COUNTY DEPARTMENT AGENDA REQUEST

Department:	Stormwater Management	Presenter(s):	Vanessa Birrell/Bryan Keller
Meeting Date:	Wednesday, May 5, 2010	Type of Request:	New Business

Wording for the Agenda:

Consideration of revisions to the Fayette County Code, Article IX. Soil Erosion and Sedimentation Control Ordinance of the Fayette County Development Regulations as required by the Georgia Environmental Protection Division and Georgia Soil and Water Conservation Commission.

Background/History/Details:

In 1992 the Fayette County Board of Commissioners and the Towaliga Soil and Water Conservation District entered into a Memorandum of Agreement for Fayette County to conduct technical review, approval and enforcement of erosion and sediment control plans in accordance with state standards required by the Erosion and Sedimentation Act of 1975, O.C.G.A. 12-7-1 et seq., as amended.

Proposed revisions to the Article IX reflect updates from the state model ordinance that incorporate changes made in 2008 to the state land disturbance permit. Noted changes to the ordinance include language clarifying exemptions to waters requiring state buffers, certification requirements and addition to definitions. Other housekeeping revisions include grammatical corrections to state-mandated language and changing Engineering Department references to Stormwater Management Department.

What action are you seeking from the Board of Commissioners?

Approval to place the revised Erosion, Sediment and Pollution Control Ordinance on the May 27th Board of Commissioners consent agenda for adoption effective July 1, 2010.

If this item requires funding, please describe:

None at this time. If this revision is approved by the Board at the May 27th meeting funding will be required for codification.

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Yes	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

Georgia Department of Natural Resources

Environmental Protection Division, Watershed Protection Branch
4220 International Parkway, Suite 101, Atlanta, Georgia 30354
Linda MacGregor, P.E., Branch Chief
404/675-6232

Reply To:
NonPoint Source Program
404/675-6240
FAX: 404/675-6245

September 16, 2009

Honorable Jack Smith, Chairman
Fayette County
140 Stonewall Avenue West
Fayetteville, GA 30214

RE: Continuing Certification of a Local Issuing Authority pursuant to the Georgia Erosion and Sedimentation Act of 1975, as amended (O.C.G.A. § 12-7-1, et seq.)

Dear Chairman Smith:

As per the Georgia Erosion and Sedimentation Act (O.C.G.A. § 12-7-8(a)(2)), Local Issuing Authorities must amend their ordinances within 12 months of any amendment to the Act. Therefore, the deadline for Local Issuing Authorities to amend their local erosion and sedimentation ordinances to reflect the 2009 and earlier amendments to the Georgia Erosion and Sedimentation Act is ***July 1, 2010***.

The Georgia Environmental Protection Division (EPD) and the Georgia Soil and Water Conservation Commission (GSWCC) believe that it is in the best interest of local governments to retain their Local Issuing Authority status. A model erosion and sedimentation ordinance is available on the GSWCC website at http://gaswcc.georgia.gov to assist Local Issuing Authorities in revising their ordinances. Continuing the certification of a Local Issuing Authority is conditioned upon the implementation and utilization of an ordinance that meets or exceeds the standards, requirements and provisions of the Act.

We suggest that you address this matter at your earliest convenience. Should you have any questions, please contact Frank Carubba of my staff at (404) 675-1634.

Sincerely,

Lawrence W. Hedges

Lawrence W. Hedges
Program Manager
NonPoint Source Program

LWH/fmc

GEORGIA SOIL AND WATER CONSERVATION COMMISSION

624 South MiJJedge Avenue, Suite 203
P.O. Box 8024
Athens. Georg ia 30603
Telephone (706) 542-3065
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J.M. "Bob- PLEMONS
Ringgold, Georgia

JIMMY S. JOHNSON
Jefferson, Georgia

ROY J. CHAPPELL
Dudley, Georgia

F. GRAHAM LILES. JR.
Executive Director

A B.C "Brad" DORMIN Y. JR
Fitzgerald, Georgia

GAf1LANO THOMPSON
Douglas, Georgia

July 28, 1992

Honorable George Patton
Chairman
Fayette County Board of Commissioners
140 Stonewall Avenue, West
Fayetteville, GA 30214

Dear Chairman Patton:

Enclosed for your files is a signed memorandum of agreement between the Towaliga Soil and Water Conservation District and Fayette County. You will note that the State Soil and Water Conservation Commission has given concurrence for this type of memorandum on July 12, 1992.

You are to be commended for this type of memorandum and the State Soil and Water Conservation Commission wishes you continued success with your erosion and sediment control program.

.If the Conservation Commission's staff can be of assistance to you, please do not hesitate to call.

Sincere1y,

F. Graham Liles, Jr.
Executive Director

FGLjr:kp

Enclosure

cc: Rex Yerkes
Stephen Martin
David Bennett

c. .j"

MEMORANDUM OF AGREEMENT

BETWEEN

TOWALIGA SOIL AND WATER CONSERVATION DISTRICT

AND

THE COUNTY OF FAYETTE

This Memorandum of Agreement entered into between the Towaliga Soil and Water Conservation District, hereinafter referred to as the "Distrlct" and the County of Fayette, hereinafter referred to as the "County'";

WHEREAS, the County has adopted an erosion and sedimentation contr-ol ordinance governing land-disturbing activities, which ordinance meets or exceeds the standards, requirements and provisions of the Erosion and Sedimentation Act of 1975, O.C.G.A. 12-7-1 et seq., as amended.

WHEREAS, the County has been certified by the Director of the Environmental Protection Division as an issuing authority for purposes of the Erosion and Sedimentation Act of 1975, as amended; and

WHEREAS, the County has demonstrated to the District its capabilities to review and approve erosion and sediment control plans and has requested an agreement with the District to conduct such review and approval; and

WHEREAS, the District enters into this Agreement with the intent of allowing the County to conduct the review and approval of erosion and sediment control plans without referring the applications and plans to the District, in compliance with section 7{b) of the Erosion and Sedimentation Act of 1975, as amended; and

WHEREAS, both parties to this Agreement, the District and the County, understand that this Agreement cannot be effective until the State Soil and Water Conservation Commission gives its written concurrence hereto, as indicated by execution of this document;

NOW THEREFORE, the parties to this Agreement, the District and the County, based on the mutual considerations as set forth below, hereby agree as follows:

I. 1. The County shall conduct technical review and approval of erosion and sediment control plans in accordance with standards set forth in the ordinance of the County.

2. The County shall submit to the District on a quarterly basis a report of the erosion and sediment control proqrarn. Such report shall contain the number of plans reviewed and the overall program status.

3. The County shall keep the District informed of land-disturbing plans that might affect soil and water conservation.

4. The County shall maintain a system of records, plans, applications, etc. of all actions taken under this Agreement, and shall make such records available to the District of its representative upon request.

II. 1. The District will allow the County to conduct the review and approval of erosion and sediment control plans without the necessity of referring the application and plan to the District, so long as the County complies with the conditions specified in this Agreement.

2. The District will periodically review and carefully consider the reports submitted by the County and shall make recommendations with regard to the adequacy of the program and its compliance with the Erosion and Sedimentation Act of 1975, as amended.

3. The District shall provide the County with expertise available through the District and through memoranda of agreement between the District and other agencies.

4. The District assures that erosion and sediment control assistance shall continue to be a priority item of the District program.

5. The District shall, upon request, provide or conduct informational and educational programs to train individuals charged with review of erosion and sediment control plans, manpower and funding perrnlttlnq.

6. The District shall provide to the County an annual evaluation of the effectiveness of its erosion and sediment control program.

Ill. It is mutually understood and agreed as follows:

1. This memorandum shall not be amended without consent of both parties and concurrence of the State Soil and Water Conservation Commission.

2. The County's files or erosion and sediment control plans and actions shall' remain accessible to the District.

3. The District may secure additional review services before making recommendations on the adequacy of the program of the County.

4. This memorandum may be terminated at any time by either party, upon sixty (60) days written notice. It will terminate automatica rly and without written notice if the Environmental Protection Division revokes the certification of the County program pursuant to section 12(b) of the Erosion and Sedimentation Act of 1975, as amended.

5. This memorandum shall be effective on the date of the concurrence herewith by the State Soil and Water Conservation Commission.

Sworn to and subscribed before me this 3 day of June, 1992

Mary R. Walker
Notary Public

My commission expires: Notary Public, Clayton County, Georgia My Commission Expires Sept. 9, 1995

County of Fayette

By: George Patton

Title: Chairman

Sworn to and subscribed before me this 3rd day of June, 1992.

Linda Rizzotto
Notary Public

My commission expires: Notary Public, Fayette County, Georgia My Commission Expires June 20, 1993

Towaliga Soil and Water Conservation District

By: Ralph Yerton

Title: Chairman

This memorandum is hereby concurred in by the State Soil and Water Conservation Commission this 12th day of July, 1992.

Sworn to and subscribed before me this 12th day of July, 1992.

Kristin E. Jensen
Notary Public

My commission expires: Notary Public, Clarke County, Georgia My Commission Expires June 10, 1996

State Soil & Water Conservation Commission

By: F. Graham Lee

Title: Executive Director

ARTICLE IX. SOIL EROSION, SEDIMENTATION *AND POLLUTION* CONTROL ORDINANCE

DIVISION 1. GENERALLY

Sec. 8-241. Title. This ordinance will be known as the "Fayette County Soil Erosion, ~~and~~ Sedimentation ***and Pollution*** Control Ordinance."

DIVISION 2. DEFINITIONS

Sec. 8-242. Definitions; Interpretations. The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated.

~~Applicant: Party submitting request and site plan for the purpose of obtaining a land disturbance permit.~~

Best Management Practices (BMPs): ~~A collection of structural measures and vegetative practices which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means 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. Section 12-7-6 subsection (b).~~***Sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, that are consistent with, and no less stringent than, those practices contained in the 'Manual for Erosion and Sediment Control in Georgia' (Manual.)***

Board: The Board of Natural Resources.

Buffer: ~~The~~ ***An*** 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 Georgia Soil and Water Conservation Commission.

Commission: The State Soil and Water Conservation Commission ***(GSWCC.)***

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, that is also referred to as CPESC or CPESC, Inc.

Cut: A portion of land surface or area ~~from~~ ~~which~~ where earth has been removed or will be removed by excavation; the depth below original ground surface to ***the*** excavate***d*** surface. Also known as ***an*** excavation.

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

ARTICLE IX. SOIL EROSION, SEDIMENTATION *AND POLLUTION* CONTROL ORDINANCE

Design Professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or is a CPESC.

Director: The Director of the Environmental Protection Division ~~of the Department of Natural Resources.~~ ***or an authorized representative.***

District: The Towaliga Soil and Water Conservation District.

Division: The Environmental Protection Division ***(EPD)*** 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 than conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

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

Erosion ~~and~~ Sediment***ation and Pollution*** Control Plan: A plan ~~for the control of soil erosion and sedimentation resulting from a land-disturbing activity.~~ ***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, BMPs, and requirements in Division 4.C. of this ordinance. Also known as the "Plan". The Plan must be prepared to meet the minimum requirements as contained in Division 4, Section 8-246 and 8-247 of this ordinance, or through the use of more stringent alternate design criteria that conform to sound conservation and engineering practices.***

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

Final Stabilization: The point where all soil disturbing activities at the site have been completed, and (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.

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.

Land-Disturbing Activity: Any activity ~~which~~ ***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 agricultural practices as described in **Section 8-243, Paragraph 5.**

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.

Local Issuing Authority: The governing authority of any county or municipality which is certified pursuant to subsection (a) of O.C.G.A. Section 12-7-8. The Fayette County ~~Engineering~~ ***Stormwater Management*** Department is the Local Issuing Authority for unincorporated Fayette County.

Manual: 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 Notice of Intent (NOI) submittal. The 'Manual for Erosion and Sediment Control in Georgia' is hereby incorporated by reference into this ordinance.

Metropolitan River Protection Act ~~(MRPA)~~: A state law referenced as O.C.G.A. Section 12-5-440 et seq., ~~which~~ ***that*** 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 where colloidally-dispersed particles are present.

NOI: A Notice of Intent form provided by EPD for coverage under the state general permit.

NOT: A Notice of Termination form provided by EPD to terminate coverage under the state general permit.

~~One Hundred Year Flood Plain: Land subject to a one percent or greater statistical occurrence probability of flooding in any given year.~~

Operator: A party***(ies)*** ~~or parties that~~ have***ing***:

(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 stormwater pollution prevention~~ ***the P***lan 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 ~~a stormwater pollution prevention~~ ***P***lan or to comply with other permit conditions.

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

Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance, ***known as a "Land-Disturbance Permit".***

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.

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

~~Qualified Personnel: Any person who meets or exceeds the education and training requirements of O.C.G.A. Section 12-7-19.~~

ARTICLE IX. SOIL EROSION, SEDIMENTATION *AND POLLUTION* CONTROL ORDINANCE

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.

Properly Designed: Designed in accordance with the design requirements and specifications contained in the Manual

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~~ ***either*** organic and inorganic, that is ~~in~~ suspension, is being transported, ***and/***or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

Sedimentation: The process where eroded material is transported with and deposited by water, wind, ice or gravity.

Soil and Water Conservation District Approved Plan: An erosion, ~~and~~ sedimentation, ***and pollution*** plan approved in writing by the Towaliga Soil and Water Conservation District. As of July 12, 1992, a Memorandum of Agreement between the District, Fayette County, and the State Soil and Water Conservation Commission permits ~~the~~ ***Fayette*** County to review and approve erosion, ~~and~~ sediment***ation, and pollution control plans.***

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

State General Permit: The National Pollution Discharge Elimination System (NPDES) general permit or permits for stormwater 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 O.C.G.A. Section 12-5-30.

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 ***that*** ~~which~~ are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural Erosion and Sediment 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 rip-rap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps, land grading, etc. Such practices can be found in the ~~publication~~ Manual ~~for Erosion and Sediment Control in Georgia.~~

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

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

Such practices can be found in the ~~publication~~ ***the*** 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~~ ***where*** water flows either continuously or intermittently and ~~which has~~ ***having*** a definite channel, bed and banks, and including any area adjacent ~~thereto~~ subject to inundation by reason of overflow or floodwater.

Wetlands: ~~Those~~ ***A***~~a~~reas 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.

DIVISION 3. EXEMPTIONS

Sec. 8-243. Exemptions. This ordinance shall apply to any land-disturbing activity undertaken by any person on any land within ~~the~~ unincorporated ***Fayette*** County except for the following:

1) Surface mining, as the same is defined in O.C.G.A. Section 12-4-72 “Mineral Resources and Caves Act”;

2) Granite quarrying and land clearing for such quarrying;

3) ~~Such~~ ***M***~~m~~inor land-disturbing activities ***such*** as home garden***ing***, ~~and~~ individual home landscaping, repairs, maintenance work, fence~~s~~ ***installation***, and other related activities ~~which~~ result***ing*** in minor soil erosion;

4) The construction of single-family residences, when such construction disturbs less than one 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 acre and not exempted under this paragraph. ~~provided, however, that~~ ***C***~~c~~onstruction of any such residence shall conform to the minimum requirements as set forth in Division 4 of this ordinance and this paragraph. ***For a single-family residence construction covered by 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 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 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. Section 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 includ~~ing~~***es*** but ***is*** not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chicken, hens and turkey; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products-and 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 activities otherwise prohibited in a buffer, as established in paragraph ***(15)*** of Section 8-247 of this ordinance. No other land-disturbing activities, except for normal forestry management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after the completion of such forestry practices;

7) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

8) 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. ~~and f~~***F***or purposes of this paragraph, "state waters" excludes channels and drainage ways ~~which~~ have***ing*** water in them only during and immediately after rainfall events and intermittent streams ~~which~~ ***that*** do not have water in them year round; provided, ~~however,~~ that any person responsible for a project ~~which~~ involve~~s~~***ing*** less than one acre, ~~which involves~~ ***of*** land-disturbing activity, and ~~which~~ ***that*** is within 200 feet of ~~on~~ 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~~, or 11~~ of this Division 3;

9) Construction ***and/***or maintenance projects~~, or both,~~ undertaken or financed in whole ***and/***or in part~~, or both,~~ by the Department of Transportation, the Georgia Highway Authority, or the State ***Road and*** Tollway Authority; ***and***/or any road construction or maintenance project, ~~or both~~, undertaken by ~~any county or municipality~~ Fayette County; provided, ~~however,~~ that construction or maintenance projects of the Department of Transportation or State ***Road and*** Tollway Authority ~~which~~ ***that*** disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. Section 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. Section 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~~ any previous referenced entities 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 v~~***V***iolations shall be subject to the same penalties as violations by permit holders; and

11) Any public water system reservoir.

Sec. 8-244. Reserved

DIVISION 4. MINIMUM REQUIREMENTS FOR EROSION, ~~AND~~ SEDIMENTATION *AND POLLUTION* CONTROL USING BEST MANAGEMENT PRACTICES

Sec. 8-245. General Provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities ***if requirements of the ordinance and the NPDES General Permit are not met.*** Therefore, plans for those land-disturbing activities ~~which are~~ not exempted by this ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. ~~The~~ ~~p~~***P***rovisions shall be incorporated into the Erosion ~~and~~ Sedimentation ***and Pollution*** Control Plans. Soil erosion ~~and~~ sedimentation ***and pollution*** control measures and practices shall conform to the minimum requirements of Division 4, Sections 8-246 and 8-247 of this ordinance. ~~The a~~***A***pplication 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, ~~and~~ sedimentation ***and*** pollution during all stages of any land-disturbing activit***ies***~~y~~ in ***accordance with requirements of this ordinance and the NPDES General Permit.***

Sec. 8-246. Minimum Requirements/BMP's.

(a) Best Management Practices as set forth in Division 4, Sections 8-246 and 8-247 of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of ~~Best Management Practices~~ ***BMPs*** shall constitute a complete defense to any action by the Director/Local Issuing Authority or to any other allegation of noncompliance with Paragraph (b) 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. ~~Section~~ 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. Section 12-7-6 subsection (b).

(b) A discharge of stormwater runoff from disturbed areas where ~~Best Management Practices~~ ***BMPs*** 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. ~~Section~~ 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 25 nephelometric turbidity units for waters supporting warm water fisheries. 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.

(c) Failure to properly design, install, or maintain ~~Best Management Practices~~ ***BMPs*** 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 O.C.G.A. ~~Section~~ 12-5-30, the "Georgia Water Quality Control Act", 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.

Sec. 8-247. ~~The r~~***R***ules, ~~and~~ regulations, ordinances, and/or resolutions adopted pursuant to this ordinance 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~~ ***BMPs***, 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. ~~Section~~ 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 surfaces 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 and sedimentation control~~ ***Erosion, Sedimentation, and Pollution Control Plans*** shall include provisions for treatment or control of any source of sediments and ***for*** adequate sedimentation control facilities to retain sediments onsite or preclude sedimentation of adjacent waters beyond the levels specified in Division 4, Section 8-246 (b) of this ordinance;

~~(15) Land-disturbing activities shall not be conducted within the 100-year flood plain unless compliance with the Fayette County Flood Plain Regulations is demonstrated.~~

(15) ~~Land-disturbing activities shall not be conducted within~~ (15) ***There is an established*** 25 ~~feet~~ ***foot*** buffer ~~of~~ ***along*** the banks of any state waters, ~~as~~ measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except:

(a) 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. ~~Section~~ 12-2-8;

(b) ~~or~~ 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; and***

(c) along any ephemeral stream. As used in this ordinance, 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 groundwater table year round; where groundwater is not a source of the ephemeral stream; and where runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream~~, and are implemented; provided, however, that~~ buffers of at least 25 feet established pursuant to Part 6 of Article 5, Chapter 5 of Title 12, of the Official Code of Georgia Annotated, 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.

(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; caus~~ing~~***e*** 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 ~~as~~:

(i) stream crossings for water lines; or
(ii) stream crossings for sewer lines.

~~(17) Brush Barriers are not acceptable for use as a sediment barrier for any land-disturbing activity other than for a timbering operation.~~

Sec. 8-248. Nothing contained in this ordinance shall supersede the buffer requirements specified in the Fayette County Watershed Protection Ordinance.

Sec. 8-249. ~~The fact that~~ ***Any*** 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.

ARTICLE IX. SOIL EROSION, SEDIMENTATION *AND POLLUTION* CONTROL ORDINANCE
DIVISION 5. APPLICATION/PERMIT PROCESS

Sec. 8-250. General. The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of Fayette County that affect the tract to be developed and the area surrounding it. They shall review all ***development*** ordinances that regulate ~~the development of~~ land within unincorporated Fayette County. However, the ***owner and/or*** operator ~~is~~ are the only party that can obtain a permit.

Sec. 8-251. Application Requirements.

(a) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of unincorporated Fayette County without first obtaining a ~~Land Disturbance~~ Permit from the Fayette County ~~Engineering~~ ***Stormwater Management*** Department to perform such activity.

(b) The application for a permit shall be submitted to the ~~Engineering~~ ***Stormwater Management*** Department and must include the applicant's Erosion ~~and~~ Sedimentation ***and Pollution*** Control Plan with supporting data, as necessary. Said Plans shall include, as a minimum, the data specified in Division 5, Sections 8-251 and 8-252 of this ordinance. **The** ~~Erosion and Sedimentation Control~~ Plans shall conform to the provisions of Division 4, Sections 8-246 and 8-247 of this ordinance. Applications for a permit will not be accepted unless accompanied by two (2) copies of the applicant's soil **The** ~~Erosion and Sedimentation 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 or that such a visit was not required in accordance with rules and regulations established by the Board.

(c) A fee shall be charged for each application as determined by the Board of Commissioners of Fayette County for the disturbed ~~project~~ area.

(d) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. ~~Section~~ 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~~ ~~p~~***P***ermit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. ~~Section~~ 12-7-8 half of such fees levied shall be submitted to the division; except ~~that any and all~~ ***for*** fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. ~~Section~~ 12-7-17 shall be submitted in full to the Division, regardless of ~~the existence of~~ ***Fayette County being*** a Local Issuing Authority ~~in the jurisdiction~~.

(e) Upon receipt of a~~n~~ permit application and plan ~~for a permit~~, the ~~Engineering~~ ***Stormwater Management*** Department shall review the plan ~~and~~ within ~~fourteen~~ 14 calendar days ~~either~~ ***and*** approve or disapprove it concerning the adequacy of the ~~Erosion and Sedimentation Control~~ Plan. No permit will be issued unless the plan has been approved by the ~~Engineering~~ ***Stormwater Management*** Department, and any variances required by Division 4, Section 8-247 (15), and bonding, if required as per Division 5, Section 8-251 (e)(2), have been obtained.

(1) When reviewing any application for a land-disturbing activity permit, the ~~Engineering~~ ***Stormwater Management*** Department shall consider the past record of the permit applicant in complying with previous land-disturbing activity permits and this ordinance. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the ~~Engineering~~ ***Stormwater Management*** Department may deny the application, ***pursuant to O.C.G.A. 12-7-7 (f)(1).***.

(2) The ~~Engineering~~ ***Stormwater Management*** Department 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 a fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this ordinance or with the conditions of the permit after issuance, the ~~Engineering~~ ***Stormwater Management*** Department 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 a hearing and judicial review of any determination or order of the ~~Engineering~~ ***Stormwater Management*** Department with respect to alleged permit violations.

ARTICLE IX. SOIL EROSION, SEDIMENTATION *AND POLLUTION* CONTROL ORDINANCE

Sec. 8-252. Plan Requirements.

(a) Plans must be prepared to meet the minimum requirements as contained in Division 4, Section 8-246 and 8-247 of this ordinance, ~~Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control In Georgia, published by the State Soil and Water Conservation Commission as a guide;~~ or through the use of more stringent alternate design criteria ~~which~~ conform***ing*** to sound conservation and engineering practices. ~~The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this ordinance.~~

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 stormwater 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.***

~~(b) Data Required for Site Plan:~~

~~(1) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.~~

~~(2) Description of existing land use at project site and description of proposed project.~~

~~(3) Name, address, and phone number of property owner and party responsible for preparing the plan.~~

~~(4) Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls.~~

~~(5) Size of project, or phase under construction, in acres.~~

~~(6) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion~~

~~and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."~~

~~(7) Stormwater and sedimentation management systems storage capacity, hydrologic study, and calculations, including off-site drainage areas.~~

~~(8) Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.~~

~~(9) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.~~

~~(10) Maintenance statement – "Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."~~

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.

~~(c) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all 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 as developed by the Commission pursuant to O.C.G.A. Section 12-7-20. The certified plans shall contain:~~

~~(1) Graphic scale and north pointer arrow indicating magnetic north.~~

~~(2) Vicinity maps showing location of project and existing streets.~~

~~(3) Boundary line survey.~~

~~(4) Delineation of disturbed areas within project boundary.~~

~~(5) Existing and planned contours with an interval, in accordance with the following:~~

~~Map Scale~~	~~Ground Slope~~	~~Contour Interval (ft)~~

~~1 inch = 100 ft.~~	~~Flat 0 - 2%~~	~~0.5 or 1~~
~~or larger scale~~	~~Rolling 2-8%~~	~~1 or 2~~
	~~Steep 8% +~~	~~2, 5, or 10~~

~~(6) Adjacent areas and feature areas such as streams, lakes, residential areas, etc. which might be affected shall be indicated on the plan.~~

~~(7) Proposed structures or additions to existing structures and paved areas.~~

~~(8) Delineate the 100-year flood plain(reference the data used in determination).~~

~~(9) Delineate the 25-foot undisturbed horizontal buffer adjacent to state waters and the specified width in MRPA areas.~~

~~(10) Location of erosion and sedimentation control measures and practices using code symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6.~~

~~(11) Delineate the buffer and setback requirements of Fayette County's Watershed Protection Ordinance.~~

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

Sec. 8-253. Permits.

(a) Permits shall be issued or denied as soon as practicable but ~~in any event~~ no~~t~~ later than ~~fifteen~~ 15 days after receipt by the ~~Engineering~~ ***Stormwater Management*** Department of a completed application, provided ***all state and federal permits/***variances and ***local*** bonding are obtained, ***as applicable*** ~~where necessary~~.

(b) ~~No~~ Permit***s*** shall ***not*** be issued by the ~~Engineering~~ ***Stormwater Management*** Department unless the ~~erosion and sedimentation control~~ Plan has been approved by ~~the District and~~ the ~~Engineering~~ ***Stormwater Management*** Department and ***the Stormwater Management Department*** ~~has affirmatively determined that the Plan is in compliance with this ordinance~~, any variances required by Division 4 Section 8-247 ***(15)*** are obtained, bonding requirements, if necessary, as per Division 5, Section 8-251 (e)(2) are met and all ordinances, ~~and~~ rules and regulations in effect within the jurisdictional boundaries of Fayette County are met.

If the Permit is denied, the reason for denial shall be furnished to the applicant.

(c) Any land-disturbing activities by a Local Issuing Authority shall be subject to the same requirements of this ordinance.

(d) If the tract is to be developed in phases, then a separate Permit shall be required for each phase. If a decision is made to plat the subdivision in phases after the ~~Land Disturbance~~ Permit has been issued, and the rights-of-way have been cleared, the cleared areas outside of the phase to be constructed must be mulched and grassed. A new ~~Land Disturbance~~ Permit must be issued before work can begin in any subsequent phase, ***though the work may be continued under the initial NOI if a NOT has not be filed with the state.***

(e) The Permit may be suspended, revoked, or modified by the ~~Engineering~~ ***Stormwater Management*** Department, as to all or any portion of the land affected by the Plan, upon finding that the holder or his or her successor in the title is not in compliance with the approved ~~erosion and sedimentation control~~ Plan or that the holder or his or her successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him or her as to all or any portion of the land affected by the approved Plan of the conditions contained in the permit.

(f) ~~No land disturbance~~***A*** permit shall ***not*** be issued for any lot in a subdivision with a minimum lot size less than ***two*** (2.0) acres unless it is issued in conjunction with a building permit.

(g) If the work has not begun within ninety (90) calendar days of the issuance of a ~~Land Disturbance~~ Permit, then the Permit shall expire. The ~~Land Disturbance~~ Permit will expire if the project is not completed and approved within ~~18~~ ***24*** months of the issuance of the Permit. If project is a phased project, as indicated on the approved site plan or preliminary plat, then each phase of the project has an ~~18~~ ***24***-months time limit. When a ~~Land Disturbance~~ Permit expires, the developer will have to apply for a new ~~one~~ ***Permit***, ***however, once a new Permit is issued, work may continue under the initial NOI if a NOT has not be filed with the state.***

(h) The ~~Land Disturbance~~ Permit must be posted at the ***site*** entrance ~~to the site~~ in a place where it can easily be seen.

ARTICLE IX. SOIL EROSION, SEDIMENTATION *AND POLLUTION* CONTROL ORDINANCE

DIVISION 6. INSPECTION AND ENFORCEMENT

Sec. 8-254. The ~~Engineering~~ ***Stormwater Management*** Department will periodically inspect the sites of land-disturbing activities ~~for which~~ where permits have been issued to determine if the activities are being conducted in accordance with the ***approved*** Plan and if the measures required in the Plan are effective in controlling erosion and sedimentation. Also, the ~~Engineering~~ ***Stormwater Management*** Department shall regulate ~~both~~ primary ~~and~~ 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~~ ***BMPs*** where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of B~~est~~ M~~anagement~~ P~~ractices~~ 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 ordinance, 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~~ ***that*** such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he or she shall be deemed in violation of this ordinance.

Sec 8-255. 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.

Sec. 8-25~~5~~6. The ~~Engineering~~ ***Stormwater Management*** Department shall have the power to conduct such investigations as ~~may be reasonably~~ deemed necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter, at reasonable times, ~~upon~~ any property, public or private, for the purpose of investigati~~on~~***ng*** and inspecting the sites of land-disturbing activities.

Sec 8-256. 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 purpose 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 or her official duties.

Sec. 8-257. The District ***and/***or the Commission ~~or both~~ shall periodically review the actions of the Local Issuing Authority pursuant to O.C.G.A. ~~Section~~ 12-7-8 (a). The District and/or the Commission ~~or both~~ may provide technical assistance to Fayette County for the purpose of improving the effectiveness of the county's Erosion, ~~and~~ Sedimentation ***and Pollution*** Control

Program. The District or the Commission shall notify the Division and request investigation by the Division if the county's program is found to be deficient or ineffective.

Sec. 8-258. ~~The Board has promulgated rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a Local Issuing Authority.~~ The Division may periodically review the actions of ~~the~~ ***Fayette*** County, ~~which~~ ***that*** has been certified as Local Issuing Authority pursuant to O.C.G.A. Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of the county's ordinances and review of conformance with an agreement, if any, between the District and ~~the~~ ***Fayette*** County. If such review indicates that the county certified pursuant to O.C.G.A. ~~Section~~ 12-7-8 (a), has not administered or enforced ~~its~~ ***this*** ordinance~~s~~ or has not conducted the program in accordance with any agreement entered into, pursuant to O.C.G.A. ~~Section~~ 12-7-7(~~d~~***e***), the Division shall notify ~~the~~ ***Fayette*** County in writing. The county, so notified, shall have ~~3~~***9***0 days ~~within which~~ to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county does not take necessary corrective action within ~~3~~***9***0 days after notification by the Division, the Division may revoke the certification of the county as a Local Issuing Authority.

DIVISION 7. PENALTIES AND INCENTIVES

Sec. 8-259. 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 ordinance 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 Fayette County.

Sec. 8-260. Stop-Work Orders: ~~Upon notice from the Engineering Department, work on any project that is being done contrary to the provisions of this ordinance or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his or her authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.~~

(a) For the first and second violations of this ordinance provisions', the Director or Local Issuing 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 Director or Local Issuing Authority shall issue a stop-work order requiring that all activities be stopped until necessary corrective action or

mitigation has occurred. If the violation presents an imminent threat to public health or state or if the land-disturbing activities are conducted without obtaining the necessary Permit, the Director or Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;

(b) For a third and any subsequent violation, the Director or Local Issuing 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; and

(d) 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. 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 BMPs 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. 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.

Sec. 8-261. 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 with the time specified, he or she shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his or her performance bond, if required to post one under the provisions of Division 5, Section 8-251 (e)(2). The ~~Engineering~~ ***Stormwater Management*** Department may call the bond or any part hereof 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.

Sec. 8-262. Monetary Penalties: Any person who violates any provisions of this ordinance, or any permit condition or limitations established pursuant to this ordinance or who negligently or intentionally fails or refuses to comply with any final or emergency order of the ~~Engineering~~ ***Stormwater Management*** Department issued, as provided in this ordinance, shall be liable for a civil penalty not to exceed $2,500.00 per day, per violation, or a sentence of imprisonment not to exceed 60 days or both. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

ARTICLE IX. SOIL EROSION, SEDIMENTATION *AND POLLUTION* CONTROL ORDINANCE

DIVISION 8. EDUCATION AND CERTIFICATION

Sec. 8-263. Education and Certification: ~~After December 31, 2006, all 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. Section 12-7-20.~~

Sec. 8-264. 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.

Sec. 8-265. For each site on where 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 responsible for erosion, sedimentation and pollution 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.

Sec. 8-266. 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.

Sec. 8-267. 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 activities 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.

DIVISION 9. ADMINISTRATIVE APPEAL JUDICIAL REVIEW

Sec. 8-2648. Administrative Remedies: The suspension, revocation, modification or grant with condition of a ~~p~~***P***ermit by the ~~Engineering~~ ***Stormwater Management*** Department upon finding that the holder is not in compliance with the approved Erosion***,*** ~~and~~ Sediment***ation 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 Board of Commissioners of Fayette County within thirty (30) days after receipt by the ~~Engineering~~ ***Stormwater Management*** Department of written notice of appeal.

Sec. 8-26~~5~~9. Judicial Review: Any person, aggrieved by a decision or order of the ~~Engineering~~ ***Stormwater Management*** Department, after exhausting his or her administrative remedies, shall have the right to appeal de novo to the Superior Court of Fayette County.

DIVISION 10. EFFECTIVITY, VALIDITY AND LIABILITY

Sec. 8-2~~66~~70. Effectivity: This ordinance shall become effective on the 1st day of ~~March~~ ***July*** 20~~04~~***10***.

Sec. 8-2~~6~~71. Validity: If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not effect the remaining portions of this ordinance.

Sec. 8-2~~68~~72. 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 Fayette County or the District for damage to any person or property.

(b) The fact that a land-disturbing activity for which a ~~p~~***P***ermit has been issued results in injury to the property of another shall neither constitute proof 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 person 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 hereunder.