoning ordinance is uniform.

Dormitory: A building designed for occupancy on a term basis by students of a college, university, or nonprofit organization for the purpose of providing rooms for sleeping purposes, and which may include common kitchen and/or common gathering rooms for social purposes.

Drive-through: An accessory use where a good is sold to customers in vehicles.

Drug Store/Pharmacy: A retail business establishment (in contrast to a "prescription shop") which, A) dispenses prescription and non-prescription medications and B) has more than 2,500 square feet of floor space or which offers for sale products from more than three of the following product categories:

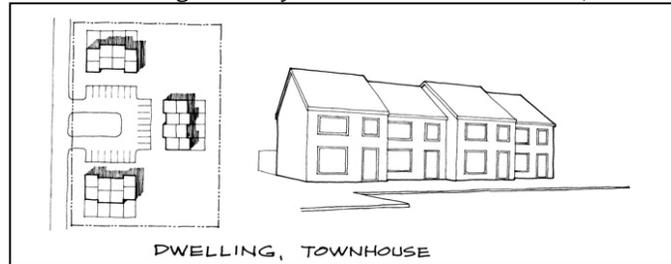
1. Bulk consumption food or drink products such as multiple serving food or drink packages or containers, (but not including single serving packages or containers).
2. Photographic film developing or processing services.
3. Tobacco products such as cigarettes, cigars, snuff, pipe tobacco, or chewing tobacco, (but not including nicotine gum, patches or similar products marketed as stop smoking aids).
4. Small appliances and personal electronics such as toasters, radios, cassette tape and CD players, calculators, cameras, video games, hair dryers or electric razors, (but not including digital medical thermometers, blood pressure or blood oxygen monitors, humidifiers, heating pads and medication delivery systems).
5. Cosmetics such as makeup, lipsticks or perfumes, (but not including mouthwashes, toothpastes, foot powders, first aid supplies or medical prostheses).
6. Alcoholic beverages such as beer, wine or spiritous liquors, (but not including medicines containing alcohol).
7. Housewares such as light bulbs, cooking utensils, cleaning fluids, drain cleaners, mops, garden hoses or lawn sprinklers.
8. Hardware such as hand tools, power tools, nails, screws, or electrical extension cords, (but not including durable medical equipment such as wheelchairs, braces, splints, crutches, walkers and similar equipment).
9. Seasonal items such as Christmas decorations, Halloween costumes and candy, lawn chairs, barbeque grills or picnic coolers, (but not including seasonal flu vaccine or other seasonal medicines).
10. School and office supplies such as staplers, three ring binders, file folders, desk calendars or pencil sharpeners.
11. Sporting goods and toys.
12. Automobile products including motor oil, gas treatment, jumper cables, wiper blades or fuses, (but not including prostheses or other device to assist a disabled person with driving).

Dumpster/Waste Container: A container used solely for the temporary collection and periodic transfer of garbage, household waste or trash excluding sanitary waste in septic tanks, yard trimmings, construction and demolition wastes, and hazardous wastes.

Dwelling: Any building or portion thereof which is designed for or used for residential purposes.

Dwelling, Multi-Family: A residential building designed exclusively for occupancy by three or more families in separate dwelling units living independently of each other.

1. **Townhouse:** A multi-family dwelling in which the dwelling units may adjoin one another only at the vertical walls and no dwelling unit may be located above another, as shown in the following illustration.



2. **Apartment:** A multi-family dwelling in which a dwelling unit may be located above another, as shown in the following illustration.

Dwelling, Single Family: A building designed for and occupied exclusively by one family. See also "Site Built Single-Family Dwelling," "Manufactured Home," "Mobile Home" and "Modular Home."

Dwelling, Two-Family (Duplex): A building designed for and occupied exclusively by two families living independently of each other in separate dwelling units within the same building.

Dwelling Unit: An enclosure of one or more interconnected rooms, including separate bathroom and kitchen facilities, designed and constructed as a unit for permanent residential occupancy by one family.

Easement: A grant, made by the property owner, to the general public, or a corporation, or certain individual(s), for the use of land for a specific purpose or purposes.

Exterminator: A business establishment engaged in pest control.

Façade: That portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.

Family: One (1) or more individuals 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 (4) 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.

Family Member: The spouse, mother, father, brother, sister, son, step-son, daughter, step-daughter, grandchild, or great grandchild of the property owner or the property owner's spouse if the lot is not jointly owned by both husband and wife.

Financial Interest: All direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is 10 percent or more.

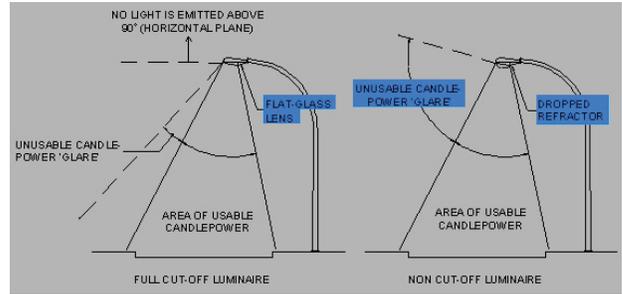
Floor Area: The sum of the gross horizontal areas of the total number of floors of a building measured from the exterior faces of the exterior walls or from the centerline of the walls separating two (2) or more attached buildings. Floor space shall be exclusive of attic space providing headroom of less than seven (7) feet, unusable basement or cellar space, uncovered steps for fire escape, open porches, patios, carports, interior parking spaces, accessory off-street parking spaces, accessory off-street loading berths, and accessory water or cooling towers.

Fraternal Organization: A non-profit/professional membership organization based primarily on social affinity or formed to pursue common interests, typically under the recognition or sanction of an established parent group or organization, and which has regular meetings, rituals, and formal membership requirements.

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.

Frontage, Street: The street coincident to the front boundary line of the parcel.

Full Cut-off Type Fixture: A luminaire or light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a 90 degree horizontal plane from the base of the fixture. FULL CUT-OFF FIXTURES must be installed in a horizontal position as designed, or the purpose of the design is defeated, and glare will result.



Full Cut-off Type Fixture

Funeral Home, Mortuary or Mauseleum: A building used for human funeral services. Such building contains a chapel and may include space and facilities for embalming and the performance of other services used in the preparation of the dead for burial or cremation, the performance of autopsies and other surgical procedures, the indoor storage of caskets, funeral urns, and other related funeral supplies, and/or the indoor storage of funeral vehicles.

Garage, Private: A fully enclosed accessory building or a portion of a main building for the private use of the owner or occupant of the principal building or use for parking or storage of vehicles with no facilities for mechanical service or repair of a commercial or public nature.

Garage, Public/commercial: A building or portion thereof designed or used for commercial or public storage, rental, servicing, washing, or adjusting of vehicles, but not including major automotive repairs.

Garage, Repair: A building and premises designed or used for the purpose of service or commercial repair of motor vehicles. All body work and painting shall be conducted within fully enclosed buildings. The sale of motor vehicles or the outside storage of wrecked vehicles, dismantled parts or supplies shall be prohibited unless such areas are completely screened from view from adjoining properties or public streets. The storage of wrecked vehicles, dismantled parts or supplies shall be solely for the purpose of repairing motor vehicles and not as a salvage or junkyard business.

Garage Apartment: A dwelling unit for one family erected above a private garage detached from the main dwelling.

Guest House: An accessory use to a dwelling designed and intended for the temporary housing of visitors to a property at the behest of the property residents for no fee or other consideration, and meeting or exceeding the Standards for Single-Family and Two-Family Dwellings under this Code.

Health Department: Elbert County Health Department.

Health Spa: An establishment which for profit or gain provides as one of its primary purposes, services or facilities which are purported to assist patrons improve their physical condition or appearance through change in weight, weight control, treatment, dieting, or exercise, through facilities for exercise including but not limited to running and jogging tracks, exercise equipment, game courts, gymnasium, or swimming facilities. The term includes establishments designated as "reducing salons," "exercise gyms," "health studios," health clubs," fitness studios," and other terms of similar import.

Home Occupation: An occupation or profession conducted in accordance with §10.13 of this ordinance and for financial gain, which is clearly subordinate to the use of the dwelling and which does not change the character thereof.

Home Office: An office use conducted entirely within a dwelling unit which is carried on solely by the unit's occupant and is incidental and secondary to the principal use of the dwelling. The office may be for the purpose of service or trade workers who customarily work at various locations, such as electricians, plumbers, appraisers, real estate salespersons, or individuals who work at home, such as writers or computer programmers. "Home Office" shall not include any business which involves the sale, manufacture or repair of merchandise on the premises. Home Offices shall also not include any business requiring access by the public, including, but not limited to, customers, clients or vendors.

Hospital: An institution, licensed by the State of Georgia, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

Hotel or Motel: A business establishment offering short term lodging (30 days or fewer) to the traveling public while away from their normal places of residence, and often including a restaurant as an accessory use. In contrast, see "Bed and Breakfast Inn" and "Rooming or Boarding House."

Industrialized Building: A building manufactured in accordance with the Georgia Industrialized Building Act (O.C.G.A. Title 8, Chapter 2, Article 2, Part 1) and the Rules of the Commissioner of the Georgia Department of Community Affairs issued pursuant thereto. State approved buildings meet the State Building and Construction Codes and bear an insignia of Approval issued by the Commissioner.

Institution: A non-profit corporation or non-profit establishment.

Kennels: Any facility used for the purpose of commercial boarding of domestic animals or pets such as dogs and cats, and any other customarily incidental treatment of the animals such as grooming, cleaning, selling of pet supplies, or otherwise. This term includes animal grooming services and pet psychologists.

Kindergarten: A school for pre-elementary school children ranging in age from 4 through 6 years; which operates for less than 8 hours per day.

Large Tree: Trees reaching a mature height of greater than thirty (30) feet.

Laundromat: A business that provides home-type washing, drying, and/or ironing machines for use by customers on the premises.

Live/Work Unit: Buildings or spaces within building that are used jointly for commercial and residential purposes where the two uses are physically connected in one unit and residential use of the space is accessory to the primary use as a place of work. This term is distinguished from a home occupation. Live/work units may have larger work spaces than permitted by home occupation, and live/work units design the floor space for both living and working areas.

Loading Space, Off-street: Space logically and conveniently located within the main building or on the same lot, providing for the standing, loading, or unloading of trucks or other carriers, scaled to the delivery vehicles expected to be accommodated.

Lodging Services: A facility that offers temporary (15 days or less in one room) shelter accommodations, or place for such shelter, open to the public for a fee. Includes hotels and motels.

Lodging Services, Extended Stay: A facility that offers shelter accommodations, or place for such shelter, open to the public for a fee for more than 15 days but not to exceed one month in one room.

Lot: A parcel of land which is designated as a single unit of property in the office of Elbert County Tax Commissioner or Elbert County Tax Assessor.

Lot Depth: The distance between front and rear lot lines. If two opposite sides of the lot are not parallel, the depth shall be deemed to be the mean distance between the front and rear lot lines.

Lot, Corner: A lot abutting two (2) or more public streets or county maintained roads at their intersection.

Lot, Double Frontage: A lot having frontage on two (2) public streets that do not intersect at a point abutting the property, as distinguished from a corner lot. Also referred to as a through-lot.

Lot, Interior: A lot with frontage on a single street, as opposed to a corner lot or double frontage lot.

Lot Coverage: The are of a lot occupied by all buildings, areas of operation ,a dn accessory structures/uses, including parking pads or areas, porches, decks, patios, pools, tennis courts, sheds, and other accessory uses, expressed as a percentage of the gross area of the lot. Driveways should not be included in the percent coverage.

Lot Depth: The mean horizontal distance between front and rear lot lines, measured int eh direction of the side lines of the lot.

Lot Frontage: That portion of a lot adjacent to a public street or right-of-way.

Lot Line: A boundary of a lot. Lot line is synonymous with property line.

Lot of Record: An individual lot or a lot which is part of a subdivision, the plat of which has been recorded in the Office of the Clerk of the Superior Court of Elbert County, Georgia; or a lot or parcel of land, the deed of which, or whose existence, location, and dimensions have been recorded in the Office of the Clerk of the Superior Court of Elbert County.

Lot Width: The least horizontal distance between side lot lines, as measured at the minimum required front building setback line.

Manufactured Home: A dwelling unit fabricated in an off-site facility for installation or assembly at the building site. Such units typically arrive at a site from the factory or dealer as a complete dwelling unit or in two sections, with fixtures and major appliances included, and plumbing and electrical connections provided for attachment to outside systems. Units originally constructed with wheels for movement shall not change classification if the wheels are removed. For the purposes of this Ordinance, manufactured housing shall be classified as follows:

"Type I" Manufactured Home: A dwelling unit fabricated in an off-site facility for installation or assembly at the building site, constructed in accordance with the National manufactured Housing Construction and Safety Standards Act of 1974, as amended June 15, 1976, 42 U.S.C. 5401, et seq.,

bearing an insignia or sticker of approval issued by the U.S. Department of Housing and Urban Development (HUD) that is usually found on a red label at the rear of the home near the tail light (the HUD standards are administered in Georgia by the Office of the Marshall). In addition, a "Class A" Manufactured Housing shall not be more than 10 years of age when located to or moved within Elberton, must have a minimum dwelling width of twenty-four (24) feet, a minimum roof pitch of 4/12, and an eaves overhang of one (1) foot, and must comply with all area regulations of the district in which it is located.

"Type II" Manufactured Home: A dwelling unit fabricated in an off-site facility for installation or assembly at the building site, constructed in accordance with the National manufactured Housing Construction and Safety Standards Act of 1974, as amended June 15, 1976, 42 U.S.C. 5401, et seq., bearing an insignia or sticker of approval issued by the U.S. Department of Housing and Urban Development (HUD) that is usually found on a red label at the rear of the home near the tail light (the HUD standards are administered in Georgia by the Office of the State Fire Marshall). In addition, a "Class A" Manufactured Housing shall not be more than 10 years of age when located to or moved within Elberton, must have a minimum width of twenty (20) feet, a minimum roof pitch of 3/12, and an eaves overhang of one (1) foot, and must comply with all area regulations of the district in which it is located.

Massage Therapy Establishment: An establishment where body massages are provided by State licensed massage therapists.

Mini-warehouses: A structure, building or group of buildings divided into separate compartments, spaces, or stalls, which may be of different sizes and which may or may not be climate controlled, and which are leased or rented on an individual basis to businesses and residents for temporary storage needs, but where not commercial transactions or activities take place other than the rental of the storage units for exclusively storage purposes.

Mixed Use: A project which integrates a variety of land uses including residential, office, commercial, service, and employment on the same development site.

Modular/Industrialized Home: A factory-fabricated, transportable building consisting of units mass produced in factories and designed to be incorporated at a building site on a permanent foundation into a permanent structure to be used for residential or commercial purposes. The building shall be manufactured in accordance with the Georgia Industrialized Building Act, and each unit must bear a seal of approval issued by the Commissioner of the Department of Community Affairs (DCA seal). The DCA sticker of approval is normally placed on the inside of the electrical panel or on the inside of kitchen cabinet doors.

Member of the Family: The spouse, mother, father, brother, sister, son, or daughter of a city official. This definition applies to Article XV only.

Museum: A building having public significance by reason of its architecture or former use or occupancy, or a building serving as a repository for a collection of natural, scientific, literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be viewed by members of the public with or without an admission fee, and which may include as an accessory use the sale of snacks and goods to the public as gifts or for their own use.

Non-conforming Use or Structure: Any lawfully existing building, structure, or use of land which does not conform to these ordinances governing the type, bulk, location, height or size of buildings or structures permitted in the district prior to the adoption of this ordinance but which is in full compliance with all applicable federal, state and local laws, rules and ordinances, and for which all required federal, state and local permits have been issued.

Non-operating Vehicle: Any motorized vehicle that does not have a current license tag.

Nursery School: A preschool, usually privately operated, providing educational care for children not yet of age to attend elementary school.

Nursing Care Facility: A facility for the aged, chronically ill, or incurable persons who are unable to care for themselves and in which three (3) or more unrelated persons, not operating as the functional equivalent of a family, are provided with food, shelter, and care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured and not including personal care homes. Nursing homes usually have comprehensive medical staff including RNs and LPNs or other state licensed health care providers.

Office: A building or portion thereof wherein services are performed involving predominantly administrative, professional or clerical operations and not involving retail sales or other sales of any kind on the premises. Includes medical, dental, clinical, CPA, attorney, and real estate offices among others. This term includes freight

agency or shipping coordinators involved in the remote arrangement of freight or cargo transportation.

Open Air Establishment: Any commercial establishment with the principal use of displaying products in an area exposed to open air on three or more sides, including but not limited to rock yards, nurseries, and garden centers and garden supply stores, landscaping companies, lumber and building materials yards, outdoor flea markets, statuaries and monument sales establishments, petroleum dealers and tank sales.

Open Space: Land used for recreation, resource protection, amenity, or buffers. In no event must any area of a lot constituting the minimum lot area nor any part of an existing or future road, right-of-way, off-street parking, loading space, or area immediately underneath electrical transmission lines be counted as open space.

Opponent: Any person who opposes a rezoning action or any attorney or other person representing or acting on behalf of a person who opposes a rezoning action.

Oppose: To appear before, discuss with, or contact, either orally or in writing, a Elberton official and argue against a rezoning action.

Parking Lot, Off-site: A parcel of land or portion thereof principally used for the parking or storage of motor vehicles as a commercial enterprise where a fee is paid for parking, not located on the same site as the destination of the motor vehicle operator. This includes commercial automobile parking lots.

Parking Structure: A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed. This permitted use restructure applies whether the parking structure is a principal or accessory use.

Pawn Shop: A type of used merchandise store in which merchandise is offered as collateral for obtaining loans and wherein such merchandise is offered for sale in recompense for default of loan repayment.

Permitted Use: That use of a lot which is among the uses allowed as a matter of right under the zoning classifications.

Personal Care Home: A profit or nonprofit facility, home or structure providing protective care and watchful oversight for residents. Such home, however, shall not provide chronic or convalescent medical or nursing care. Personal care involves responsibility for the safety of the residents while inside the building. Personal care may include daily awareness by the management of the residents' functioning and whereabouts, the reminding of residents of their appointments, the ability and readiness of management to intervene if a crisis arises for a resident, and supervision by management in areas of nutrition, medication, and actual provision of transient medical care. The residents and staff shall live together as a single housekeeping unit and in a long-term, family-like environment. Personal care homes are distinguished from Nursing Homes in that personal care homes do not have a comprehensive or full-time medical staff.

Personal care homes shall not provide services to any person who would constitute a direct threat to the health and safety of other individuals. The term "personal care home" shall not include alcohol or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration. All personal care homes must have a permit from the Georgia Department of Human Resources.

Personal Care Home, Congregate: A personal care home which offers care to 16 or more persons.

Personal Care Home, Family: A personal care home in a family residence setting, non-institutional in character, which offers care to 2 through 6 persons.

Personal Care Home, Group: A personal care home in a residence or other type building or buildings, non-institutional in character, which offers care to 7 through 15 persons.

Person: An individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

Pet Grooming: Pet bathing, grooming, clipping, dipping and other care of domestic animals that does not include overnight boarding.

Prescription Shop: A retail business establishment (in contrast to a "drug store/pharmacy") which, A) dispenses prescription and non-prescription medicines and B) has no more than 2,500 square feet of floor space, which does not offer for sale tobacco products, alcoholic beverages or photographic film developing/processing, and which offers for sale products from no more than three of the following product categories:

Bulk consumption food or drink products such as multiple serving food or drink packages or containers, (but not including single serving packages or containers).

Small appliances and personal appliances such as toasters, radios, cassette tape and CD players, calculators, cameras, video games, hair dryers or electric razors, (but not including digital medical thermometers, blood pressure or blood oxygen monitors, humidifiers, heating pads and medication delivery systems).

Cosmetics such as makeup, lipsticks or perfumes, (but not including mouthwashes, toothpastes, foot powders, first aid supplies or medical prostheses).

Housewares such as light bulbs, cooking utensils, cleaning fluids, drain cleaners, mops, garden hoses or lawn sprinklers.

Hardware such as hand tools, power tools, nails, screws, or electrical extension cords, (but not including durable medical equipment such as wheelchairs, braces, splints, crutches, walkers and similar equipment).

Seasonal items such as Christmas decorations, Halloween costumes and candy, lawn chairs, barbecue grills or picnic coolers, (but not including seasonal flu vaccine or other seasonal medicines).

School and office supplies such as staplers, three ring binders, file folders, desk calendars or pencil sharpeners.

Sporting goods and toys.

Automotive products including motor oil, gas treatment, jumper cables, wiper blades or fuses, (but not including prostheses or other device to assist a disabled person with driving).

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

Private Club, For-profit: Buildings and facilities owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required and where use of premises are restricted to members and their guests. This definition shall also include, in the appropriate context where an alcohol license, a "bona fide private club" as that term is defined in O.C.G.A. §3-7-1.

Planning Commission: Elberton Planning Commission.

Plat: A sketch, map or survey of a lot, tract or parcel of land including lot lines, street rights-of-way and easements, with the dimensions of these features inscribed thereon.

Playschool: A school for pre-kindergarten children ranging in age from 3 to 4 years of age which operates for less than four (4) hours per day.

Private Access Drive/Easement: A private drive or easement, serving as the exclusive access for a landlocked parcel or parcels of land, and which is not owned or maintained or intended to be owned or maintained by the City. A private access drive/easement that serves no more than one (1) lot containing a total area of less than three (3) acres shall have a minimum right-of-way or easement width of thirty (30) feet. A private access drive/easement that serves two or more lots, or that serves a single lot containing a total area of three (3) or more acres, shall have a minimum right-of-way or easement width of fifty (50) feet.

Professional: When used in connection with "use" and "occupancy", a use or occupancy by persons generally engaged in rendering personal, executive, sales, or administrative services or activities, including accountants, architects, professional engineers and land surveyors, doctors, lawyers, insurance offices, real estate offices, religious organizations, stock brokers and administrative agencies considered professional in character. The term, however, does not include repairs or sales of tangible personal property stored or located within the building nor any use which would create any loud noise or noxious odors.

Property Interest: The direct or indirect ownership of real property, including any percentage of ownership less than total ownership.

Public Use: A use which is owned, operated, or conducted by Elberton or other unit of government.

Public Utility: Entities engaged in regularly supplying the public with some commodity or service which is of public consequence or need, regulated and controlled by a state or federal regulatory commission and which may often have the power of eminent domain.

Real Property: Any tract or parcel of land and, if developed, any buildings or structures located on the land.

Recreational Facility, Commercial, Indoor: A use that takes place within an enclosed building that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: assembly halls, auditoriums, meeting halls, for-profit art galleries, billiard halls and pool rooms, amusement halls, video arcades, roller skating rinks, bowling alleys, and fully-enclosed theaters.

Recreational Facility, Commercial, Outdoor: A use of land and/or buildings that involves the provision of sports and leisure activities to the general public for a fee, and which all or part of the activities occur outside of a building or structure, including but not limited to the following: amusement parks, stadiums, amphitheaters, fairgrounds, drive-in theaters, golf driving ranges, miniature golf courses, batting cages, race tracks for motor-driven vehicles, archery ranges, unenclosed firearms shooting ranges, fish ponds, botanical and zoological gardens, ultra-light flight parks, and bungi jumping.

Recreational Facility, Community: A private recreational facility for use solely by the residents and guests of a particular residential development and located within the boundaries of such development, which may include any of the following: indoor facilities such as community meeting rooms; and outdoor facilities such as swimming pools, tennis courts, and playgrounds.

Recycling Center: Any facility utilized for the purpose of collecting sorting and processing materials to be recycled, including but not limited to plastics, glass, paper and aluminum materials.

Religious Institution, Community: A religious institution with a seating capacity of between three hundred (300) and six hundred (600) persons in the sanctuary or main activity area and additional gross floor area associated with religious institution offices, culinary, nursery and toiletry areas, and group meeting rooms.

Religious Institution, Mega (Also known as Megachurches): A large, specialized type of religious institution with a seating capacity of more than six hundred (600) persons in the sanctuary or main activity area and that may also include additional gross floor area for offices, culinary, nursery and toiletry areas, and group meeting rooms. Megachurches often encompass one or more nontraditional accessory uses including child-care, schools and after-school programs, overnight accommodations, retail sales, soup kitchens, thrift shops, community shelter, recreational facilities, and other such uses.

Religious Institution, Neighborhood: A religious institution with a seating capacity of less than three hundred (300) persons in the sanctuary or main activity area and additional gross floor area is limited to offices, culinary, nursery and toiletry areas, and group meeting rooms.

Resource Extraction, Including Mining and Quarrying: Removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged. This term includes gravel pits, mines, quarries, and similar operations.

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, Drive-In: An eating and/or drinking establishment which caters to motor-driven vehicle business where the patron is served and consumes his food and/or drink while sitting in a motor-driven vehicle in a parking space on the property provided specifically for such service and consumption.

Restaurant, Family: A Custom Service Restaurant primarily oriented to sit-down service, occasionally with take-out service but no drive-in or drive-through facilities, and having an average turnover rate generally of less than 1 hour. Family restaurants are usually moderately priced and frequently belong to chains such as Denny's, Pizza Hut and Shoney's.

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 permitted 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.

Rezoning Action: An action by the Mayor and Council adopting an amendment to the zoning ordinance and map that has the effect of rezoning real property from one zoning classification to another.

Riding Center: An establishment where horses or other animals that can be ridden by humans are kept for riding and which offers the general public rides for a fee.

Right-of-way: Access over or across a particularly described property for a specific purpose or purposes.

Right-of-way, Public: That area which is owned by or under the control of Elberton or other unit of

government, whether established by usage, prerecorded easement, deed, dedication, or by an official right-of-way map of Elberton, for the present or future use of roads, streets, highways, or other public ways or thoroughfares, together with drainage facilities and other supporting uses and structures.

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

Sales Area: A public area within a building or development for the exchange of goods or property for money or some other consideration.

School, Private: An educational use for students in grades K through twelve or for certain ranges of grades K through twelve, not operated by the Elbert County Board of Education, which has a curriculum at least equal to a public school with regard to the branches of learning and study required to be taught in the public schools in the state of Georgia.

School, Professional: An educational institution with a curriculum and offering instruction in a profession devoted primarily to business, such as, but not limited to, dancing, acting, barbers and beauticians, broadcasting, bartending, and including medical specialties (e.g., therapeutic massage). This is distinguished from a trade school and other types of schools as defined.

School, Special: An educational use not operated by the Elbert County Board of Education that provides special education to more than two students at a time, including but not limited to the training of gifted, learning disabled, and mentally or physically handicapped persons.

School, Trade: An educational use not operated by the Elbert County Board of Education and having a curriculum devoted primarily to business industry, trade, or other vocational-technical instruction.

Screening: A method where a view of one site is shielded, concealed, or hidden from another site. Screening techniques include fences, walls, berms, densely planted vegetation, natural vegetation or other features. Screening must provide a visual and acoustical barrier which is of such nature and density that it provides year-round maximum shielding, concealment or hiding from the ground to a height of at least eight (8) feet or from view from the normal level of a first story window on an abutting lot.

Self-storage Facility: See "mini-warehouses."

Service and Fuel Filing Stations: Any building, structure or land use for the retail sale of motor vehicle fuel and oil accessories, and which may include the servicing of motor vehicle, such as the sale, replacement, or servicing of spark plugs, oil, water hoses, brake fluids, batteries, distributors, tires, carburetors, brakes, fuel pumps, or similar service items. Major repairs, body repairs and painting of motor vehicles shall be considered servicing of motor vehicles.

Setback: The minimum horizontal distance between the lot or property right-of-way line and the nearest front, side or rear line of the building, including terraces or any covered projections but excluding steps.

Shopping Center: A group of two or more commercial establishments planned and developed as a unit with common off-street parking provided on the property.

Showroom: A principal or accessory use where wholesale or retail goods are displayed.

Solid Fence: An artificially constructed barrier of any material or combination of materials generally manufactured for fencing, erected to enclose or screen areas of land in a manner where the area inside the fencing is not readily visible at any distance.

Solid Wall: A wall constructed in such a manner to prohibit viewing of land, materials, buildings, etc., located behind the wall, from an individual standing outside and parallel to the wall.

Solid Waste Transfer Facility: A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site.

Special Event Facility: A facility or assembly hall available for lease by private parties or special events such as weddings.

Story: That portion of a building included between the surface of the floor and the surface of the ceiling or the floor next above it, but excluding any room, suite, story, cellar, or basement with more than one-half of its height below grade, which shall not be considered a story for the purposes of height regulations.

Street: A public or private thoroughfare which affords the principal means of ingress and egress to abutting property.

Street, Private: A street within a gated or otherwise restricted access development, which serves the occupants of that development, but which is not open to the general public and is neither owned or maintained nor intended to be owned or maintained by the City.

Street, Public: A street that is owned and/or maintained by the City of Elberton or other unit of government.

Street Line: The legal line between street right-of-way and abutting property.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground, or

attached to something having a fixed location on the ground, including, but not limited to, buildings, manufactured housing, signs, parking lots, pools, canopies, decks, gasoline pumps, walls/fences, telecommunication/transmission towers/antennas.

Subdivider: Any person, firm, corporation, syndicate, or other legal entity who undertakes the subdivision of land within Elberton.

Subdivision: The division of a tract, lot or parcel into 2 or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, legacy, or development, and includes any division of land involving a new street or a change in existing streets, and includes re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided. The combination or recombination of portions of previously platted lots, where the total number of lots is not increased and the resultant lots meets the standards of the Subdivision Regulations of Elberton is excluded.

Subdivision Ordinance: Subdivision Regulations of Elberton dated January 6, 1958, as may be amended.

Swimming Pools, Private: Any permanent container of watertight construction which is built for the purpose of wading, informal swimming and diving and other water recreation uses, and is restricted to private use of the property owner and guests.

Swimming Pools, Public: Any permanent container of watertight construction, which is built for the purpose of wading, informal or competitive swimming and diving, and team sports, and is open to the public. This definition shall include pools for associations, clubs and neighborhood pools where membership is required and/or fees are paid for use of the facility.

Telecommunication Tower: Any freestanding facility, building, pole, tower, or structure used to provide wireless telecommunication services, and which consist of, without limitation, antennae, equipment and storage, ground mounted based station, and other accessory structures used to provide wireless telecommunication services. This term includes cell towers or antennas.

Tower, Amateur Radio: A freestanding or building-mounted structure, including any base, tower or pole, antenna, and appurtenances, intended for airway communication purposes by a person holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.

Townhouse: See "Dwelling, Multi-Family"

Utility Company: A private business providing electricity, natural gas, telephone or other services under the regulation of the Georgia Public Service Commission. This use includes equipment and vehicle storage.

Utility Company Substation: A facility used for the transmission or distribution of services provided by a utility company, such as an electrical transformer station, telephone junction box, cable box, television box, or natural gas regulator.

Variance: A minimal relaxation or modification of the terms of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicants, a literal enforcement of the Ordinance would not result in unnecessary and undue hardship. As used in this Ordinance, a variance may be granted for variations of the spatial requirements, only, and shall not be granted for variations pertaining to land uses. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

Veterinary Clinic or Animal Hospital: A facility or establishment where animals are regularly given medical care or treatment under the supervision of a licensed veterinarian.

Wall Pack: A building-mounted luminaire installed for the purpose of lighting the adjacent ground areas, walkways, streets and/or parking lots.

Warehouse: A building use primarily for the bulk storage, transfer or distribution of goods and materials.

Warehouse, Mini, Self-Storage: A facility with multiple storage compartments where each compartment has an individual separate door accessed directly from the exterior vehicular use area and where the person(s) leasing the individual spaces, (usually on a monthly basis) keep the key in their possession. Such compartments are usually not more than 14 feet by 14 feet in size.

Wholesale Trade Establishment: An establishment engaged in the selling or distribution of merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesaler.

Yard: An space on the same lot with the main building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where projections and accessory buildings are expressly permitted.

Yard, Front: An open space on the same lot with the principal building, extending the full width of the lot and situated between the front lot line and the front line of the principal building projected to the side lines of the

lot. For the purposes of this Ordinance, the depth of the front yard shall be measured as the least horizontal distance between the principal building line and the front lot line, or right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard. On double frontage lots and multiple frontage lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, excepting that where necessary to promote continuity of design and where in compliance with all other requirements of this Ordinance, the Planning Commission may allow such lots to be oriented in the same manner as adjacent developed lots along the same street within the same district. In all cases, however, the minimum front setback required for the zoning district shall be met on both (or all) sides of the lot with street frontage.

Yard, Rear: An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building or use and extending the full width of the lot, situated between the rear line of the lot and the rear line of the principal building projected to the side lines of the lot. For the purposes of this Ordinance, the depth of the rear yard shall be measured as the least horizontal distance between the rear line of the principal building and the rear lot line, or right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required rear yard. On all lots, including corner lots, the rear yard shall be at the opposite end of the lot from the front yard, however, the minimum front setback required for the zoning district shall be met on both (or all) sides of the lot with street frontage.

Yard Sale: The temporary sale of home furniture, appliances, clothing and/or domestic items owned by an occupant of a residential dwelling and taking place on the premises on which such occupant resides, whether in the yard or in a carport or garage. Yard sales which do not take place on the premises where such occupant resides are considered open-air businesses, except that this shall not be construed to prevent the sale of such items by another family or household in connection with an event where such items are sold by the occupant of a residence on the premises where the yard sale occurs. This term includes garage sales.

Yard, Side: An open space on the same lot with a principal building, situated between the side line of the principal building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot, or right-of-way line. For the purposes of this Ordinance, the width of the required side yard shall be measured horizontally from the side line of the principal building to the nearest point of the side lot line, or right-of-way line. Covered porches, whether enclosed or open shall be considered as part of the main building and shall not project into a required side yard. On corner lots, double lots, and multiple frontage lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension, however, the minimum front setback required for the zoning district shall be met on both (or all) sides of the lot with street frontage.

Zoning Action: A request for any action under the Zoning Ordinance, including, but not limited to, rezoning, variance, conditional use permits, and sign ordinance.

Zoning Decision: Final action by the Mayor and Council which results with: (a) the adoption of a zoning ordinance; (b) the adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance; (c) the adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another; or (d) the adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality.