

**AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE**

WHEREAS, following a public hearing and meeting advertised in accordance with O.C.G.A. §§ 36-66-4 and 50-14-1 *et seq.*, the Douglas County Planning and Zoning Board and Douglas County Board of Commissioners has considered and adopted various amendments to the Unified Development Code.

NOW, THEREFORE BE IT ORDAINED by the Douglas County Board of Commissioners that the Unified Development Code is amended as follows:

**SECTION ONE**

The text of Section 209 of Article 2 regarding Definitions related to the use of land and structures in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

*Heavy Truck: A heavy truck is a commercial motor vehicle with two or more rear axles or other vehicles that have a gross vehicle weight of ~~13,500~~ 10,001 pounds or more. For purposes of this definition, each component part of a heavy truck, such as the semi-trailer and truck tractor are considered heavy trucks, whether or not they are connected to another component or stand alone.*

**SECTION TWO**

The text of Section 208(h)(a)(1) of Article 2 regarding Highway 92 overlay in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

*The Highway 92 Village Overlay serves as a development standard for Highway 92/166 from the Chattahoochee River at the Fulton County line ~~Highway 166~~ to I-20. This development standard provides for a uniform landscape and design theme along these roads. The specific design and land use policies are a comprehensive plan for the Highway 92 corridor.*

### SECTION THREE

The text of Table 2.5 of Article 2 regarding List of Principal Uses Allowed by Zoning District in the Unified Development Code is amended to include the following as shown by the underlining of text:

NAICS Code	Principal Uses	AG	RA	RLD	RMD	RD	RTC	RMF	RMH	OIL	OIH	CN	CC	CG	CH	CR	LI	LIR	HI	See Also
1114	Crop Production: Greenhouse, Nursery, and Floriculture Production	■	■	<u>□</u>																
8131	Churches and Similar Places of Public Assembly	□	□							■	■	■	■	■	■	■	<u>□</u>			§321

### SECTION FOUR

The text of Table 2.6 of Article 2 regarding List of Accessory Uses Allowed by Zoning District in the Unified Development Code is amended to include the following as shown by the underlining of text:

NAICS Code	Principal Uses	AG	RA	RLD	RMD	RD	RTC	RMF	RMH	OIL	OIH	CN	CC	CG	CH	CR	LI	LIR	HI	See Also
	Outdoor Storage Area													□	□	□	<u>□</u>	<u>□</u>	<u>□</u>	§305

### SECTION FIVE

The text of Article 3, Section 305(b)(1) regarding Outdoor storage in the industrial zoning districts in the Unified Development Code is amended to include the following as shown by the underlining of text:

- (1) **Outside storage is permitted in the LI-R, L-I and H-I zoning districts with Special Use Permit only.** Any storage use operated as a principal use or accessory use on a property zoned LI, LI-R or HI shall be contained entirely within a building, or:
- a. Shall be screened from view by an opaque imitation-wood vinyl fence or free-standing wall no less than 6 feet in height and appropriately landscaped and maintained; and
  - b. Shall be set back at least 25 feet from any side or rear property line.

## SECTION SIX

The text of Section 308(b) of Article 3 regarding Maximum age of unit in the Unified Development Code is amended to delete the following as shown by the strikethrough of text and subsequent section 308(c) is hereby renumbered 308(b):

~~No manufactured home may be moved from outside the county and placed on a new lot or manufactured home park space within the county that was manufactured more than 5 years prior to such move in. In addition, all manufactured homes must pass inspection by an inspector acceptable to the Department of Development Services prior to such move. (Amended 02/2005)~~

## SECTION SEVEN

The text of Section 309(b) of Article 3 regarding Posting of street addresses in the Unified Development Code is amended to delete the following as shown by the strikethrough of text and subsequent section 309(c) – 309(f) are hereby renumbered 309(b) – 309(e):

~~All improved buildings or properties shall be posted with a street address number assigned by the Douglas County. The street address number must be clearly visible from the street or road.~~

## SECTION EIGHT

The text of Section 312(b)(6)(b) of Article 3 regarding Animals in the Unified Development Code is amended to include the following as shown by the underlining of text:

*In the A-G, R-A and R-LD districts, horses, mules, donkeys, goats, swine and ponies for the personal use and pleasure of the family residing on the property at the rate of not more than one such animal per one full acre of land; plus no more than 6 poultry, pigeons, rabbits and other similar animals typically considered to be pets for the personal use and pleasure of the family residing on the premises. The one full acre of land must be entirely contained within the boundaries of the parcel where the keeping of said animals will occur.*

## SECTION NINE

The text of Section 321 of Article 3 regarding Churches and similar places of public assembly in the Unified Development Code is amended to include a new section 321(6) as shown by the underlining of text:

*A church may be located in an industrial complex zoned PUD (Industrial) by Special Use Permit approval only.*

## SECTION TEN

The text of Article 3 is amended to include a new Section 306 regarding Standards for numbering property and buildings in the Unified Development Code as shown by the underlining of text with the existing section 306 and all subsequent sections hereby renumbered Section 307 – Section 355 and updating Article 2, Table 2.5 and Article 2, Table 2.6 cross-reference information as affected:

*There is hereby established a uniform system for number property and buildings along all public and private roads, streets, avenue and other right-of-way in the unincorporated are of Douglas County in order to protect the safety and welfare of the general public by facilitating the location of individual dwellings and businesses by emergency response personnel. Address numbers shall be assigned or re-assigned by the GIS Department or other department as designated by the Board of Commissioners in accordance with administrative procedures.*

### *306(a) Re-assignment of address.*

*When, in the opinion of the GIS Department, the existing address number of a property is inconsistent with the County's address numbering system and/or is difficult for emergency response personnel to locate, the GIS Department may administratively re-assign the street address number. The GIS Department shall mail a written notice of the new address number to the property owner at their last know mailing address. Within thirty (30) days of the date that the GIS Department provides written notification of the new address, the property owner may request a review of the new address by the department. Within six (6) months of the date that the notification of the new address is mailed, the property owner shall post the new address number in accordance with the terms of this Ordinance and remove any different address number that might be mistaken for or confused with the number assigned tot the structure by the GIS Department.*

### *306(b) Assignment of new address.*

*No building permit shall be issued for any principal building until the owner or developer has procured an official address number for the property from the GIS Department. Final approval for a Certificate of Occupancy of any principal building erected or repaired shall be withheld until permanent and property numbers have been displayed in accordance with the requirements of this Ordinance.*

*In the case of new subdivisions, address numbers must be assigned to each proposed lot or tract on the final plat.*

### *306(c) Posting of designated address.*

*All figures must be set against a contrasting background and made from a material that is reflective or illuminated, allowing for 24-hour visibility.*

*Each one-family and two-family dwelling unit shall post and maintain the address number in a conspicuous place on the property, such as both sides of a mailbox, the curb, yard sign or*

*the dwelling. The address must be clearly visible from the street providing general public access in figures at least three (3) inches high.*

*Multi-family buildings with three or more dwelling units shall post and maintain the address number on the building, clearly visible from the parking lot or street providing general public access. The numbers shall be at least six (6) inches high. Each individual apartment or unit must have its unit number or address posted in letters or numbers at least four (4) inches high at the main entrance to the apartment or unit. If a multi-family building has more than one exterior entrance, each such entrance shall be marked in numbers at least four (4) inches high with the number, letter and/or address of each and every individual apartment or unit to which access is provided through that common entrance.*

*Each business or other non-residential building shall post and maintain the address number in a conspicuous place on the property clearly visible from the street providing public access in figures that are at least four (4) inches high.*

## SECTION ELEVEN

The text of Section 710(f)(2)(b) of Article 7 regarding Portable or inflatable signs in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

*The maximum number of portable or inflatable sign permits to be issued to a single location or site at any given time shall be 1 such sign permit, either for a portable or an inflatable sign, but not both simultaneously. Permits may be issued no more often than once ~~each 6 months~~ every 90 days, and for a duration not to exceed ~~16~~ 30 calendar days.*

## SECTION TWELVE

The text of Section 710(f)(3)(a) of Article 7 regarding Banners and festoons in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

*The Development Services Director is authorized to issue a temporary permit for flags, pennants, banners, fringes, twirling, "A" frame, sandwich type, sidewalk or curb type signs, streamers, and other similar temporary signs. The maximum number of such temporary permits issued shall be one temporary permit every 3-month period. Each temporary permit will be for a period of time not to exceed ~~16~~ 30 calendar days for each issuance.*

## SECTION THIRTEEN

The text of Section 1103 of Article 11 regarding Soil erosion and sedimentation control regulations in the Unified Development Code is struck down in its entirety and a new Section 1103 of Article 11 is added as shown by the underlining of text:

### Sec. 1103 Soil erosion, sedimentation and pollution control regulations.

#### 1103(a) Purpose and policy.

The purpose of this Section is to provide uniform rules, regulations, and policies regarding soil erosion, sedimentation and pollution control for all properties and land disturbing activities lying within the jurisdictional limits of any municipality or political subdivision of the State of Georgia with which the Authority has entered into an Intergovernmental Agreement for the Authority to provide stormwater management services, including but not limited to regulation and enforcement of soil erosion, sedimentation and pollution control, and to provide penalties for violations of this Section.

#### 1103(b) Definitions related to erosion and sediment control.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Appropriate Governmental Entity: Douglas County, or any other municipality or political subdivision of the State of Georgia, with which the Authority has entered into an Intergovernmental Agreement for the Authority to provide stormwater management services, including but not limited to regulation and enforcement of soil erosion, sedimentation and pollution control.

Authority, The: The Douglasville-Douglas County Water and Sewer Authority and/or its authorized agents or representatives.

Best Management Practices (BMP's): Sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the "Manual for Erosion and Sediment Control in Georgia" published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

Board: The Board of Natural Resources.

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

Certified Personnel: A person who has successfully completed the appropriate certification course approved by the Commission.

CPESC: A Certified Professional in Erosion and Sediment Control with current certification by Certified Profession in Erosion and Sediment Control, Inc. a

corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

Commission: The Georgia Soil and Water Conservation Commission.

County: Douglas County, Georgia and/or its governing authority or authorized agents or representatives.

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

Department: The Georgia Department of Natural Resources.

Design Professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control, Inc.

District: The West Georgia Soil and Water Conservation District.

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

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

Ephemeral State Waters: Streams, ditches and drainage ways that only have flowing water during and immediately after rainfall and do not receive any groundwater flow throughout the year as determined by the "Field Guide for Determining the Presence of State Waters that Require a Buffer" published by the Division and/or the "North Georgia Division of Water Quality Stream Identification Method."

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

Erosion, Sedimentation and Pollution Control Plan: A plan required by the Erosion and Sedimentation Act (O.C.G.A. Chapter 12-7) that includes, as a minimum protections at least as stringent as the State General Permit, best management practices and requirements of this Section.

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

Final Stabilization: All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfills cell that has been certified by the Division for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as use of rip rap, gabions, permanent

mulches or textiles) have been used. Permanent vegetation shall consist of planted trees, shrubs, perennial vines; a crop of perennial appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

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

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

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

Intermittent State Waters: A stream that has a seasonal dry weather flow or a pond that is charged by groundwater for any period of the year as determined by the "Field Guide for Determining the Presence of State Waters That Require a Buffer" published by the Division and/or the "North Carolina Division of Water Quality Stream Identification Method."

Land-Disturbing Activity: Any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land but not including those practices that are exempt under Section 0 of this Article.

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

Local Issuing Authority: The governing authority of Douglas County, or any other municipality or political subdivision of the State of Georgia with which the Authority has entered into an Intergovernmental Agreement, which have each respectively been certified by the Director of the Environmental Protection Division of the Department of Natural Resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended, or the Division in those instances where an application for a permit is submitted to the Division. As provided by the appropriate governmental entity has as a "Local Issuing Authority," except the ability to issue the land-disturbing activity permit with the approval of the Authority. When proper, the term "Local Issuing Authority" shall include the Authority as the contractual agent of the appropriate governmental entity for all soil erosion and sedimentation control regulation and enforcement activities described herein.

May: The regulation or requirement is permissive.

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

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

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

NOI: A Notice of Intent form provided by the Division for coverage under the State General Permit.

NOT: A Notice of Termination form provided by the Division to terminate the coverage under the State General Permit.

Operator: The party or parties that have:

(a): operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications;

(b) day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.

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

Perennial State Waters: Streams that flow continuously year round or ponds that hold water year round as determined by the "Field Guide for Determining the Presence of State Waters That Require a Buffer" published by the Division and/or the "North Carolina Division of Water Quality Stream Identification Method."

Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this Article of the Unified Development Code.

Person: Any individual, firm, company, municipal or private corporation, partnership, co-partnership, joint stock company, trust, association, institution, enterprise, estate, commission, board, public or private institution, utility, cooperative, governmental agency, the State of Georgia, the United States of America, or other legal entity, or their representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

Phase or Phased: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

*Properly Designed: Designed in accordance with design requirements and specifications contained in the “Manual for Erosion and Sediment Control in Georgia” published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of the NOI submittal.*

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

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

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

*Shall: The regulation or requirement is mandatory.*

*Soil and Water Conservation District Approved Plan: An erosion and sedimentation control plan approved in writing by the West Georgia Soil and Water Conservation District.*

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

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

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

*Structural Erosion, Sedimentation and Pollution Control Measures: Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sedimentation control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions,*

grade stabilization structures, sediment traps and land grading. Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Trout streams: All streams or portions of streams as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20, et seq., in the rules and regulations for Water Quality Control, Chapter 39-3-6 at [www.gaepd.org](http://www.gaepd.org). Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Vegetative Erosion and Sedimentation Control Measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

Permanent seeding, sprigging or planting, producing long-term vegetative cover;

or

Temporary seeding, producing short-term vegetative cover; or

Sodding, covering areas with a turf of perennial sod-forming grass. Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

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

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

Wetlands, protected: Those wetlands identified on the National Wetlands Inventory maps prepared by the U.S. Fish and Wildlife Service, or otherwise approved by the U.S. Army Corps of Engineers based on competent studies prepared by a registered and qualified professional engineer.

1103(c) Exemptions.

(1) This Section shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- a. Surface mining, as same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968."
- b. Granite quarrying and land clearing for such quarrying.
- c. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities, which result in minor soil erosion.
- d. The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common development plan or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this section; provided however, that construction of any such residence shall conform to the minimum requirements as set forth in Sections 0, Error! Reference source not found. and 0 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a stream buffer between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such stream buffer, no land-disturbing activity shall occur between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the stream buffer shall be at least 50 horizontal feet, and no variance to a smaller stream buffer shall be granted. For secondary trout waters, the stream buffer shall be at least 50 horizontal feet, but the EPD Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the stream buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Sections 0, Error! Reference source not found. and 0 shall be enforced by the Authority.
- e. Agricultural operations as defined in O.C.G.A. 1-3-3, "Definitions," to include those practices involving the establishment, cultivation, or harvesting of products of the field or orchard; the preparation and planting of pasture land; farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings.
- f. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land disturbing or other activities otherwise prohibited in a stream buffer, as established in Section Error! Reference source not found.,

no other land disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices.

- g. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture.
- h. Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters. For purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round. Any person responsible for a project which involves less than one acre, which involves land-disturbing activity and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the regulation of any such project that is not specifically exempted by this Subsection and provided further that this exemption shall have no application to the requirements of Section 0 regarding control of disturbed soil on subdivision lots.
- i. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Georgia Department of Transportation, the Georgia Highway Authority or the Georgia Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of the notice of intent under the state general permit shall be submitted to the Authority, the Authority shall enforce compliance with the minimum requirements set forth in Sections 0 and Error! Reference source not found. as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders.
- j. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any

utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission or distribution of power; except where and electric membership corporation or municipal electric system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission or distribution of power is a secondary permittee for a project located in a larger common plan of development or sale under the state general permit, in which case the Authority will enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.

k. Public water system reservoirs, including the Authority's Bear Creek and Dog River Reservoirs.

1103(d) Compliance with minimum requirements.

Where Section 1103 (c) requires compliance with the minimum requirements set forth in Sections 1103 (f) and 1103 (g) of this Article, the Authority shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.

1103(e)- General provisions.

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of this Section and the State General Permit are not met. Therefore, plans for those land-disturbing activities that are not excluded by this Section shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the soil erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Sections 1103 (f), 1103 (g) and 1103 (m). The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this Section and the State General Permit.

1103(f) Minimum requirements; best management practices.

a. Best management practices as set forth in Sections 1103 (f) and 1103 (g) shall be required for all land-disturbing activities. Proper design,

installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with this Section 1103 (f) (b) or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to the Georgia Water Quality Control Act, O.C.G.A. § 12-5-30(f). As used in this Section, the terms “proper design” and “properly designed” mean designed in accordance with the hydraulic design specifications contained in the “Manual for Erosion and Sediment Control in Georgia” specified in O.C.G.A. § 12-7-6 (b).

- b. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed and maintained shall constitute a separate violation of any land disturbance permit issued by the appropriate governmental entity (upon the approval and release by the Authority) or of any State General Permit, issued by the Division pursuant to the Georgia Water Quality Control Act, O.C.G.A. § 12-5-30 (f), for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout streams. The turbidity of the receiving waters shall be measured in accordance with guidelines issued by the Director. This paragraph shall not apply to any land disturbance associated the construction of single-family homes which are not part of a larger common plane of development or sale unless the plan disturbance for such construction is equal to or greater than five (5) acres.
- c. Failure to properly design, install or maintain best management practices shall constitute a violation of any land disturbance permit issued by the appropriate governmental entity (upon the approval and release by the Authority) or any State General Permit issued by the Division pursuant to the Georgia Water Quality Control Act, O.C.G.A. § 12-5-30(f), for each day on which such failure occurs.
- d. The Director may require, in accordance with regulations adopted by the Board reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.
- e. Douglas County has adopted more stringent buffer requirements as stated in Article 9.

1103(g) Minimum requirements – specific.

The rules and regulations, ordinances or resolutions adopted pursuant to O.C.G.A. 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the State General Permit, and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than,

those practices contained in the “Manual for Erosion and Sediment Control in Georgia” published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- a. Stripping of vegetation, re-grading and other development activities shall be conducted in a manner so as to minimize erosion.
- b. Cut-fill operations must be kept to a minimum.
- c. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential.
- d. Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- e. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
- f. Disturbed soil shall be stabilized as quickly as practicable.
- g. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
- h. Permanent vegetation and structural erosion control measures shall be installed as soon as practicable.
- i. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized. As used in this Section, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.
- j. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.
- k. Cuts and fills may not endanger adjoining property.
- l. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
- m. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.
- n. Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters.
- o. There is established a 50 foot undisturbed buffer with a building setback of an additional 25 feet along the banks of all perennial and intermittent State waters, as measured horizontally from the point

where vegetation has been wrested by normal stream flow or wave action, except:

1. As provided by 1103 (g) (p);
2. Where the Director determines to allow a variance that is at least as protective of natural resources and the environment;
3. Where otherwise allowed by the Director pursuant to O.C.G.A. § 12-2-8;
4. Where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specification, and are implemented; or
5. Along any ephemeral stream. As used in this Paragraph, the term "ephemeral stream" means a stream:
  - a. That under normal circumstances has water flowing only during and for a short duration after precipitation events;
  - b. That has the channel located above the groundwater table year round;
  - c. For which groundwater is not a sources of water; and
  - d. For which runoff from precipitation is the primary source of water flow.

Unless exempted as provided in this Section, buffers of at least 50 feet with an additional building setback of 25 feet established pursuant to this Section shall remain in force unless a variance is granted by the Director as provided in this Paragraph.

The following requirements shall apply to any such buffer:

1. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

2. The buffer established by this Paragraph shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

Stream crossings for water lines; or

Stream crossings for sewer lines.

p. There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any State waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 5, the Georgia Water Quality Control Act, except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented.

The following requirements shall apply to such buffer:

1. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

2. The buffer established by the Paragraph shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

Stream crossings for water lines; or

Stream crossings for sewer lines.

g. Douglas County has established more stringent buffer requirements on streams that serve as source water for public water supplies as Stated in Article 9.

1103(h) Control of disturbed soil on subdivision lots that are less than one acre.

(1) Silt fencing; required.

a. No soil disturbance and no construction shall be performed on any subdivision lot of less than one acre, prior to installation of silt fencing.

b. The silt fencing shall be installed at the perimeter of the lot over at least one-half the perimeter distance. Placement of silt fencing shall be adequate to prevent migration of soil from the lot onto any adjacent street, property, or waterway. Silt fencing shall be installed in accordance with procedures recommended and prescribed by the Department of Natural Resources and the Soil Conservation Service. The required silt fencing shall be maintained throughout the entire period of construction, and shall be removed only after soil on the lot has been stabilized. The required silt fencing shall be installed and maintained so as to withstand any rainfall event of a magnitude of less than a ten-year storm without breakage, undercutting, or other failure.

(2) Access pad; required.

a. No soil disturbance and no construction shall be performed on any subdivision lot of less than one acre, prior to installation of an access pad.

b. The access pad shall consist of gravel or coarse aggregate, located at the point of ingress and egress to the lot to be traveled by vehicles. The access pad shall be of sufficient size to accommodate all necessary vehicular traffic onto and off of the lot and to prevent all tracking of soil and mud onto the street. The access pad shall be of sufficient size to make any structure under construction completely accessible for delivery of building materials or for other purposes without the necessity for any vehicle to traverse through unprotected soil. The access pad shall be of sufficient depth to provide a clean

driving surface at all times, including but not limited to times during and immediately after a rainfall event. The required access pad shall be maintained throughout the entire period of construction, and shall be removed only after soil on the lot has been stabilized. Any access pad that shows visible signs of contamination, due to overuse or migration of soil, shall be removed and replaced.

1103(i) Local authority to exceed minimum requirements.

Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent the Authority from adopting rules and regulations, ordinances, design and construction standards, or resolutions that contain requirements that exceed the minimum requirements in Sections 0 and Error! Reference source not found..

1103(j) No presumption of violation.

The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Section or the terms of the permit.

1103(k) Application/permit process; generally.

The property owner, developer, and designated planners and engineers shall design and review the general development plans and detailed plans before submittal to Authority. They shall review the appropriate governmental entity's zoning and subdivision ordinances and the Authority's stormwater management regulations, floodplain management regulations, this Section, and any other applicable ordinances or Authority Rules and Regulations or Design and Construction Standards which regulate the development of the subject land. However, the owner and/or operator are the only parties who may obtain a permit.

1103(l) Application requirements.

(1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the appropriate governmental entity without first obtaining the approval of the appropriate governmental entity, depending upon the location of the subject property, and the Authority, by obtaining a land disturbance activity permit, which shall be issued by the appropriate governmental entity and released by the Authority, and providing a copy of the Notice of Intent submitted to the Division if applicable.

(2) The application for a permit shall be submitted to the Authority and must include the applicant's erosion, sedimentation and pollution control plan with such supporting data as will affirmatively demonstrate that the land-disturbing activity proposed will be carried out in such a manner that the minimum requirements set forth in this Section shall be met. Said plans shall include, as a minimum, the data specified in Section 0 (m) and shall conform to the provisions of Sections 1103 (f) and 1103 (g) of this

Section. Applications for a permit will not be accepted unless accompanied by two copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7.10.

- (3) A fee as provided in Chapter 4 of these Rules and Regulations, shall be paid to the Authority for each acre or fraction thereof in the project area (See Section 4-14(L)). In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (50 subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the State General Permit for each acre of land-disturbing activity included in the planned development or each phase or development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
- (4) Immediately upon receipt of an application and plan for a permit, the Authority shall forward a copy of the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove the plan within thirty-five (35) days of receipt. Failure of the District to act within thirty-five (35) days shall be considered approval of the pending plan. The results of the District review shall be forwarded to the appropriate governmental entity. No permit will be issued unless the plan has been approved by the District, and any variances required by Section Error! Reference source not found. (o) and (p) have been obtained, and all fees have been paid, and bonding, if required under this Article has been obtained. Such review will not be required if the appropriate governmental entity and the District have entered into an agreement which allows the appropriate governmental entity to conduct such review and approval of the plan without referring the application and plan to the District. Upon satisfaction of all requirements for the issuance of the permit, the appropriate governmental entity shall issue the permit and provide it to the Authority, and the Authority shall release the permit to the applicant.
- (5) Erosion and sedimentation performance surety.
- a. If a permit applicant has had two or more violations of previous development permits, this Section, or the Georgia Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1, et seq., as amended, within three years prior to the date of filing of the application under consideration, the Authority may deny the permit application; or

b. The applicant shall post a bond in the form of government security, cash, irrevocable letter of credit or any combination thereof up to, in the amount required by Chapter 4 of these Rules and Regulations prior to the issuance of the permit. If the applicant does not comply with this Article or with the conditions of the permit after issuance, the Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor or use the Authority's own forces to stabilize the site of the land disturbing activity and bring it into compliance. Notice and hearing and administrative appeal and judicial review for any bond forfeiture shall be as provided in Section 1103 (t) of this Article.

1103(m) Plan requirements.

(1) Minimum requirements.

Plans must be prepared to meet the minimum requirements as contained in Sections 0 (f) and Error! Reference source not found. (g) of this Article or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this Section. The plan for the land-disturbing activity shall consider the interrelationship of soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances, and state laws.

(2) Data required for site plan.

The plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted as well as information required by the Authority's Design and Construction Standards.

(3) Maps, drawings, and supportive computations.

Maps, drawings and supportive computations shall bear the signature and seal of a certified design professional who is a registered professional engineer, architect, landscape architect, and/or land surveyor, as applicable to satisfy the requirements of this Section. Persons involved in land development design, review, permitting, construction, monitoring or inspection of any land disturbing activity shall meet the education and training certification requirements as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.

(4) Maintenance.

Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

1103(n) Permits.

- (1) Permits shall be approved or denied as soon as practicable, but in any event not later than forty-five (45) days after receipt by the Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- (2) No permit shall be issued by the appropriate governmental entity and released by the Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Authority has affirmatively determined that the plan is in compliance with this Section, any variances required by Section Error! Reference source not found. (g) (o) and (p) are obtained, bonding requirements, if necessary, as per this Article are met, and all ordinances and rules and regulations in effect within the jurisdictional boundaries of Douglas County, including but not limited to all of the Authority's Rules and Regulations and Design and Construction Standards, are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (3) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (4) The permit may be suspended, revoked, or modified by the Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in title is not in compliance with the approved erosion, sedimentation and pollution control plan or that the holder or his successor in title is in violation of this Section. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit. Transfer of title to any permitted property, prior to termination of the permit, shall not act to release the original title and permit holder from liability for compliance with the terms of this Section unless and until such time as:
  - a. A new permit has been issued to the successor in title; or
  - b. The permit has been transferred to the successor in title as follows:
    1. The successor in title has submitted a request in writing that the permit be transferred to him or her; and
    2. The successor in title has complied with the bonding requirements of this Article and
    3. The Authority has approved the transfer of the permit in writing. Any transfer of a permit under the authority of this Paragraph

shall bind the successor permit holder to the same plan, requirements, variances, and permit conditions as the former permit holder. All successors in title to permitted properties shall request in writing a transfer of the permit or shall apply for a new permit within 20 days after recording of the deed transferring title; failure of a successor in title to comply with this requirement, whether or not the permit of the former title holder has been terminated, shall subject the successor in title to any and all penalties prescribed by this Section.

- (5) Every permit or renewal thereof shall be valid for a period of one year, if not sooner renewed, terminated, revoked, or surrendered. Permits shall be eligible for renewal by the Authority within 60 days prior to expiration. The Authority may refuse renewal based on materially changed land conditions or based on any ground that would be the basis for revocation of the active permit.
- (6) Any change or amendment of design and construction plans for the project that may materially impact or negate the permit based on original approval of the plan shall require a permit amendment. All amendments shall be applied for in writing and follow the same procedure for approval as original applications for a permit.
- (7) Any land-disturbing activity by a local issuing authority shall be subject to the same requirements of this Article, and any other ordinances relating to land development, as are applied to private persons and the Division shall enforce such requirements upon the local issuing authority.

1103(o) Inspection and enforcement.

- (1) The Authority will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. The Authority shall regulate both primary, secondary and tertiary permittees as such terms are defined in the State General Permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land disturbing activities. Tertiary permittees shall be responsible for installation and maintenance of best management practices where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this Section, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be

completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Section.

- (2) The Authority shall have the power to conduct such investigations as it may deem reasonably necessary to carry out duties as prescribed in this Section, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (3) No person shall refuse entry or access to any authorized representative or agent of the Authority, the appropriate governmental entity, the Commission, the District, or the Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.
- (4) The District or Commission or both shall semi-annually review the actions of the Authority and the appropriate governmental entity (Douglas County) which have been certified as a Local Issuing Authority pursuant to O.C.G.A. § 12-7-8 (a). The District or the Commission or both may provide technical assistance to the appropriate governmental entity and/or the Authority for the purpose of improving the effectiveness of the appropriate governmental entity's and the Authority's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
- (5)–The Division may periodically review the actions of the appropriate governmental entity which has been certified as a Local Issuing Authority pursuant to O.C.G.A. § 12-7-8 (a). Such review may include, but shall not be limited to, review of conformance and enforcement of the appropriate governmental entity's ordinances and/or the Authority's Rules and Regulations and review of conformance with and agreement, if any, between the District and the appropriate governmental entity and/or the Authority. If such review indicates that the appropriate governmental entity certified pursuant to O.C.G.A. § 12-7-8 (a) and/or the Authority has not administered or enforced its ordinances and/or the Authority's Rules and Regulations or has not conducted its program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7 (e), the Division shall notify the appropriate governmental entity in writing. The governing authority of the appropriate governmental entity so notified shall have ninety (90) days within which to take the necessary action to retain certification as a Local Issuing Authority. If the appropriate governmental entity does not take the necessary corrective action within ninety (90) days after notification by the Division, the Division shall revoke the certification of the appropriate governmental entity as a Local Issuing Authority.

- (6) The Authority must amend this Chapter and local issuing authorities must amend ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975 (O.C.G.A. 12-7) or the Model Ordinance published by the Division.

1103(p) Failure to obtain a permit for land-disturbing activity.

If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this Section without first obtaining said permit, the person shall be subject to termination of any water service provided by the Authority and revocation of his business license, any work permits, or other authorizations for the conduct of any business, including any land-disturbing activity and utility contracting and associated work activities, including but not limited to all site work, soil erosion and sedimentation control work, stormwater management work, and water and sewer construction work, within the jurisdictional boundaries of the appropriate governmental entity and the Authority.

1103(q) Stop-work orders.

- a. For the first and second violations of the provisions of this Section, the Authority shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Authority shall issue an immediate stop-work order in lieu of a warning.
- b. For a third and each subsequent violation, the Authority shall issue an immediate stop-work order.
- c. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
- d. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Authority or by the Director or his/her designee, have been or are being discharged into State Waters and where best management practices have not been properly designed, installed and maintained, a stop work order shall be issued by the Authority or by the Director or his/her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land disturbing activity on the site with the exception of the installation and

maintenance of temporary or permanent erosion and sedimentation controls.

1103(r) Bond forfeiture.

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Section and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of this Article. The Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor or use the Authority's own forces to stabilize the site of the land-disturbing activity and bring it into compliance.

1103(s) Monetary penalties.

Any person who violates any provisions of this Section, any of the Authority's Rules and Regulations or Design and Construction Standards adopted pursuant hereto, or any permit condition or limitation established pursuant to this Section, or who negligently or intentionally fails or refuses to comply with any order or directive of the Authority or any final or emergency order of the Director issued as provided in this Section or as otherwise provided by state law may be held liable for a monetary penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this Section, notwithstanding any provision in any city charter to the contrary, any municipal court shall be authorized to impose penalties not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of local or county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this Section shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

1103(t) Administrative appeal; judicial review.

a. Administrative remedies.

Any person receiving a notice of violation may appeal the determination of the Authority, including, but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification or grant with condition of a permit by the Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan, or that the holder is in violation of permit conditions, or that the holder is violation of any applicable ordinance

or any of the Authority's Rules and Regulations or Design and Construction Standards, or the issuance of a notice of bond forfeiture. The notice of appeal must be in writing and must be received within thirty (30) days from the date of the notice of violation. A hearing on the appeal shall take place within fifteen (15) days from the date of receipt of the written notice of appeal by the Executive Director. All appeals shall be heard and decided by the Authority's designated Appeal Panel, which shall include the Executive Director, the Chief Financial Officer of the Authority, and the Deputy Director of Operations, or their designees. The Appeal Panel shall have the power to affirm, modify or reject the original penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the Authority's Rules and Regulations, Design and Construction Standards, and any other applicable local, state or federal requirements. The decision of the Appeal Panel shall be final.

b. Judicial review.

Any person, aggrieved by a decision or order of the Authority, after exhausting his administrative remedies, shall have the right to appeal to the Superior Court of Douglas County by petition for writ of certiorari, which must be filed within thirty (30) days of the final decision of the Appeal Panel.

1103(u) Education and certification.

Persons involved in land development design, review, permitting, construction monitoring or inspection or any land disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the Commission in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. § 12-7-20.

- a. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary or tertiary permittee, as defined in the State General Permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbing site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the State General Permit.
- b. Persons or entities involved in projects not requiring a State General Permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.

c. If a State General Permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any education requirements that exceed those specified in said paragraph.

1103(v) Effectivity.

This article shall become effective upon approval by the Authority's Board of Directors, which shall be evidenced by a written resolution of the Authority's Board of Directors and which shall set forth the specific date for this Article and any amendments thereto.

1103(u) Validity.

If any Section, Paragraph, clause, phrase or provision of this Section shall be adjudged invalid, unenforceable or unconstitutional, such decisions shall not affect the remaining portions of this Section.

1103(x) Liability.

- (1) Neither the approval of a plan under the provisions of this Section nor the compliance with provisions of this Section shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Authority, local issuing authority or District for damage to any person or property.
- (2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Section or the terms of the permit.
- (3) No provision of this Section shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act, or any of the Authority's Rules and Regulations or Design and Construction Standards promulgated and approved thereunder, or to pollute any waters of the state as defined thereby.

## SECTION FOURTEEN

The text of Section 1207 of Article 12 regarding Standards governing consideration of a zoning change in the Unified Development Code is amended to include a new section 1207(c) Considerations in approval or denial of a telecommunications tower special use permit as shown by the underlining of text:

**The governing authority shall consider, but is not limited to, the following factors in action upon a Telecommunications Tower Special Use Permit under the provisions of this code:**

- (1) The height and setbacks of the proposed tower**
- (2) The proximity of the tower to residential structures and residential district boundaries**
- (3) The nature of uses, as well as the height of existing structures, on adjacent and nearby properties**
- (4) The surrounding topography**
- (5) The surrounding tree coverage and foliage**
- (6) The design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness**
- (7) The proposed ingress and egress**
- (8) The availability of suitable existing towers or other structures for antenna co-location**
- (9) The impact of the proposed tower upon scenic views and the visual quality of the surrounding area**
- (10) The evidence submitted regarding the need for the tower in the area, including but not limited to propagation maps and other similar materials**
- (11) The portion of the tower that will be visible from adjacent and nearby residential properties**
- (12) The number of required trips to the tower site on a monthly basis**
- (13) The tower's effect on property values of adjacent and nearby residential properties**
- (14) The ratio of the height of the proposed tower to the height of the tallest adjacent and nearby structure**
- (15) Safety concerns associated with the proposed tower or antenna**
- (16) The tower's effect upon potential purchasers of adjacent and nearby residentially-zoned property**
- (17) The coverage or lack of coverage experienced by cell phone users in the area of the proposed tower**

**SECTION FIFTEEN**

The text of Section 1503 of Article 15 regarding Definitions in the Unified Development Code is amended to include the following as shown by the underlining of text and to delete the following as shown by the strikethrough of text:

*Heavy Truck: A heavy truck is a commercial motor vehicle with two or more rear axles or other vehicles that have a gross vehicle weight of ~~13,500~~ 10,001 pounds or more. For purposes of this definition, each component part of a heavy truck, such as the semi-trailer and truck tractor are considered heavy trucks, whether or not they are connected to another component or stand alone.*

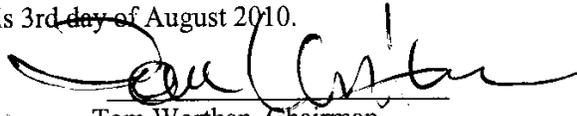
**SECTION SIXTEEN**

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed

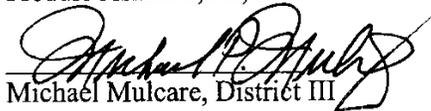
**SECTION SEVENTEEN**

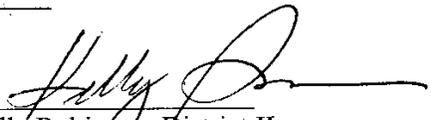
This ordinance shall be effective upon adoption.

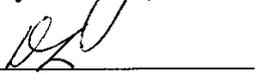
**SO ORDAINED** this 3rd day of August 2010.

  
Tom Worthan, Chairman

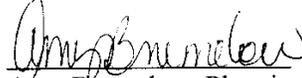
  
Freddie Ashmon, JR, District I

  
Michael Mulcare, District III

  
Kelly Robinson, District II

  
David Latham, District IV

Attest:

  
Amy Brumelow, Planning and Zoning