



September 14, 2010

CITY OF MORROW, GEORGIA
Regular Meeting

7:30 pm

CALL TO ORDER: Mayor Millirons
PLEDGE OF ALLEGIANCE: All
INVOCATION: Mayor Millirons

1. **ROLL CALL**

2. **APPROVAL OF MEETING AGENDA:**

(Agenda Item 10-09-168)

To add or remove items from the Agenda:

3. **CONSENT AGENDA:**

(Agenda Item 10-09-169)

1. Approval of the August 24, 2010 Regular Meeting Minutes.

(Agenda Item 10-09-170)

2. Approval of the August 24, 2010 Work Session Minutes.

4. **REPORTS AND PRESENTATIONS:**

1. Proclamation honoring the Philadelphia Presbyterian Church on its 185th Anniversary. *(To be accepted by Councilman Bob Huie)*
2. Proclamation honoring Sergeant First Class Ken Holman with the United States Army Reserves. *(To be accepted by Morrow Police Department)*

5. **PUBLIC HEARING: (Public Hearing on Amendment to Zoning Ordinance)**

(Agenda Item 10-009-171)

1. An Ordinance to amend the Zoning Ordinance of the City of Morrow, Georgia to clarify Standards for use of Residential Districts; to regulate use of Security Devices on Commercial Properties; to regulate Multiple Businesses and Services offered on Single Premises through the use of Kiosks; to require Clear Views of Business Interiors from Commercial Windows; and for other Purposes.
(Presented by City Manager, Jeff Eady)

6. **FIRST PRESENTATION:**

(Agenda Item 10-009-171)

1. An Ordinance to amend the Zoning Ordinance of the City of Morrow, Georgia to clarify Standards for use of Residential Districts; to regulate use of Security Devices on Commercial Properties; to regulate Multiple Businesses and Services offered on Single Premises through the use of Kiosks; to require Clear Views of Business Interiors from Commercial Windows; and for other Purposes.

7. **OLD BUSINESS:**

(Agenda Item 10-08-166)

1. An Ordinance to Amend the Code of Ordinances of the City of Morrow, Georgia, as amended, to provide for New Regulations regarding Soil Erosion and Sedimentation Control; to prescribe Penalties and Enforcement Procedures; to Repeal Conflicting Laws; and for other purposes.
(Presented by City Manager, Jeff Eady)

8. **NEW BUSINESS:**

(Agenda Item 10-09-172)

1. Approval of a Resolution to Establish a Policy regarding a Reduced Rate Structure for the use of the Morrow Center Facility located in the City of Morrow in limited circumstances for Promotional Purposes.
(Presented by City Manager, Jeff Eady)

9. **COMMENTS:**

Citizens-
City Manager-
Mayor and Council –

10. **ADJOURNMENT:**

PROCLAMATION

WHEREAS, the Mayor and Council of the City of Morrow are pleased to extend special recognition to the Philadelphia Presbyterian Church on its One Hundred and Eighty-fifth Anniversary, to be celebrated on September 26, 2010; and

WHEREAS, since it was founded in 1825 Philadelphia Presbyterian Church has offered its members the pathway to a more meaningful life by illuminating and demonstrating the precepts on which the church was founded by the Rev. John S. Wilson, a man of pioneering spirit who followed the earliest settlers into this area. The spirit of love and Christian fellowship that exists among the parishioners prevails not only within the edifice itself but also as an integral part of Clayton County; and

WHEREAS, under the capable leadership of its pastors, both past and present, Philadelphia Presbyterian Church has provided a source of moral guidance and spiritual motivation for each of its members, whether celebrating a religious holiday or attending weekly worship, the congregation has truly experienced and manifested the living faith of Christianity; and

WHEREAS, Philadelphia Presbyterian Church has brought their faith of Christianity throughout Clayton County in programs such as Meals on Wheels, Samaritans, Calvary Refuge Shelter, Kinship Care, and The Good Shepherd Clinic which has extended their sacred walls to touch the lives of everyone encountered by these devout disciples; and

WHEREAS, an occasion such as this is an important milestone that represents dedication, commitment, and enduring faith. For One Hundred and Eighty-five years all those associated with Philadelphia Presbyterian Church have kept their faith alive in the community, and on this special anniversary the congregation has accepted the challenge of carrying its beliefs into the future; therefore be it

PROCLAIMED that we, the Mayor and Council of the City of Morrow, congratulate Philadelphia Presbyterian Church on its One Hundred and Eighty-fifth Anniversary and extend best wishes for ongoing success.

Dated this 14th day of September, 2010

Jim Millirons, Mayor

C.R. "Bob" Huie, Councilmember and
Family Member to one of the Founding
Families: James and Mary Lynn Huie

PROCLAMATION

HONORING THE HEROSIM OF ARMY SERGEANT FIRST CLASS KEN HOLMAN

WHEREAS, Army Sergeant First Class Ken Holman demonstrated great bravery and quick thinking through his rescue of a female toddler in the pool at the Drury Inn located in Morrow, Georgia on August 1, 2010; and

WHEREAS, the actions of Sergeant First Class Ken Holman are in keeping with the highest traditions of the Noncommissioned Officer Corps of the United States Army; and

WHEREAS, the actions of Sergeant First Class Ken Holman reflect great credit upon himself, the United States Army, his unit and is reflective of a Noncommissioned Officer of the highest caliber; and

WHEREAS, Sergeant First Class Ken Holman demonstrated quick action, determination and good judgment and he is an inspiration to us all for his selfless actions in saving the life of this toddler and may he serve as a model of bravery for all the citizens of the City of Morrow.

NOW THEREFORE, I, Jim Millirons, Mayor, on behalf of the City Council of the City of Morrow, its citizens, fire department, and police department, do hereby recognize with respect and gratitude, Sergeant First Class Ken Holman for his courage and service and we send you a heartfelt THANK YOU for your heroic actions that saved the life of a child.

Dated this 14th day of September, 2010

Attest:

Jim Millirons, Mayor

Evyonne Browning, City Clerk

STATE OF GEORGIA
CITY OF MORROW

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF MORROW, GEORGIA TO CLARIFY STANDARDS FOR USE OF RESIDENTIAL DISTRICTS; TO REGULATE USE OF SECURITY DEVICES ON COMMERCIAL PROPERTIES; TO REGULATE MULTIPLE BUSINESSES AND SERVICES OFFERED ON SINGLE PREMISES THROUGH THE USE OF KIOSKS; TO REQUIRE CLEAR VIEWS OF BUSINESS INTERIORS FROM COMMERCIAL WINDOWS; AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Mayor and Council of the City of Morrow, Georgia and by the authority thereof that:

Section 1. Section 302 of the Zoning Ordinance of the City of Morrow, Georgia, as amended, is further amended by deleting the definition of Group Home found therein and substituting the following definition in lieu thereof:

Group home: A facility to provide temporary care for persons undergoing physical or emotional trauma, or for those persons residing apart from their immediate family and engaged in counseling or rehabilitation as a function of the facility. The number of clients occupying the group home at any one time shall not exceed six (6) in any single-family residential zoning district.

Section 2. Section 705 of the Zoning Ordinance concerning parking, storage or use of major recreational equipment, as amended, is further amended by deleting the language of that section in its entirety and inserting the following in lieu thereof:

“Section 705 Parking, storage or use of major recreational equipment, and other trailers and equipment.

“For the purposes of this section, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. Such major recreational equipment and other recreational trailers may be parked or stored on lots that exceed 15,000 square feet only in side yards behind the front line of the building or in rear yards. Such major recreational equipment and other recreational trailers

shall not be parked in driveways in front or side yards in front of the principle building except for temporary loading and unloading operations; such temporary use shall not exceed an accumulated two hours in duration in any 48 hour period. In any residential area except where prohibited by protective covenants, major recreational equipment can be stored in a completely enclosed building. In the case of corner lots, no vehicles may be parked or stored in the side yard on the street side of the lot. No such equipment shall be used for living, sleeping, housekeeping or home occupation purposes when parked or stored on a residential lot, or in any location not approved for such use.”

Section 3. Section 708 of the Zoning Ordinance concerning burglar bars, roll up doors and other security devices is amended by deleting the language of that section in its entirety and inserting the following in lieu thereof:

“Section 708 Burglar bars, roll up doors and other security devices.

“(a) This section applies to all commercial, residential, retail, office and institutional, CUPD, mixed use and industrial property in the City.

“(b) No permanently installed burglar bars shall be visible from any public street. Burglar bars may be installed on rear doors and windows where a planted buffer or privacy fence screens the view of those bars from the public street and/or neighboring properties. This prohibition does not preclude owners of single-family residences in the City from installing decorative wrought iron screen doors at their residences.

“(c) Businesses, offices and institutions in the City may install fully retractable metal security screening that secures windows and doors when the business, office or institution is not open for business. Such security screening shall be installed only on the interior of the business, above doors and windows, and must retract within a fully enclosed decorative cabinet placed entirely above the doors and windows so that no evidence of such screening is visible from any public street or sidewalk during times the business, office or institution is open. Only open lattice or woven screening that allows a complete view of the interior through all points of the doors and windows is permitted. No solid metal shades, screens or coverings are allowed. Any such security screening, including the cabinet, is required to be maintained in proper working order, free from rust, scratches, and bent or missing elements. Decorative cabinets shall be painted a color that coordinates with the interior of the building.

“(d) The use of internal security devices, such as bullet proof glass, inside businesses, offices and institutions in the City is permitted provided the security devices are clear and well maintained. Such security devices may not be scratched, hazy or discolored. Any business, office or institution utilizing internal security devices shall

comply with the key box requirements to ensure public safety personnel have access to all portions of the premises in the event of emergency.

“(e) Security cameras, magnetic security systems and other similar security devices are specifically encouraged.”

Section 4. The Zoning Ordinance of the City of Morrow, as amended, is further amended by adding a new section 709 to said ordinance which shall read as follows:

“Section 709 Kiosks within commercial premises.

“(a) Commercial premises located within the City of Morrow may establish or permit the use of kiosks only in accordance with the provisions of this section.

“(b) “Kiosk,” for the purpose of this section, means any portable structure composed of wood, plastic, pipe or other material and designed in such a manner as to form a self-enclosed area for display of merchandise or the offering of services. Kiosks are generally designed to set themselves apart from the surrounding commercial activity and are not built into the underlying commercial structure. The fact that parts of the structure may be kept open for access does not negate the status of the structure as a kiosk.

“(c) Kiosks’ are only permitted indoors and are limited to retail establishments with publicly accessed areas of 25,000 or more square feet under common ownership or lease.

“(d) Within retail facilities large enough to utilize kiosks, only one kiosk per 25,000 square feet is permitted, subject to a limitation that not more than three kiosks shall be permitted within a single retail premises at any one time.

“(e) No kiosk shall be attached to the floor with bolts, nails, screws or other hardware or adhesive.

“(f) A minimum of eight (8) feet of space shall be maintained between the kiosk and any other display, shelving, merchandise tables, registers or equipment in the retail establishment. Kiosks may be located against and adjacent to permanent walls, provided people are not allowed to walk between the kiosk and the wall.

“(g) All kiosks located within a single retail premises shall be of an identical design.

“(h) No kiosk shall be operated in a manner as to constitute a hazard to the public. If a kiosk is positioned against a permanent wall, there shall be no electrical bank on that

wall serving the kiosk. No electrical cords shall be extended across the floor into a kiosk. Signs on the kiosk shall be securely fastened.

“(i) Kiosks which allow staff to enter and interact with the public from a counter or table cannot exceed 10 feet by 12 feet in overall size. Cart kiosks which do not allow entry for staff shall not exceed 10 feet by six (6) feet in size.

“(j) Enclosed kiosks shall be a minimum of eight (8) feet in height. No kiosk shall exceed 10 feet in height.

“(k) Plastic pipes, raw wood and cloth are prohibited as framing material or walls for kiosks.

“(l) Signs on kiosks shall be professionally printed or silk screened. No spray paint, stencils, handwriting, poster board or cotton and polyester fabrics can be utilized to create signage for the kiosk. No signage for kiosks shall be permitted on the exterior of the retail premises.

“(m) No alcoholic beverages or tobacco products shall be sold from a kiosk. No food preparation or handling of foods that are not packaged by a manufacturer is permitted from kiosks.

“(n) Operation of kiosks is limited to the business hours of the host retail establishment.

“(o) Business conducted from a kiosk is subject to all City of Morrow regulations and codes governing commercial enterprises, including but not limited to, signage, business taxes, and fire safety regulations.

“(p) Regional shopping centers are exempt from the three kiosk per premises limit for indoor hallways and corridors not otherwise leased to tenants, provided they adhere to the other requirements of this section. In addition, they shall develop an overall plan for kiosk establishment that leaves ample room for customers to maneuver the hallways without obstruction and submit such plan to the City Fire Marshall for his safety approval.

Section 5. The Zoning Ordinance of the City of Morrow, as amended, is further amended by adding a new section 710 to said ordinance which shall read as follows:

“Section 710 Clear views of business interiors.

“Businesses operating in the City of Morrow shall maintain glass windows and doors to such establishments in such manner that allows a clear view of the interior from

all windows and doors. All glass shall be cleaned daily. No furniture, packing material, debris, trash receptacles or other fixtures shall be placed in front of or behind windows and doors in such a manner as to reduce window visibility or to block ingress and egress from the premises. Additionally no such material shall be placed against doors and windows in such manner as to appear unsightly from the building's exterior. In the event a business desires to permanently remove any existing windows or doors, such removal and all replacement material shall conform to all applicable building codes adopted by the City and shall be done under applicable City permits.”

Section 6. All ordinances or parts of ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 7. In the event a court of competent jurisdiction declares any word, phrase, clause, sentence or paragraph of this Ordinance unconstitutional, such ruling shall not affect the remaining words, phrases, clauses, sentences and paragraphs of this Ordinance, but such invalidated provisions shall be severed from the Ordinance and its remaining contents shall stand.

So Ordained, this _____ day of _____, 2010.

Jim Millirons, Mayor

ATTEST:

Evyonne Browning, City Clerk

**CITY OF MORROW
STATE OF GEORGIA**

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MORROW,
GEORGIA, AS AMENDED, TO PROVIDE FOR NEW REGULATIONS REGARDING SOIL
EROSION AND SEDIMENTATION CONTROL; TO PRESCRIBE PENALTIES AND
ENFORCEMENT PROCEDURES; TO REPEAL CONFLICTING LAWS;
AND FOR OTHER PURPOSES.**

IT IS HEREBY ORDAINED by the Governing Authority of the City of Morrow, Georgia:

Section 1. That Title 8, Chapter 3, of the Code of Ordinances of the City of Morrow, as amended, is further amended by deleting the language of that chapter in its entirety and inserting the following in lieu thereof:

Sec. 8-3-1 Title.

This chapter will be known as the Soil Erosion, Sedimentation and Pollution Control Ordinance of the City of Morrow.

Sec. 8-3-2 Definitions.

The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

- (1) *Best management practices (BMPs)*: These include 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.
- (2) *Board*: The Board of Natural Resources.
- (3) *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.
- (4) *Certified personnel*: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
- (5) *Commission*: The Georgia Soil and Water Conservation Commission (GSWCC).
- (6) *CPESC*: 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.

(7) *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 the excavated surface. Also known as excavation.

(8) *Department*: The Georgia Department of Natural Resources (DNR).

(9) *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.

(10) *Director*: The Director of the Environmental Protection Division or an authorized representative.

(11) *District*: The Clayton County Soil and Water Conservation District.

(12) *Division*: The Environmental Protection Division (EPD) of the Department of Natural Resources.

(13) *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.

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

(15) *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 in section IV.C. of this ordinance.

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

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

(18) *Finished grade*: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

(19) 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.

(20) Ground elevation: The original elevation of the ground surface prior to cutting or filling.

(21) Land-disturbing activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section III, Paragraph 5.

(22) 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 the purposes of this paragraph, "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.

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

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

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

(26) 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 colloiddally dispersed or suspended particles are present.

(27) NOI: A Notice of Intent form provided by EPD for coverage under the State General Permit.

(28) NOT: A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.

(29) Operator: The party or parties that have: (i) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (ii) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control 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 erosion, sedimentation and pollution control plan or to comply with other permit conditions.

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

(31) Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

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

(33) 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.

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

(35) Properly designed: Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation 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 NOI submittal.

(36) 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 roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

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

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

(39) Soil and water conservation district approved plan: An erosion, sedimentation and pollution control plan approved in writing by the Clayton County Soil and Water Conservation District.

(40) 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.

(41) State general permit: The National Pollution Discharge Elimination System (NPDES) 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 subsection (f) of Code Section 12-5-30.

(42) 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 Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

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

(44) Trout streams: All streams or portions of streams within the watershed as designated by the Wildlife Resources 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, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at 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.

(45) Vegetative erosion and sedimentation control measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
- b. Temporary seeding, producing short-term vegetative cover; or
- c. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

(46) 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.

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

Sec. 8-3-3 Exemptions.

This Chapter shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;

- (4) The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone 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 buffer zone, no land-disturbing activity shall be constructed 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 buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the 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 buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;
- (5) Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (6) 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 buffer, as established in paragraphs (15) and (16) of Section 8-3-4(c) of this chapter, 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 (3) years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
- (8) Any project involving less than one (1) 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 (1) acre or within 200 feet of the bank of any state waters, and 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; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, 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 Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;

(9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and 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 the Department of Transportation or the State Road and 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 a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall 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;

(10) 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 an 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 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 the Local Issuing Authority shall 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; and

(11) Any public water system reservoir.

Sec. 8-3-4 Minimum requirements for erosion, sedimentation and pollution control using best management practices.

(a) *General Provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of this chapter and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this chapter shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of subsections (b) and (c) of this chapter. 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 chapter and the NPDES General Permit.

(b) *Minimum requirements/BMPs.*

(1) Best management practices as set forth in subsections (b) and (c) of this chapter 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 paragraph (2) of this subsection or any

substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection 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 subsection (b).

(2) A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", 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 waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.

(3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of Georgia Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

(4) 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.

(5) The LIA may set more stringent buffer requirements than stated in subsection (c)(15) and (16) in light of O.C.G.A., § 12-7-6(c).

(c) 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:

- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
- (2) Cut-fill operations must be kept to a minimum;

- (3) Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (6) Disturbed soil shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (9) 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 paragraph, 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.;
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- (11) Cuts and fills may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) 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;
- (14) 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 beyond the levels specified in subsection (b)(2) of this chapter;
- (15) Except as provided in paragraph (16) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, 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 specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow,

Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", 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:

- a. 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
 - b. The buffer 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: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
- (16) 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 12, 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:
- a. 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

- b. The buffer 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: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

(d) Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in subsections (b) and (c) of this chapter.

(e) 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 chapter or the terms of the permit.

Sec. 5 Application/permit process.

(a) *Generally.* The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.

(b) *Application requirements.*

- (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City without first obtaining a permit from the Local Issuing Authority to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
- (2) The application for a permit shall be submitted to the Local Issuing Authority and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section 8-3-5(c) of this chapter. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section 8-3-4(b) and (c) B. & C. of this chapter will be met. Applications for a permit will not be accepted unless accompanied by five 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) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) 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 of 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 Local Issuing Authority shall refer 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 a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 8-3-4(c) (15) and (16) has been obtained, all fees have been paid, and bonding, if required as per Section 8-3-5(b).(6) have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the revised Plan submittal.
- (5) If a permit applicant has had two or more violations of previous permits, this chapter, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
- (6) The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

(c) *Plan requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in Section 8-3-4(b) and (c), 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 chapter. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and

storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, 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.

- (2) Data Required for Site 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.

(d)

Permits

- (1) Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing 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 Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this chapter, any variances required by Sections 8-3-4(c)(15) and (16) are obtained, bonding requirements, if necessary, as per Section 8-3-5(b)(6) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this chapter 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.
- (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (5) The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this chapter. 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.
- (6) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).
- (7)

Sec. 8-3-6 Inspection and enforcement.

(a) The Local Issuing 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. Also, the Local Issuing Authority shall regulate 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 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 chapter, 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 chapter.

(b) The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.

(c) The Local Issuing Authority shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this chapter, 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.

(d) No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or 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.

(e) The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality'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.

(f) The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

Sec. 8-3-7 Penalties and incentives.

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

If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.

(b) Stop-work orders.

- (1) For the first and second violations of the provisions of this chapter, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing 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 Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
- (2) For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
- (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
- (4) 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 Local Issuing Authority or by the Director or his or 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 Local Issuing Authority or by the Director or his or 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 sediment controls.

(c) Bond for 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 chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 8-3-5(b)(6). The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) Monetary penalties. Any person who violates any provisions of this chapter or any permit condition or limitation established pursuant to this chapter, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this chapter

shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this section, notwithstanding any provisions in the City charter to the contrary, the municipal court is authorized to impose penalty 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.

Sec. 8-3-8 Education and certification.

(a) 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.

(b) 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-disturbance 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.

(c) 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 chapter.

(d) 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 educational requirements that exceed those specified in said paragraph.

Sec. 8-3-9 Administrative appeal; judicial review.

(a) Administrative remedies. The suspension, revocation, modification or grant with condition of a permit by the Local Issuing 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 in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Municipal Court Judge within 30 days after receipt by the Local Issuing Authority of written notice of appeal.

(b) Judicial review. Any person, aggrieved by a decision or order of the Municipal Court shall have the right to review by Certiorari to the Superior Court of Clayton County.

Section 2. This ordinance shall become effective on the date of adoption.

Section 3. If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.

Section 4. Limitation of liability.

(a) Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.

(b) 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 ordinance or the terms of the permit.

(c) No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

So ordained this ____ day of _____, 2010.

Jm Millirons, Mayor, City of Morrow

ATTEST:

Evyonne Browning, City Clerk
(Seal)

APPROVED AS TO FORM:

Laurel Henderson, City Attorney

**A RESOLUTION TO ESTABLISH A POLICY REGARDING A REDUCED
RATE STRUCTURE FOR THE USE OF THE MORROW CENTER
FACILITY LOCATED IN THE CITY OF MORROW IN LIMITED
CIRCUMSTANCES FOR PROMOTIONAL PURPOSES**

WHEREAS, the City of Morrow creates this policy to address a reduced rate structure for the use of the Morrow Center facility in limited circumstances for promotional purposes; and

WHEREAS, the reduced rate structure sets in place a policy that ensures coverage of all out of pocket expenses including utilities, staff time, normal wear and tear, cost of equipment, etc.; and

WHEREAS, this policy may be amended via resolution by the City Council at a regular or special called meeting by adoption of any appropriate amendment by resolution; and

WHEREAS, the procedure will be administered by the City Manager through the Morrow Center Manager;

BE IT HEREBY RESOLVED That the parameters for the reduced rate structure for promotional purposes are as follows:

Section 1. Users must comply with all rules, regulations, and policies of the Morrow Center.

Section 2. The use of the Morrow Center at a reduced rate is limited to twelve (12) events per fiscal year, per entity.

Section 3. Reduced rate events require a minimum group size of one hundred fifty (150) people and use of the main ballroom only. These groups are to include political forums only and not individual political parties. No other areas are included in this policy.

Section 4. Reduced rate events will only be scheduled during off peak times as designated by the Morrow Center manager (exclusions are for Saturday p.m., Holidays/Special Seasons, i.e. Christmas, Thanksgiving, New Years Eve, etc.). Reduced rates only apply to normal rental hours (8:00 am to 4:00 pm or 5:00 pm to 12 midnight).

Section 5. Reduced rate events must, at a minimum, cover all expenses incurred by the Morrow Center to include staff time, utilities, cost of equipment, clean up fees, etc.

Section 6. Reduced rate covers only those items normally supplied by the Morrow Center.

Section 7. The Morrow Center will be awarded top sponsorship level for all marketing of the event designated as a reduced rate event.

Section 8. No other discounts may be applied.

SO RESOLVED this 14th day of September, 2010.

Jim Millirons, Mayor

ATTEST:

Evyonne Browning, City Clerk
(Seal)