

**PETITION TO AMEND THE FULTON COUNTY ZONING RESOLUTION**

**2005Z – 0108**

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***COMMUNITY ZONING BOARD PUBLIC HEARINGS***

***October 18, 2005 (SOUTH) – DEFERRED FOR THIRTY (30) DAYS***

***November 15, 2005 (NORTH) - DENIAL***

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***BOARD OF COMMISSIONERS PUBLIC HEARING***

***December 7, 2005 – DEFERRED FOR SIXTY (60) DAYS***

***February 1, 2006 – DEFERRED FOR THIRTY (30) DAYS***

***March 1, 2006 – DEFERRED FOR THIRTY (30) DAYS***

***April 5, 2006 - APPROVED***

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***STAFF  
RECOMMENDATION***

***APPROVAL***

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**PROPOSED AMENDMENTS**

Part 1 – To amend Article 4, Section 4.15., to add standards for the protection of residential developments and certain other uses from noise.

Part 2 – To amend Article 4, Section 4.16., to add standards for the protection of residential developments from landfills, transfer stations, quarries and/or surface mining sites.

Part 3 – To amend Article 4, Section 4.17., to add standards for the protection of endangered species.

Part 4 – To amend Article 4, Section 4.24.5, to revise the use regulations and permitted uses in special flood hazard and flood prone areas.

Part 5 – To amend Article 19, Sections 19.4.25. and 19.4.26., to include additional standards for landfills.

Part 6 – To amend Article 19, Section 19.4.32., to add a Use Permit for quarries and/or surface mining sites.

Part 7 – To amend Article 19, Section 19.4.43., to include additional standards for solid waste transfer stations.

Part 8 – To amend Article 28, Section 28.4.3.1., to require that endangered species are identified as a part of the Environmental Site Analysis.

Part 9 – To amend Article 28, Section 28.4.6., to include additional standards for noise study reports.

Part 1

To amend Article 4, Section 4.15., to add standards for the protection of residential developments and certain other uses from noise.

4.15. **NOISE.** The Fulton County Site Acceptability Noise Standards shall apply to all new proposed residential and special uses described herein.

<b>Fulton County Site Acceptability Noise Standards*</b>		
<b>Noise Classification</b>	<b>Day-Night Average Sound Levels (in Decibels)</b>	<b>Requirements and Restrictions</b>
Acceptable	Not exceeding 65 dBA	1. Noise Study Report per Article 28.4.6. No Restrictions.
Normally Unacceptable	Above 65 dBA but not exceeding 75 dBA	1. Noise Study Report per Article 28.4.6. 2. Sound Attenuation Plan.
Unacceptable	Above 75 dBA	1. Noise Study Report per Article 28.4.6. 2. Residentially zoned/used developments are prohibited.
*Reference: Title 24, Housing & Urban Development, Part 51 – Environmental Criteria and Standards, Subpart B – Noise Abatement and Control, Section 51.103 Criteria and Standards (c) Exterior standards.		

1. New residential development proposed within 5 miles of the Hartsfield-Jackson International Airport boundary shall be in compliance with the Fulton County Site Acceptability Noise Standards.
2. No residential dwelling shall be occupied if the interior day-night average sound level is 50 dBA or higher.
3. Any existing legal residential lot of record that does not change use or zoning classification is exempt from the requirements of this Section.

Part 2

To amend Article 4, Section 4.16., to add standards for the protection of residential developments from landfills, transfer stations, quarries and/or surface mining sites.

4.16. **LANDFILLS, TRANSFER STATIONS, QUARRIES AND/OR SURFACE MINING SITES.**

1. No portion of a new proposed residentially zoned or used property shall be located within a one (1) mile radius of the property lines of an existing active landfill.
2. No portion of a new proposed residentially zoned or used property shall be located within a one (1) mile radius of the property lines of an existing active transfer station.
3. No portion of a new proposed residentially zoned or used property shall be located within a 1.5 mile radius of the property lines of an existing active quarry.
4. No portion of a new proposed residentially zoned or used property shall be located within a 500 foot radius of the property lines of an existing active surface mining site. Surface mining is defined as specified in O.C.G.A 12-4-72.
5. Any existing legal residential lot of record located within the radius requirements of Sections 4.16.1, 4.16.2, 14.16.3 and 14.16.4 that does not change use or zoning classification is exempt from the requirements of this Section.
6. Reference maps titled “2005Z-0108 Environmental Standards for Unincorporated North Fulton” and “2005Z-0108 Environmental Standards for Unincorporated South Fulton” located online in the Fulton County GIS Map Catalog for locations of active landfills, transfer stations, quarries and surface mining sites.
7. Any owner of property located within a one (1) mile radius of the property lines of an existing active landfill or existing active transfer station or within a 1.5 mile radius of the property line of an existing active quarry, shall, prior to the sale or transfer of said property, notify and disclose in writing the existence of the landfill, transfer station, or quarry to the potential owner or transferee.

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### Part 3

To amend Article 4, Section 4.17., to add standards for the protection of endangered species.

#### 4.17. **ENDANGERED SPECIES**

1. Areas of confirmed, Georgia Department of Natural Resources listed, endangered plant and animal species throughout Fulton County shall comply with the Federal Endangered Species Act of 1973.

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Part 4

To amend Article 4, Section 4.24.5. to amend the use regulations and permitted uses in special flood hazard and flood prone areas.

~~4.24.5. **USE REGULATIONS.** Notwithstanding the uses permitted by the zoning district applying to the property, no building or structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or altered except in conformity with the requirements of this Resolution when such lands fall within the Special Flood Hazard, Floodway or Flood Prone Areas as herein defined.~~

~~A. **Special Flood Hazard-Flood Prone Permitted Uses.** The following uses are permitted in Special Flood Hazard and Flood Prone Areas:~~

- ~~1. Agriculture, including forestry and livestock raising, requiring no structure. Agriculture and forestry access roads are permitted provided they are constructed in conformance with the development standards of these regulations.~~
- ~~2. Dams, provided that they are constructed in accordance with the requirements of this section, the Department of Public Works, the U.S.D.A. Soil and Conservation Service and when applicable, meet the specifications of The U.S. Army Corps of Engineers and/or the Georgia Department of Natural Resources.~~
- ~~3. Fences having sufficient open area to permit the free flow of water and/or debris.~~
- ~~4. Grading and other construction necessary to raise a building site above the flood plain provided that said construction is accomplished in conformance with the development standards of these regulations and all other applicable rules of the Fulton County, State or Federal Governments.~~
- ~~5. Identification, regulatory and warning signs.~~
- ~~6. Public, private and commercial parks and recreational areas including boat ramps and docks and other functionally dependent uses not including any temporary or permanent buildings, provided; such use is~~

**WRAP-UP**

~~approved by the Department of Public Works and/or, if applicable, the U.S. Army Corps of Engineers.~~

- 4.24.5. **USE REGULATIONS.** Notwithstanding the uses permitted by the zoning district applying to the property, the following shall be prohibited in the Special Flood Hazard Area (100 year IRF): buildings and structures; filling; and compensatory flood storage for placement of either fill or for construction of a structure in the floodplain with exception to exempted uses as specified in Section 4.24.5.A. 1-8:

Floodplain designation shall be based on data generated by FEMA, Fulton County flood studies, or data from engineering flood studies prepared by a state-registered professional engineer and accepted by Fulton County (whichever is most representative of the current floodplain). Flood studies shall be approved contingent upon acceptance by FEMA.

Construction (which is consistent with the exemption provisions of this resolution) shall be allowed within floodways only if it is directed towards improving the capacity or flow characteristics of the flood waters or crossing, relocating or altering the floodway channel itself. All such construction must be in conformance with the provisions of the Fulton County Zoning Resolution and the national Flood Insurance Program.

- A. **Special Flood Hazard-Flood Prone Permitted Uses.** The following uses are permitted in Special Flood Hazard and Flood Prone Areas.
1. Agricultural, including forestry and livestock raising, requiring no structure. Agriculture and forestry access roads are permitted provided they are constructed in conformance with the development standards of the regulations.
  2. Dams, provided that they are constructed in accordance with the requirement of this section, the Department of Public Works, the U.S.D.A. Soil and Conservation Service and when applicable, meet the specifications of The U.S. Army Corps of Engineers and/or the Georgia Department of Natural Resources.
  3. Fences having sufficient open area to permit the free flow of water and/or debris.
  4. Identification, regulatory and warning signs.
  5. Public and private parks and recreational areas including boat ramps and docks and other functionally dependent uses not including any temporary or permanent buildings, provided; such use is approved by the Department of Environment and Community Development, if applicable,

the U.S. Army Corps of Engineers.

6. Parking.
7. Utility lines, pipelines, sewers, roads and stream crossings (if no other means of access is available), and similar facilities, provided they are constructed in such a manner as to permit the free flow of flood waters.

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Part 5

To amend Article 19, Sections 19.4.25 and 19.4.26, to include additional standards for landfills.

19.4.25. **LANDFILL, INERT WASTE DISPOSAL**

**B. Standards:**

12. No portion of a new or expanded landfill shall be located within a one (1) mile radius of the property lines of residentially zoned or used property. An expanded landfill shall not include any expanded use within the parcel boundaries of an existing site or location.
13. The landfill shall be operated in accordance with the Rules of Georgia, Department of Natural Resources, Environmental Protection Division, Chapter 391-3-4 Solid Waste Management, Official Code of Georgia Annotated 12-8-20 Georgia Comprehensive Solid Waste Management Plan, and 40 CFR Part 258 (Subtitle D of RCRA).

19.4.26. **LANDFILL, SOLID WASTE DISPOSAL**

**B. Standards:**

12. No portion of a new or expanded landfill shall be located within a one (1) mile radius of the property lines of a residentially zoned or used property. An expanded landfill shall not include any expanded use within the parcel boundaries of an existing site or location.
13. The landfill shall be sited and operated in accordance with the Rules of Georgia, Department of Natural Resources, Environmental Protection Division, Chapter 391-3-4 Solid Waste Management, Official Code of Georgia Annotated 12-8-20 Georgia Comprehensive Solid Waste Management Plan, and 40 CFR Part 258 (Subtitle D of RCRA).

Part 6

To amend Article 19, Section 19.4.32 to add a Use Permit for Quarry and/or Surface Mining Site.

19.4.32. **QUARRIES AND/OR SURFACE MINING SITES**

A. **Required Districts:** AG-1, M-2

B. **Standards:**

1. No portion of a new or expanded quarry shall be located within a 1.5 mile radius of the property lines of a residentially zoned or used property. An expanded quarry shall not include any expanded use within the parcel boundaries of an existing site or location.
2. No portion of a new or expanded surface mining site shall be located within a 500 foot radius of the property lines of a residentially zoned or used property. An expanded surface mining site shall not include any expanded use within the parcel boundaries of an existing site or location.
3. All activities of a quarry and/or surface mining shall be in compliance with the Georgia Blasting Standards Act of 1978, the 1968 Georgia Surface Mining Act and the U.S. Bureau of Mines RI 8507.

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Part 7

To amend Article 19, Section 19.4.43, to include additional standards for solid waste transfer stations.

19.4.43. **TRANSFER STATION, SOLID WASTE** (Added 10/02/02)

A. **Required District:** M-2

B. **Standards:**

10. No portion of a new or expanded solid waste transfer station shall be located within a one (1) mile radius of the property lines of a residentially zoned or used property. An expanded solid waste transfer

station shall not include any expanded use within the parcel boundaries of an existing site or location.

11. Transfer stations shall be sited and operated in accordance with State Regulations 3891-3-4.06 Permit by Rule for Collection, Transportation, Processing, and Disposal, Official Code of Georgia Annotated 12-8-20 Georgia Comprehensive Solid Waste Management Act, Fulton County Solid Waste Management Plan, and Waste Transfer Stations: A Manual for Decision-Making (EPA 530-R-02-002, June 2002).

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## Part 8

To amend Article 28, Section 28.4.3.1, to require that endangered species are identified as a part of the Environmental Site Analysis.

### 28.4.3.1. ENVIRONMENTAL SITE ANALYSIS (ESA).

2. The presence or absence of the following and does the project encroach or adversely affect any of the following:
  - a. Wetlands;
  - b. Floodplains;
  - c. Streams/stream buffers;
  - d. Slopes exceeding 25 percent over a 10 ft. rise in elevation;
  - e. Vegetation (including endangered species; areas of confirmed Georgia Department of Natural Resources listed endangered species shall comply with the Federal Endangered Species Act);
  - f. Wildlife species (including fish and endangered species; areas of confirmed Georgia Department of Natural Resources listed endangered species shall comply with the Federal Endangered Species Act);
  - g. Archeological/historical sites;

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## Part 9

To amend Article 28, Section 28.4.6 to include additional standards for noise study reports.

~~28.4.6. NOISE STUDY REPORT. When a site is located in an area which exceeds a DNL (day night average sound level) of 65 dBA, is within 500 feet of a principal~~

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arterial road or expressway, is within 750 feet of an active railroad line, or within the Hartsfield Jackson Airport Noise Contours (exceeding 65 dBA), a Noise Study Report shall be submitted to the Department. The Noise Study Report shall include:

1. ~~An analysis of the proposed use with respect to existing ambient noise, that is, business and industry noise, aircraft noise, roadway noise, and construction noise.~~
2. ~~Sound attenuation measures of site and/or site design for exterior noise levels that exceed a maximum DNL of 65 dBA or a maximum peak hourly sound level of 70 dBA to reduce such noise to a maximum DNL of 50 dBA when measured in habitable areas of the building(s).~~
3. ~~Preconstruction noise readings. The noise level readings shall be measured at a distance from the site to the noise source. The measurement should be from the source to the nearest points on the site where buildings having noise sensitive uses are located. These points shall be labeled as the NAL (noise assessment locations). The relevant measurement location for buildings is a point 6.5 feet from the facade. In the event that the location of the buildings have not yet been specified at the time of the noise assessment report, then the distance used in the noise assessment should be measured as 6.5 feet less than the distance from the building setback line to the major sources of noise.~~
4. ~~Measures to maintain the noise level standards and reduce future noise encroachment.~~

~~As determined by the Director or his/her designee, Noise Study Reports may also be required with applications for land disturbance permits, building permits, temporary or permanent certificates of occupancy, or any other permits issued by the Department.~~

28.4.6. **NOISE STUDY REPORT.** A noise study shall be performed, by a state registered professional engineer or noise professional, if a proposed site is located within 1,000 feet of an expressway, within 3,000 feet of an active rail line, or within 5 miles of the Hartsfield-Jackson International Airport boundary. An expressway is defined as a highway facility usually having two or more lanes for the exclusive use of traffic in each direction and partial control of access (i.e. I-85, I-285 and GA-400).

1. The noise study shall include an analysis of the proposed use with respect to existing ambient noise, that is, business and industry noise, aircraft noise, roadway noise, and construction noise.

2. If the noise study results in a day-night average sound level greater than 65 dBA, the applicant shall provide a sound attenuation plan specifying the type of noise buffering measures/materials to be employed during construction that will reduce the interior residential noise levels to 50 dBA or less.
  
3. The sound level readings shall be measured at a distance from the site to the noise source. The measurement should be from the source to the nearest points on the site where structures having noise sensitive uses are located. These points shall be labeled as the NAL (noise assessment locations). The measurement location for structures is a point 6.5 feet from the facade. In the event that the location of the structures has not yet been specified at the time of the noise study, then the distance used in the noise study should be measured as 6.5 feet less than the distance from the structure setback line to the major source(s) of noise. (Reference: Title 24, Housing & Urban Development, Part 51 – Environmental Criteria and Standards, Subpart B – Noise Abatement and Control, Section 51.103) Criteria and Standards (c) Exterior standards.