

A G E N D A

REGULAR MEETING OF MAYOR AND COUNCIL DECEMBER 5, 2016

6:00 P.M. Work Session

- City Managers Report Al Wiggins

I. Call to Order – 7:00 p.m. – Mayor David Lockhart

II. Invocation

III. Pledge of Allegiance

IV. Roll Call

V. Comment Period

VI. Approval of Minutes

1. Work Session of Mayor and Council of November 21, 2016
2. Regular Meeting of Mayor and Council of November 21, 2016

VII. Agenda Items

1. Consider an Ordinance by the governing body of the City of Forest Park, Georgia establishing the budgets for Special Revenue Funds for the Fiscal Year 2016-2017.

BACKGROUND AND SUMMARY: The Special Revenue Funds are used to account for the proceeds of specific revenue sources that are restricted to expenditures for specified purposes. These Funds consist of various Grants and Projects that are not included in the general operations budget of the City.

2. Consider a Resolution by the City Council of the City of Forest Park declaring certain City property, listed on Exhibit A, to be surplus property and to provide for its proper disposal either by auction or other methods pursuant to the City's Ordinances; and for other purposes.

BACKGROUND AND SUMMARY: The Department of Recreation & Leisure has requested the items listed in Exhibit A as surplus due to items not being serviceable or in a condition for resale.

3. Consider a Resolution to establish the dates, times, and locations of regular meetings; to provide an effective date; and for other lawful purposes.

BACKGROUND AND SUMMARY: The City's Charter allows the Mayor and Council to set regular meeting dates, times and locations by ordinance, but no less than two meetings can be held per month. At their November 7, 2016 council meeting, Mayor and Council directed the City Attorney to amend the City's Code of Ordinances to allow Mayor and Council maximum flexibility to set regular meeting times and dates. The Code of Ordinances currently provides that regular meetings are held at city hall, on the first and third Monday of every month, at 7:00 p.m. The proposed ordinance authorizes Mayor and Council to set regular meeting dates, times and locations by resolution. The proposed resolution sets the meeting dates as the first and third Mondays of every month at city hall, with the work session to begin at 6:00 p.m. and the regular meeting to begin at 6:10 p.m. Other extraneous provisions regarding the procedure for resetting meetings were also removed. Should Mayor and Council desire to have the flexibility to hold less than two meetings per month, the charter must be amended.

4. Consider an Ordinance to amend Section 2-1-1 ("Time And Date Of Meetings"), of Article A ("Meetings of Governing Body"), of Chapter 1 ("Mayor And Council"), of Title 2 ("General Government") of the Code Of Ordinances of Forest Park to allow date and time of meetings to be set by Resolution; to provide for severability; to repeal conflicting Ordinances; to provide an effective date; and for other purposes.

BACKGROUND AND SUMMARY: Reference background and summary to Item 3 Resolution.

5. Consider an Amendment to Real Estate Sales Contract between Billy Freeman Jr. (the "Purchaser") and the City of Forest Park, Georgia (the "Seller"), for the sale of 751 Bridge Avenue.

BACKGROUND AND SUMMARY: Following a sealed bid process, the City sold the tract at 751 Bridge Avenue to the successful bidder in September 2016. The terms of the real estate sales contract required the bidder to make certain improvements to the tract after the transfer. The contract provides that the bidder cannot apply for, and the City will not issue, a certificate of occupancy for the tract until the listed improvements have been made. The bidder has made many of the improvements but has requested that he be excused from one of them (installation of new, decorative fencing). The proposed amendment to the contract

presently before the Council would remove only this "decorative fencing" requirement.

6. Consider A Resolution by The Mayor And City Council Community Development Block Grant Program (CDBG) for the following projects - curb and gutter, sidewalks, and storm water piping on Governors Drive, Springdale Road, Courtney Drive and Old Jonesboro Road and facility improvements to the Town Center Plaza on Main Street and to accept the HUD funding through the CDBG Program once it becomes available; to repeal all Resolutions and parts of Resolutions in conflict herewith; to provide an effective date; and for other purposes.

BACKGROUND AND SUMMARY: This resolution is requesting authorization to apply for HUD funding through the Community Development Block Grant Program for infrastructure improvements on Governors Drive, Springdale Road, Courtney Drive and Old Jonesboro Road and for park and facility improvements at the Town Plaza on Main Street.

7. Consider an Ordinance to amend Chapter 5 ("Erosion, Sedimentation And Pollution Control") in Title 8 ("Planning And Development") of the Code Of Ordinances, City Of Forest Park, Georgia by repealing the current language in said Chapter in its entirety and enacting new regulations in lieu thereof; to provide for severability; to repeal conflicting Ordinances; to provide an adoption date; to provide an effective date; and to provide for other lawful purposes.

BACKGROUND AND SUMMARY: The Environmental Protection Division (EPD) of the State of Georgia recently revised its regulations regarding soil erosion and sedimentation control. As per the Georgia Erosion and Sedimentation Act (O.C.G.A. 12-7-8(a)(2)), Local Issuing Authorities, including Forest Park, must amend their ordinances within twelve months of any amendment to the Act. Therefore, the deadline for Local Issuing Authorities to amend their local erosion and sedimentation control ordinances to reflect the 2015 and earlier amendments to the Georgia Erosion and Sedimentation Act is December 31, 2016. The EPD provided a model ordinance that contains all revisions to the Act, and such model ordinance was tailored to the City of Forest Park.

8. Consider an Ordinance to amend the Code of Ordinances, City of Forest Park, Georgia to establish a Special Tax District within the municipal limits of the City Of Forest Park; to establish other rules and procedures for such Special Tax District; to establish the process to provide the millage rate for said tax; to provide an effective date; to repeal conflicting Ordinances; and for other lawful purposes.

BACKGROUND AND SUMMARY: The proposed ordinance is to establish a "special tax district" that would allow the City to impose an additional ad valorem tax on property within a certain district to collect monies and offset the increased costs of the providing service delivery to entities that excessively burden the City's resources. The district must be established before January 1, 2017, to be utilized during the 2017 tax year.

VIII. Legal Matters

IX. Comments by Governing Body

X. Adjournment

MINUTES

WORK SESSION OF MAYOR AND COUNCIL OF NOVEMBER 21, 2016

Call to Order: The Work Session of Mayor and Council of November 21, 2016 called to order by Mayor David Lockhart at 6:00 p.m.

Present: Mayor Lockhart and Councilmembers, Tommy Smith, Dabouze Antoine, Sandra Bagley, Latresa Wells and Allan Mears.

Also present were Al Wiggins, City Manager; Mike Blandenburg, Director Finance; Jonathan Jones, Director Planning, Building and Zoning; Angela Redding, Management Analyst; Jeff Eady, Director Public Works; Major Chris Matson, Police; Chief Buckholts, Fire; and City Attorney John O'Neal.

City Managers Report: Mr. Wiggins reviewed the Cash Flow Forecast for Fiscal Year 2016-2017. Mr. Wiggins stated that we are being very careful as far as how we spend. The Directors and Finance Director are meeting on a monthly basis to review our expenses very carefully to make sure that we are bringing in the revenue that we anticipated and to make sure that we are controlling our expenses. Mr. Wiggins stated that this is just a quick snapshot of where we are. Things are getting better and we aren't where we want to be. We're in the process of finalizing our comprehensive annual report and believe that our auditors will deliver that presentation possibly at our next council meeting.

Mr. Wiggins stated that in regards to the Parks Master Plan, we have received the bid responses and the staff has narrowed it down to two (2) vendors. Starr Park is an 18 acre park and we anticipate an initial investment to be somewhere in the neighborhood of \$5m through SPLOST funding. This is a very important project because this is one of the ways that we are trying to attract a new demographic and to create an infield residential development strategy. Amenities are very important to millennials and those who are looking to purchase either starter homes or homes anywhere in the metro area; parks have been proven to anchor a community. Because this is such an important project, Mr. Wiggins stated that we have planned at least

four (4) stakeholders meetings to where we would like your feedback about what we plan to do with the park. The reason we went the route of a formal Parks Master Plan is that we hope that this plan will be a document that will used 20 years from now. Mr. Wiggins stated that it is important to receive feedback from the citizens who will use the park instead of staff deciding what's best for the public.

Mr. Wiggins stated that the Bridge & Moore Avenue apartments, also known as the taj mahal apartments, are vacant and in a state of decay. In our most recent conversations with our city attorneys, we discovered that to complete the title search, the cost will be approximately \$5k. We are now looking for a funding source to complete the title search. The reason that the title search is so expensive is because of the amount of units that are there and the amount of turnover that takes place.

Mr. Wiggins stated that the title search has been completed on the Briarwood Forest Apartments. We anticipate sending out notices for the abatement process by this coming Wednesday and we anticipate having a court date the first week of January.

Mr. Wiggins stated that he attended the Forest Park High School PTSA and was very surprised of how well attended the meeting was. Please plan to attend if you are able to support the schools.

Mr. Wiggins stated that Southern Crescent Family Practice had their grand opening at 455 Forest Parkway. It is a state of the art facility and a great accent to the Parkway. They are a business that began in Forest Park and has grown and decided to stay in Forest Park. Mr. Wiggins stated that we are very pleased to hear that they are staying in Forest Park and we don't take that for granted. They could have relocated somewhere outside the county, but they decided to stay here in Forest Park.

Mr. Wiggins stated that we are in a level 2 drought restrictions and we are on an odd/even watering schedule.

Mr. Wiggins stated that participation in the Main Street Brick Program has slowed down over the last few months. It's a great way to remember loved ones or accomplishments.

Please support the Brick Program at only \$35 a brick in which all the proceeds go back into Main Street.

Mr. Wiggins stated that the Comprehensive Annual Financial Report will be completed within the next couple of weeks.

Mr. Wiggins stated that the Christmas Parade will be held on Monday, November 28th @ 6 p.m.

Mr. Wiggins stated that on December 3rd, Parks & Recreation Division will host breakfast and pictures with Santa at 8:30 a.m. – 10:00 a.m. The Holiday Fest will be a free event at the Fountain City Plaza from 11:00 a.m. to 6:00 p.m. Your participation is appreciated.

Discussion of Road Improvements on Old Jonesboro Road: Councilwoman Bagley stated the problems on Jonesboro Road include pedestrian dangers and pass ability. I'm happy to report that we do have some activity and we are going to be making some improvements.

Mr. Eady stated that we identified at least three (3) locations where we can add some LED street lights and we've already put in with Georgia Power Company. We've decided to put two (2) flashing warning lights with 'Curve Ahead' warning signs in some of the locations. The cost will be approximately \$5k and will come out the SPLOST budget. Under our LMIG (Local Maintenance Improvement Grant) that we get from GDOT, they offered up \$60k to the city this past year for safety improvements. So along Old Jonesboro Road, we are making improvements. Mr. Wiggins stated that improvements are also being made along the Springdale Road area beginning at First Avenue all the way to Forest Parkway.

Agenda
Items:

1. Proclamation for the retirement of Mr. Wilbert Eason, Jr. from Public Works Department after 10 years of service.
2. Ordinance To Amend The Code Of Ordinances, City Of Forest Park, Georgia So That The Circumstances Under Which A Building Permit Is Required Are Identical To The Minimum Requirements Under The Law Of The State Of Georgia; To Amend Article G ("Administration; Enforcement; Penalties; Remedies") Of Chapter 8 ("Zoning") In Title 8 ("Planning And Development") By Revising The Language Of Section 8-8-82 ("Building Permit Required"); To Provide For

Severability; To Repeal Conflicting Ordinances; To Provide An Effective Date; And For Other Lawful Purposes.

3. Ordinance To Amend Chapter 6 ("Floodplain Management/Flood Damage Prevention") In Title 8 ("Planning And Development") Of The Code Of Ordinances, City Of Forest Park, Georgia By Repealing The Current Language In Said Chapter In Its Entirety And Enacting New Regulations In Lieu Thereof; To Provide For Severability; To Repeal Conflicting Ordinances; To Provide An Adoption Date; To Provide An Effective Date; And To Provide For Other Lawful Purposes.

Legal Matters: None

Adjournment: Councilman Mears made a motion to adjourn the Work Session. Councilman Smith seconded the motion. Voting was unanimous.

MINUTES

REGULAR MEETING OF MAYOR AND COUNCIL OF NOVEMBER 21, 2016

Call to Order: The Regular Meeting of Mayor and Council of November 21, 2016, called to order by Mayor David Lockhart at 7:00 p.m.

Invocation: The invocation was given by Councilman Dabouze Antoine followed by the Pledge of Allegiance to the American Flag.

Roll Call: Mayor Lockhart and Councilmembers, Tommy Smith, Dabouze Antoine, Sandra Bagley, Latresa Wells and Allan Mears.

Also present were Al Wiggins, City Manager; Mike Blandenburg, Director of Finance; Jonathan Jones, Director of Planning, Building and Zoning; Angela Redding, Management Analyst; Major Chris Matson, Police; Sharon Smith, Deputy Director Recreation and Leisure; Chief Buckholts, Fire; and City Attorney John O'Neal.

Comment Period: Mr. Carl Evans, 4726 Burks Road, Forest Park, stated that we needed to look at our ordinances, fines and fees in this city. They are extremely high when you have a median household income of \$30k. Many citizens are only making approximately \$14k and we have very high fines in reference to dog control or building permits.

Ms. Lawanda Falomi stated that in reference to the Master Plan, I was getting a lot of calls in reference to it and I was glad to hear Mr. Wiggins' update. Ms. Falomi stated that she has formed a group called Unity in the Community. It's a group that can't make it to these Mayor & Council meetings. Ms. Falomi stated that our school is in bad shape. Please get involved with the PTSA. Ms. Falomi wanted to thank Public Works for all their hard work.

Mr. Gabriel Gordon stated that in regards to MARTA and the trash cans, I would like to see benches as well. Mr. Gordon stated that to piggy back on Mr. Evans, that the fines and ordinances should be more reasonable.

Approval of Minutes: Mayor Lockhart made a recommendation to approve the Regular and Work Session Meeting Minutes of November 7, 2016, together. Councilwoman Wells made a motion to

approve the Regular and Work Session Meeting Minutes of November 7, 2016, together. Councilman Antoine seconded the motion. Voting was unanimous.

Ordinance: Consider an Ordinance To Amend The Code Of Ordinances,
Building Permit: City Of Forest Park, Georgia So That The Circumstances Under Which A Building Permit Is Required Are Identical To The Minimum Requirements Under The Law Of The State Of Georgia; To Amend Article G ("Administration; Enforcement; Penalties; Remedies") Of Chapter 8 ("Zoning") In Title 8 ("Planning And Development") By Revising The Language Of Section 8-8-82 ("Building Permit Required"); To Provide For Severability; To Repeal Conflicting Ordinances; To Provide An Effective Date; And For Other Lawful Purposes.

Councilwoman Wells made a motion to adopt this ordinance. Seconded by Councilman Smith. Voting was unanimous.

Presentation of Proclamation: Mayor Lockhart and Jeff Eady, Director Public Works, presented a proclamation recognizing the retirement of Mr. Wilbert Eason, Jr. from the Forest Park Public Works Department.

Ordinance: Consider an Ordinance To Amend Chapter 6 ("Floodplain
Floodplain Management/Flood Damage Prevention") In Title 8 ("Planning And Development") Of The Code Of Ordinances, City Of Forest Park, Georgia By Repealing The Current Language In Said Chapter In Its Entirety And Enacting New Regulations In Lieu Thereof; To Provide For Severability; To Repeal Conflicting Ordinances; To Provide An Adoption Date; To Provide An Effective Date; And To Provide For Other Lawful Purposes.

Councilman Mears made a motion to adopt this ordinance. Seconded by Councilwoman Wells. Voting was unanimous.

Legal Matters: None

Adjournment: Councilman Mears made a motion to adjourn. Seconded by Councilman Smith. Voting was unanimous.

ORDINANCE NO. _____

**AN ORDINANCE BY THE GOVERNING BODY OF THE CITY OF
FOREST PARK, GEORGIA ESTABLISHING THE BUDGETS FOR
SPECIAL REVENUE FUNDS FOR THE FISCAL YEAR 2016-2017.**

BE IT ORDAINED by the Governing Body of the City of Forest Park that the total of \$1,213,581 is the estimated revenues and expenditures for Special Revenue Funds for the fiscal year 2016-2017, as itemized on Exhibits A and B, attached hereto and incorporated herein by reference.

PASSED AND ADOPTED THIS THE _____ DAY OF DECEMBER,
2016.

David Lockhart, Mayor

Tommy Smith
Mayor Pro-tem, Ward One

Dabouze Antoine
Councilmember, Ward Two

Sandra Bagley
Councilmember, Ward Three

Latresa Wells
Councilmember, Ward Four

Allan Mears
Councilmember, Ward Five

ATTEST:

City Clerk

Approved as to form:

City Attorney

EXHIBIT A

CITY OF FOREST PARK
 SPECIAL REVENUE FUNDS - BUDGETS
 FISCAL YEAR 2016 - 2017

ACCOUNT #	<u>SPECIAL REVENUE FUND NAME</u>	2016-2017 BUDGET AMOUNT
	<u>REVENUES</u>	
211-00-0000-35-1320	LOCAL DRUG TASK FORCE	\$ 50,000
215-00-0000-34-2500	EMERGENCY TELEPHONE SYSTEM FUND (E911) FEES	350,000
250-00-0000-33-1116	EDWARD BYRNE GRANT 2016 / 2015	13,026
250-00-0000-33-1113	2016 COPS HIRING PROGRAM GRANT	225,460
250-00-0000-33-1114	2016 COPS HIRING PROGRAM GRANT - CITY MATCH	25,197
250-00-0000-33-1101	2016 BVP GRANT	4,410
250-00-0000-33-1102	2016 BVP GRANT - CITY MATCH	4,410
250-00-0000-33-1131	2013 CDBG - WEST STREET - PHASE I	66,677
250-00-0000-33-1132	2014 CDBG - NEIGHBORHOOD STABILIZATION OFFICER	19,351
250-00-0000-33-1133	2014 CDBG - WEST STREET	100,000
250-00-0000-33-1134	2015 CDBG - WEST STREET	150,000
250-00-0000-33-4109	EMERGENCY MANAGEMENT AGENCY GRANT	15,490
251-00-0000-33-1139	FORT GILLEM REDEVELOPMENT PHASE X - GRANT	79,560
270-00-0000-33-1101	TAX ALLOCATION DISTRICT #1	50,000
275-00-0000-31-4100	HOTEL / MOTEL TAXES FUND	<u>60,000</u>
	TOTAL REVENUES	<u>\$ 1,213,581</u>

EXHIBIT B**CITY OF FOREST PARK
SPECIAL REVENUE FUNDS - BUDGETS
FISCAL YEAR 2016 - 2017**

ACCOUNT #	<u>SPECIAL REVENUE FUND NAME</u>	2016-2017 BUDGET <u>AMOUNT</u>
<u>EXPENDITURES</u>		
211-31-3210-53-1105	LOCAL DRUG TASK FORCE - SUPPLIES	\$ 50,000
215-32-3802-51-1101	E911 FUND - PERSONNEL COSTS	90,445
215-32-3802-52-1101	E911 FUND - SERVICE SUPPLIER FEES	15,000
215-32-3802-52-1301	SYSTEM MAINTENANCE CONTRACT	135,000
215-32-3802-54-2502	E911 FUND - CAPITAL OUTLAY	15,000
215-32-3801-58-1200	PRINCIPAL - LOAN - RADIO SYSTEM	80,000
215-32-3801-58-2200	INTEREST - LOAN - RADIO SYSTEM	14,555
250-21-7550-54-1425	2013 CDBG - WEST STREET - PHASE I	66,677
250-21-7550-54-1426	2014 CDBG - NEIGHBORHOOD STABILIZATION OFFICER	19,351
250-21-7550-54-1427	2014 CDBG - WEST STREET	100,000
250-21-7550-54-1428	2015 CDBG - WEST STREET	150,000
250-31-3210-51-1100	2016 COPS HIRING PROGRAM GRANT	250,657
250-31-3340-54-2508	EDWARD BYRNE GRANT 2016 / 2015	13,026
250-31-3340-54-2520	2016 BVP GRANT	8,820
250-62-3920-53-1104	PARTNERSHIP PROGRAM - EMA	15,490
251-24-7321-52-3911	FORT GILLEM PHASE X - EXPENDITURES	79,560
270-20-7540-52-1100	TAX ALLOCATION DISTRICT #1	50,000
275-20-7540-52-1100	HOTEL / MOTEL TAXES FUND	<u>60,000</u>
TOTAL EXPENDITURES		<u>\$ 1,213,581</u>

STATE OF GEORGIA

COUNTY OF CLAYTON

RESOLUTION NO. _____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF FOREST PARK DECLARING CERTAIN CITY PROPERTY, LISTED ON EXHIBIT A, TO BE SURPLUS PROPERTY AND TO PROVIDE FOR ITS PROPER DISPOSAL EITHER BY AUCTION OR OTHER METHODS PURSUANT TO THE CITY'S ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, City Code Section 3-1-21 permits the Council to determine when it is in the best interest of the city to sell or otherwise dispose of any property belonging to the city, not needed for public use or that may have become unsuited for public use; and

WHEREAS, pursuant to City Code Section 3-1-21, it shall be the duty of the governing body to declare when such items should be disposed, and to list or describe the real property to be sold, and all personal property, the estimated resale value of which shall exceed five hundred dollars (\$500.00), to be sold at public auction or by formal written contract to the highest responsible bidder, after reasonable notice inviting proposals and surplus property of the city with an estimated resale value of five hundred dollars (\$500.00) or less may be sold at the discretion of the purchasing agent by negotiated sale without advertisement and the acceptance of bids; and

WHEREAS, various City Departments have provided a list of City surplus items to the City Manager, attached as exhibit A to this resolution; and

WHEREAS, the City Manager has determined that it is in the best interest of the City to surplus such items, and has requested that such items become surplus and disposed of in the most appropriate manner.

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Forest Park that the items listed on Exhibit A, attached to this resolution, be declared surplus and be disposed of in the most appropriate manner.

Section 1. That the City Manager cause the items to be disposed of either by auction or pursuant to City Ordinances.

Section 2. If any section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional for any reason by a decision of any court of

competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution and such remainder shall remain in full force and effect.

Section 3. This Resolution shall be in full force and effect immediately upon and after its final passage.

Resolved this _____ day of _____, 2016.

DAVID N. LOCKHART, MAYOR

TOMMY SMITH, MAYOR PRO-TEM
COUNCILMEMBER (WARD ONE)

DABOUZE ANTOINE
COUNCILMEMBER (WARD TWO)

SANDRA BAGLEY
COUNCILMEMBER (WARD THREE)

LATRESA WELLS
COUNCILMEMBER (WARD FOUR)

ALLAN MEARS
COUNCILMEMBER (WARD FIVE)

ATTEST:

Mike Blandenburg, CITY CLERK

(THE SEAL OF THE CITY OF
FOREST PARK, GEORGIA)

APPROVED AS TO FORM:

CITY ATTORNEY

SURPLUS EQUIPMENT

DEPARTMENT - RECREATION & LEISURE

DATE: NOVEMBER 7, 2016

ITEMS LOCATED AT RECREATION BUILDING (ADMINISTRATIVE ASSISTANT'S OFFICE)

ITEM	QUANTITY	CITY ID NO.	SERIAL NO.	CONDITION
HP PAVILION SLIMLINE PROCESSOR	1	2084	MXU008062Y	OUTDATED
HP KEYBOARD	1	2082	LD00116510	OUTDATED
HP MOUSE	1		PSA1003031393	OUTDATED
BROTHER FAX MACHINE	1	2095	U61325CON388309	BROKEN
FELLOWES SHREDDER C225CI	1	2094	100301 GB 0005263	BROKEN

STATE OF GEORGIA

CITY OF FOREST PARK

RESOLUTION NO. _____

A RESOLUTION TO ESTABLISH THE DATES, TIMES, AND LOCATIONS OF REGULAR MEETINGS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER LAWFUL PURPOSES.

WHEREAS, the governing body of the City of Forest Park, Georgia ("City") is the Mayor and Council thereof; and

WHEREAS, the governing body has the power to hold regular public meetings at stated times, dates and locations, not less than twice per month pursuant to the authority granted by the Charter of the City, including but not limited to Section 2.20 of the City's Charter; and

WHEREAS, the governing body, in Section 2-1-1 of the City's Code of Ordinances, has provided that the meeting dates, times and locations shall be set by it, from time to time, by resolution.

WHEREAS, accordingly, the governing body desires to establish the times, dates and locations of its regular meetings.

BE IT RESOLVED by the governing body of the City of Forest Park, Georgia that the work session portion of its regular meetings shall be held on the first and third Mondays of each month commencing at 6:00 p.m.; and

BE IT FURTHER RESOLVED by the governing body of the City of Forest Park, Georgia that its regular meetings shall be held on the first and third Mondays of each month commencing at 6:10 p.m.; and

BE IT FURTHER RESOLVED by the governing body of Forest Park, Georgia that all regular meetings will be held at City Hall, 745 Forest Parkway, Forest Park, Georgia 30297.

SO RESOLVED this _____ day of _____, 2016.

CITY OF FOREST PARK, GEORGIA:

David Lockhart, Mayor

Tommy Smith
Mayor Pro-tem, Ward One

Dabouze Antoine
Councilmember, Ward Two

Sandra Bagley
Councilmember, Ward Three

Latresa Wells
Councilmember, Ward Four

Allan Mears
Councilmember, Ward Five

ATTEST:

Mike Blandenburg, City Clerk

APPROVED AS TO FORM BY:

City Attorney

STATE OF GEORGIA

CITY OF FOREST PARK

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 2-1-1 ("TIME AND DATE OF MEETINGS"), OF ARTICLE A ("MEETINGS OF GOVERNING BODY"), OF CHAPTER 1 ("MAYOR AND COUNCIL"), OF TITLE 2 ("GENERAL GOVERNMENT") OF THE CODE OF ORDINANCES OF FOREST PARK TO ALLOW DATE AND TIME OF MEETINGS TO BE SET BY RESOLUTION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the governing body of the City of Forest Park, Georgia ("City") is the Mayor and Council thereof; and

WHEREAS, the governing body has the power to hold regular public meetings at stated times, dates and locations, not less than twice a month, pursuant to the authority granted by the Charter of the City, including but not limited to Section 2.20 of the City's Charter; and

WHEREAS, the governing authority desires to amend its Code of Ordinances to allow the times, dates and locations of meetings to be established by resolution.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FOREST PARK, GEORGIA, and by the authority thereof:

Section One. The City's Code of Ordinances is hereby amended by striking through the existing text of Section 2-1-1 ("Time and Date of Meetings"), of Article A ("Meetings of Governing Body"), of Chapter 1 ("Mayor and Council"), of Title 2 ("General Government"), and inserting the following text in lieu thereof, to read and to be codified as follows:

“Sec. 2-1-1. – Time, date and location of regular meetings.

- (a) The governing body shall establish from time to time by resolution the times, dates, and locations of regular meetings. Such regular meetings shall occur no less often than twice per month.
- (b) At any regular meeting, the time, date or location of the next regular meeting may be changed by action of the city council.
- (c) Unless otherwise changed by action of the city council, any regular meeting which falls on a legal holiday shall be held on the first work day following said holiday.”

Section Two. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section Three. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section Four. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the

express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Five. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Six. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2016.

CITY OF FOREST PARK, GEORGIA:

David Lockhart, Mayor

Tommy Smith
Mayor Pro-tem, Ward One

Dabouze Antoine
Councilmember, Ward Two

Sandra Bagley
Councilmember, Ward Three

Latresa Wells
Councilmember, Ward Four

Allan Mears
Councilmember, Ward Five

ATTEST:

Mike Blandenburg, City Clerk

APPROVED AS TO FORM BY:

City Attorney

AMENDMENT TO REAL ESTATE SALES CONTRACT

751 Bridge Avenue, Forest Park, Georgia 30297

THIS AMENDMENT TO REAL ESTATE SALES CONTRACT (hereinafter, the "Amendment") is made and entered by and between Billy Freeman Jr. (the "Purchaser") and the City of Forest Park, Georgia (the "Seller"), a municipal corporation existing under the laws of the State of Georgia.

WITNESSETH

WHEREAS, the Seller desired to sell all that tract or parcel of land that it owned, with such improvements as are located thereon, described as follows:

All that tract or parcel of land lying and being in Land Lot 50 of the 13th Land District of Clayton County, Georgia, also known as Lot Number 6 of the C.C. Lane property, and commonly known as 751 Bridge Avenue, Forest Park, Georgia 30297 according to the present system of number houses in Forest Park, Clayton County, Georgia, together with all improvements, appliances, light fixtures, all electrical, mechanical, plumbing, air conditioning, and any other systems or fixtures as are attached thereto; also all plants, trees and shrubbery no on the premises (collectively, the "Property").

WHEREAS, in full compliance with the requirements of O.C.G.A. § 36-37-6(a), the Seller invited sealed bids from members of the general public to purchase the Property and said invitation for such bids stated conditions under which the Seller would sell the Property, including, among other things, the prospective buyer's assent to undertake certain repairs and to install certain fixtures or improvements subsequent to his purchase of said tract; and

WHEREAS, the Purchaser was the highest responsible bidder submitting a sealed bid in response to said invitation and consented to the stated conditions under which the Seller would sell the tract; and

WHEREAS, the Seller and the Purchaser entered an agreement entitled Real Estate Sales Contract (the "Contract") that had an effective date of September 16, 2016 and set forth the terms of the transaction by which Purchaser would acquire the Property; and

WHEREAS, Paragraph 6 of the Contract stated ten (10) covenants, duties, and obligations that are binding upon the Purchaser, said items being the certain repairs, fixtures, or improvements previously identified in the invitation for sealed bids; and

WHEREAS, Paragraph 6 of the Contract further provided that the Purchaser would not request, and the Seller would not issue to Purchaser, a certificate of occupancy for the Property until the Purchaser provided documentation establishing that he had fulfilled the ten (10) covenants, duties, and obligations stated therein; and

WHEREAS, Paragraph 11 of the Contract also provided that the covenants, duties and obligations contained in Paragraph 6 survived the Seller's conveyance of title in the Property to the Purchaser; and

WHEREAS, pursuant to the terms of the Contract, the Seller conveyed to the Purchaser its interest in the Property in a transaction occurring on or about September 21, 2016; and

WHEREAS, after subsequently undertaking numerous repairs and improvements stated in Paragraph 6 of the Contract, the Purchaser has requested that it be excused from one of the covenants, duties, and obligations stated in said Paragraph, specifically the required "installation of new, decorative fencing around the perimeter of the entire Property" (the "Fence Requirement") and the Seller consents to the removal of said requirement; and

WHEREAS, pursuant to the terms of the Contract, the Purchaser cannot request, and the Seller cannot issue to Purchaser, a certificate of occupancy for the Property until all covenants, duties, and obligations stated in Paragraph 6 therein are fulfilled; and

WHEREAS, the Seller and the Purchaser desire to amend the Contract for the sole purpose of revising Paragraph 6 therein to remove the Fence Requirement but, in no way whatsoever, amend any other term of the Contract.

NOW, THEREFORE, for and inconsideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledge, the Seller and the Purchaser hereby mutually agree to amend the Real Estate Sales Contract as follows:

1. Paragraph 6 is hereby deleted in its entirety and shall be replaced with the following Paragraph 6:

6. Purchaser agrees to be bound by the following covenants, duties, and obligations:

- a. The installation of high efficiency, double-hung, exterior storm windows and operable shutters for each such window in any dwelling located upon the Property.
- b. The installation of high efficiency insulation throughout any dwelling located upon the Property.
- c. The use of paint that is free of volatile organic compounds ("zero VOC paint") and that does not produce environmental emissions ("zero emission paint") in any dwelling or other structure located upon Property.
- d. The installation in any dwelling located on the Property of flooring that is comprised of reclaimed and/or refurbished natural wood finished with a stain which contains a low level of volatile organic compounds ("low VOC stain") in any dwelling located upon the Property.
- e. The installation of high efficiency LED lighting fixtures and bulbs in any dwelling located upon the Property.

- f. The installation of a heating, ventilation and air-conditioning ("HVAC") system in any dwelling located upon the Property that has a Seasonal Energy Efficiency Ratio ("SEER") of at least 14.5.
- g. The installation of toilets in any dwelling located upon the Property that are certified as low-flush or high-efficiency toilets by the U.S. Environmental Protection Agency's WaterSense program.
- h. The installation of a grid-inter-tied residential solar power system in any dwelling located upon the Property.
- i. The installation of appliances in any dwelling upon the Property that are classified as high efficiency under the Energy Star rating system.

Purchaser and Seller agree that Purchaser will not request, and the City of Forest Park will not issue to Purchaser, a certificate of occupancy for the Property until such time as Purchaser submits to Seller documentation establishing that Purchaser has fulfilled the covenants, duties, and obligations identified in this Paragraph. In addition, Purchaser acknowledges that the provisions in this Paragraph do not waive, or exempt Purchaser from, all other requirements imposed by law for the issuance of a certificate of occupancy.

- 2. **Captions.** The captions to sections through this Amendment are intended solely to facilitate reading and reference to the sections and provisions of this Amendment. Such captions shall not affect the meaning or interpretation of this Agreement.
- 3. **Entire Agreement.** This Amendment, the Real Estate Sales Contract, and all attachments thereto contain the entire understanding and agreement between the parties hereto with respect to the subject matter thereof. All other prior agreements or understandings of the parties are revoked. This Amendment and the Real Estate Sales Contract may be amended or terminated only by a written instrument executed by the Seller and the Purchaser. There are no agreements, restrictions, promises, warranties, covenants, or other undertakings between or among the parties other than those expressly set forth in this Amendment and the Real Estate Sales Contract.

This instrument is signed, sealed and delivered by the parties and the date of last execution as shown below shall be the "Effective Date" of this Amendment.

[SIGNATURES CONTAINED ON FOLLOWING PAGES]

SELLER

Signed, sealed and delivered this _____ day of _____, 2016 in the presence of: City of Forest Park, a municipal corporation organized under the laws of the State of Georgia

Witness By: _____
David Lockhart, Mayor

Notary Public Attest: _____
Mike Blandenburg, City Clerk
[Notary Seal]

APPROVED AS TO FORM

This _____ day of _____, 2016.

City Attorney

TOMMY SMITH, MAYOR PRO-TEM
COUNCILMEMBER (WARD ONE)

DABOUZE ANTOINE
COUNCILMEMBER (WARD TWO)

SANDRA BAGLEY
COUNCILMEMBER (WARD THREE)

LATRESA WELLS
COUNCILMEMBER (WARD FOUR)

ALLAN MEARS
COUNCILMEMBER (WARD FIVE)

PURCHASER

Print Name Here

Signature

Street Address

City/State/Zip Code

Telephone Number

Email Address

Date of Execution

**STATE OF GEORGIA
COUNTY OF CLAYTON**

RESOLUTION NO.: _____

RESOLUTION BY THE MAYOR AND CITY COUNCIL OF FOREST PARK, GEORGIA TO APPLY FOR HUD FUNDING THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG) FOR CURB AND GUTTER, SIDEWALKS, AND STORM WATER PIPING ON GOVERNORS DRIVE, SPRINGDALE ROAD, COURTNEY DRIVE AND OLD JONESBORO ROAD AND FOR PARK AND FACILITY IMPROVEMENTS FOR THE TOWN CENTER PLAZA ON MAIN STREET AND TO ACCEPT THE HUD FUNDING THROUGH THE CDBG PROGRAM ONCE IT BECOMES AVAILABLE; TO REPEAL ALL RESOLUTIONS AND PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Clayton County Community Development Office of HUD Programs has issued a notice of funding availability for its Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG) and HOME Investment Partnership Programs: and

WHEREAS, the Mayor and City Council of Forest Park, Georgia desires to apply for and receive an allocation of funding from the Clayton County Community Development of HUD Programs for infrastructure improvements consisting of sidewalks, curb and gutter, and storm water piping on Governors Drive, Springdale Road, Courtney Drive and Old Jonesboro Road and for park and facility improvements at the Town Center Plaza on Main Street, and

WHEREAS, one of the requirements in applying for funding from the Clayton County Community Development of HUD Programs is a Resolution by Mayor and Council to accept the funding once it is presented to the City of Forest Park; and

WHEREAS, the Mayor and City Council of Forest Park, Georgia intend to accept the HUD funding applied for once it is received and authorizes the Mayor to execute the Subrecipient agreements; and

WHEREAS, the City is not required to match the HUD funding applied for once it is received.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. Authority to Submit

The Mayor and City Council of Forest Park, Georgia hereby authorize the submittal of appropriate documents and/or application(s) to the Clayton County Community Development Office of HUD Programs so that the City may be eligible to receive funds allocated through the CDBG, ESG, and/or HOME programs. Further, approval is hereby granted for the acceptance of funding through these programs for the purposes as applied for once said funding is presented to the City of Forest Park.

Section 2. Authority to Execute Sub-recipient Agreements

The Mayor or Mayor Pro Tempore is hereby authorized to execute, in the name of the City of Forest Park, all necessary applications, documents, contracts, payment requests, agreements, and amendments thereto, for the purpose of securing funds from the HUD Programs and to implement and carry out the purposes specified in the 2017 consolidated application.

Section 3. Severability

If any section, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional by a decision of the court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution, and such remainder shall remain in full force and effect.

Section 4. Effective Date

This resolution shall be in full force and effect immediately upon and after its final passage.

SO RESOLVED, this _____ day of _____, 2016.

CITY OF FOREST PARK

David N. Lockhart, Mayor

Tommy Smith
Mayor Pro-Tempore (Ward One)

Dabouze Antoine
Councilmember, Ward Two

Sandra Bagley
Councilmember, Ward Three

Latresa Akins
Councilmember, Ward Four

Allan Mears
Councilmember, Ward Five

ATTEST:

CITY CLERK

(THE SEAL OF THE CITY OF
FOREST PARK, GEORGIA)

Approved as to form:

City Attorney

STATE OF GEORGIA

CITY OF FOREST PARK

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 5 (“EROSION, SEDIMENTATION AND POLLUTION CONTROL”) IN TITLE 8 (“PLANNING AND DEVELOPMENT”) OF THE CODE OF ORDINANCES, CITY OF FOREST PARK, GEORGIA BY REPEALING THE CURRENT LANGUAGE IN SAID CHAPTER IN ITS ENTIRETY AND ENACTING NEW REGULATIONS IN LIEU THEREOF; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the duly elected governing body of the City of Forest Park, Georgia (the “City”) is the Mayor and Council thereof; and

WHEREAS, Chapter 5 of Title 8 of the City’s Code of Ordinances regulates Soil Erosion, Sedimentation and Pollution Control within the municipal limits of the City; and

WHEREAS, the governing body of the City determines that it is in the best interest of the health, welfare, safety and morals of the City that Chapter 5 of Title 8 of the City’s Code of Ordinances be assessed and reviewed to ensure that local laws remain consistent with the City’s comprehensive plan and adhere to constantly changing state and federal laws; and

WHEREAS, the health, safety, welfare, aesthetics and morals of the citizens of the City shall be improved and protected by the adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE GOVERNING BODY OF FOREST PARK, GEORGIA, and by the authority thereof:

Section One. The Code of Ordinances of the City of Forest Park, Georgia, is hereby amended by repealing, in its entirety, the language in Chapter 5 ("Erosion, Sedimentation and Pollution Control") in Title 8 ("Planning and Development") and inserting in lieu thereof the text set forth in Exhibit "A," which is attached hereto and made a part hereof by reference.

Section Two. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section Three. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section Four. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional

or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Five. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Six. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this day of , 2016.

CITY OF FOREST PARK, GEORGIA:

David Lockhart, Mayor

Tommy Smith
Mayor Pro-Tempore (Ward One)

Dabouze Antoine
Councilmember, Ward Two

Sandra Bagley
Councilmember, Ward Three

Latresa Akins
Councilmember, Ward Four

Allan Mears
Councilmember, Ward Five

ATTEST:

Mike Blandenburg, City Clerk

APPROVED BY:

City Attorney

EXHIBIT A

[See Attached]

Title 8 – Planning and Development

CHAPTER 5. – SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

Sec. 8-5-1. - Title.

This Chapter will be known as "The City of Forest Park's Soil Erosion, Sedimentation and Pollution Control Ordinance."

Sec. 8-5-2. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this Chapter, 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) **Coastal Marshlands:** Shall have the same meaning as in O.C.G.A. § 12-5-282.
- (6) **Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).
- (7) **CPESC:** Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.
- (8) **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.
- (9) **Department:** The Georgia Department of Natural Resources (DNR).
- (10) **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 EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
- (11) **Director:** The Director of the Environmental Protection Division or an authorized representative.
- (12) **District:** The Clayton County Soil and Water Conservation District.

- (13) **Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.
- (14) **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.
- (15) **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.
- (16) **Erosion, Sedimentation and Pollution Control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7-1, et. seq., that includes, as a minimum, protections at least as stringent as the State General Permit, best management practices, and requirements in section 8-5-4(c) of this Chapter.
- (17) **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.
- (18) **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 riprap, 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.
- (19) **Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
- (20) **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.
- (21) **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.
- (22) **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 8-5-3(5).
- (23) **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.

- (24) **Local Issuing Authority:** The governing authority of any county or municipality which is certified pursuant to subsection (a) of O.C.G.A. § 12-7-8.
- (25) **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.
- (26) **Natural Ground Surface:** The ground surface in its original state before any grading, excavation or filling.
- (27) **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.
- (28) **NOI:** A Notice of Intent form provided by EPD for coverage under the State General Permit.
- (29) **NOT:** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
- (30) **Operator:** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) 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.
- (31) **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.
- (32) **Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this Chapter.
- (33) **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.
- (34) **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.
- (35) **Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.
- (36) **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.

- (37) **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.
- (38) **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.
- (39) **Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
- (40) **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.
- (41) **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.
- (42) **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 O.C.G.A. § 12-5-30.
- (43) **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.
- (44) **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*.
- (45) **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.

(46) **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;
- 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*.

(47) **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.

(48) **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. 8-5-3. - 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 fifty (50) horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the Director may grant variances to no less than twenty-five (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 twenty-five (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 City;

- (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 subsections (15) and (16) of section 8-5-4(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 two hundred (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 two hundred (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 City from regulating any such project which is not specifically exempted by subsections (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 City, the City 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 City 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. 8-5-4. – 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 the ordinance 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 subsection (b) and (c). 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 section 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 the City or of any state general permit issued by the Division pursuant to subsection (f) of 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 City may set more stringent buffer requirements than stated in subsections (15), (16) and (17) of section 8-5-4(c), 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);
- (15) Except as provided in subsections (16) and (17) of this subsection (c), 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 where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; 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 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; and
- (17) There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with O.C.G.A. § 12-5-280, et seq., the Coastal Marshlands Protection Act of 1970, and the rules and regulations promulgated thereunder, 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 an alteration within the buffer area has been authorized pursuant to O.C.G.A. § 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such

measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

- (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; 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.
- (B) The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- (C) The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- (D) Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in EPD Rule 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.

- (d) Nothing contained in O.C.G.A. § 12-7-1 et. seq. shall prevent the City 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 section.
- (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. 8-5-5. - Application/Permit Process.

- (a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The City 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 Chapter, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the City. 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 of Forest Park, Georgia, without first obtaining a permit from the City's Department of Planning, Building and Zoning 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 City's Department of Planning, Building and Zoning 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 subsection (c) of this section. 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 subsections (b) and (c) of section 8-5-4 will be met. Applications for a permit will not be accepted unless accompanied by six (6) 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 subsection (5) of O.C.G.A. § 12-5-23(a), provided that such fees shall not exceed eighty dollars (\$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 subsection (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 City 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 City. No permit will be issued unless the plan has been approved by the District, and any variances required by subsections (15), (16) and (17) of section 8-5-4(c) have been obtained, all fees have been paid, and bonding, if required as per subsection (b)(6) of this section, have been obtained. Such review will not be required if the City and the District have entered into an agreement which allows the City to conduct such review and approval of the plan without referring the application and plan to the District. The City, with plan review authority, shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the City, 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 (2) or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three (3) years prior to the date of filing the application under consideration, the City may deny the permit application.
- (6) The City 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 City 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 City with respect to alleged permit violations.

(c) *Plan Requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in subsections (b) and (c) of section 8-5-4, 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 City 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 City unless the erosion, sedimentation and pollution control plan has been approved by the District and the City has affirmatively determined that the plan is in compliance with this Chapter, any variances required by subsections (15), (16) and (17) of section 8-5-4(c) are obtained, bonding requirements, if necessary, as per subsection (b)(6) of this section are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the City 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 City.
- (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 City, 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 City may reject a permit application if the applicant has had two (2) or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three (3) years prior to the date of the application, in light of O.C.G.A. § 12-7-7 (f) (1).

Sec. 8-5-6. - Inspection and Enforcement.

- (a) The City Department of Planning, Building and Zoning 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 City 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 City shall amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- (c) The City's Department of Planning, Building and Zoning 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 City, 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 ninety (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 ninety (90) days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

Sec. 8-5-7. - Penalties and Incentives.

- (a) *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 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 City.
- (b) *Stop-work Orders.*
 - (1) For the first and second violations of the provisions of this Chapter, the Director or the City 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 the City 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 City shall issue an immediate stop-work order in lieu of a warning;
 - (2) For a third and each subsequent violation, the Director or the City 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 City 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 City 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 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 subsection (6) of section 8-5-5(b). The City 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 Chapter, notwithstanding any provisions in any City Charter to the contrary, municipal courts shall be authorized to impose a penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this Chapter under county ordinances approved under this Chapter shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

Sec. 8-5-8. - 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 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 subsection (1) of O.C.G.A. § 12-7-19(b), 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 subsection (4) of O.C.G.A. § 12-7-19(b) and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

Sec. 8-5-9. - Administrative Appeal Judicial Review.

- (a) *Administrative Remedies.* The suspension, revocation, modification or grant with condition of a permit by the City 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 construction codes board of adjustments and appeals within ten (10) days after receipt by the City of written notice of appeal.
- (b) *Judicial Review.* Any person, aggrieved by a decision or order of the City, after exhausting its administrative remedies, shall have the right to appeal such decision by writ of certiorari to the Superior Court of Clayton County, Georgia as provided in O.C.G.A. § 5-4-1.

Sec. 8-5-10. - Effectivity, Validity and Liability.

- (a) *Effectivity.* This Chapter shall become effective on the date of its adoption.
- (b) *Validity.* If any section, paragraph, clause, phrase, or provision of this Chapter shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this Chapter.
- (c) *Liability.*
 - (1) Neither the approval of a plan under the provisions of this Chapter, nor the compliance with provisions of this Chapter shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the City or District for damage to any person or property.
 - (2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Chapter or the terms of the permit.
 - (3) No provision of this Chapter 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.

STATE OF GEORGIA
CITY OF FOREST PARK

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF FOREST PARK, GEORGIA TO ESTABLISH A SPECIAL TAX DISTRICT WITHIN THE MUNICIPAL LIMITS OF THE CITY OF FOREST PARK; TO ESTABLISH OTHER RULES AND PROCEDURES FOR SUCH SPECIAL TAX DISTRICT; TO ESTABLISH THE PROCESS TO PROVIDE THE MILLAGE RATE FOR SAID TAX; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER LAWFUL PURPOSES.

WHEREAS, the duly elected governing body of the City of Forest Park, Georgia (the “City”) is the Mayor and Council thereof;

WHEREAS, a privately owned waste transfer station presently operates within the municipal limits of the City for the collection of construction and demolition debris, municipal solid waste, and yard waste produced in the City as well as in nearby counties and municipalities;

WHEREAS, garbage trucks bring such debris and waste to said waste transfer station by travelling on streets and roadways maintained by the City and large semi-trailer trucks then haul the accumulated debris and waste from such station over these same streets and roadways;

WHEREAS, the constant flow of these trucks travelling to and from said waste transfer station imposes a significant strain on the City’s streets and roadways, resulting in the need to repair and repave these ways more frequently than such ways would otherwise need from ordinary traffic flow; and

WHEREAS, the presence of this privately owned waste transfer station also poses a significant burden on the services and finances of the City by the increase in noise, attracting rodents, and the risk of potentially hazardous materials seeping into the ground and onto adjoining properties;

WHEREAS, Article IX, Section II, Paragraph VI of the 1983 Constitution of the State of Georgia authorizes and empowers the City to create special tax districts within its municipal limits for the provision of local government services; and

WHEREAS, the governing body desires to exercise said power to create a special tax district to fund the increased operating and capital improvement requirements related to the presence of said privately owned waste transfer station operating within the City's municipal limits; and

WHEREAS, the amendments to the Code of Ordinances, City of Forest Park, Georgia, contained herein will benefit the health, safety, morals and welfare of the citizens of and visitors to the City.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FOREST PARK, GEORGIA, and by the authority thereof:

Section 1. The Code of Ordinances, City of Forest Park, Georgia is hereby amended by enacting Section 3-2-18 ("Waste Transfer Station Special Tax District") in Chapter 2 ("Ad Valorem Taxes") of Title 3 ("Finance") therein, said section to read and be codified as follows:

Section 3-2-18. -Waste Transfer Station Special Tax District

- (a) Pursuant to Article IX, Section II, Paragraph VI of the 1983 Constitution of the State of Georgia, there is hereby established a special tax district within the City of Forest Park, Georgia to be known as the "Waste Transfer Station Special Tax District." Said Waste Transfer Station Special Tax District shall include and encompass all structures and related personal property that are not exempt from ad valorem taxation that are located on or within the parcel of real property identified by the Clayton County Tax Assessor's Office as Tax Parcel Identification Number 13079C A045, and bearing a street address of 327 Lamar Drive, Forest Park, Georgia, 30297. Said Waste Transfer Station Special Tax District is further shown on the map entitled "Waste Transfer Station Special Tax District" attached hereto as Exhibit "A" and incorporated herein by reference. The Mayor and Council of the City of Forest Park, Georgia may amend said Waste Transfer Station Special Tax District from time to time by ordinance or resolution.

- (b) Purpose. The Waste Transfer Station Special Tax District is established for the purposes allowed under Georgia law. The tax is assessed against any owner of real property and personal property included within said Special Tax District.
- (c) The effective date of the creation of the Waste Transfer Station Special Tax District shall be January 1, 2017. There is hereby assessed and levied upon all real and personal property in said Special Tax District a tax, the rate of which shall be determined annually by the City of Forest Park and adopted by resolution of the Mayor and Council thereof. Such assessment and levy shall commence with the ad valorem tax bill for all property within the Waste Transfer Station Special Tax District for the 2017 tax year and continue for each succeeding tax year thereafter until and unless said Special Tax District is terminated by ordinance or resolution of the Mayor and Council.

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional

or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 6. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

ORDAINED this _____ day of _____, 2016.

CITY OF FOREST PARK, GEORGIA:

David Lockhart, Mayor

Tommy Smith
Mayor Pro-Tempore (Ward One)

Dabouze Antoine
Councilmember, Ward Two

Sandra Bagley
Councilmember, Ward Three

Latresa Akins
Councilmember, Ward Four

Allan Mears
Councilmember, Ward Five

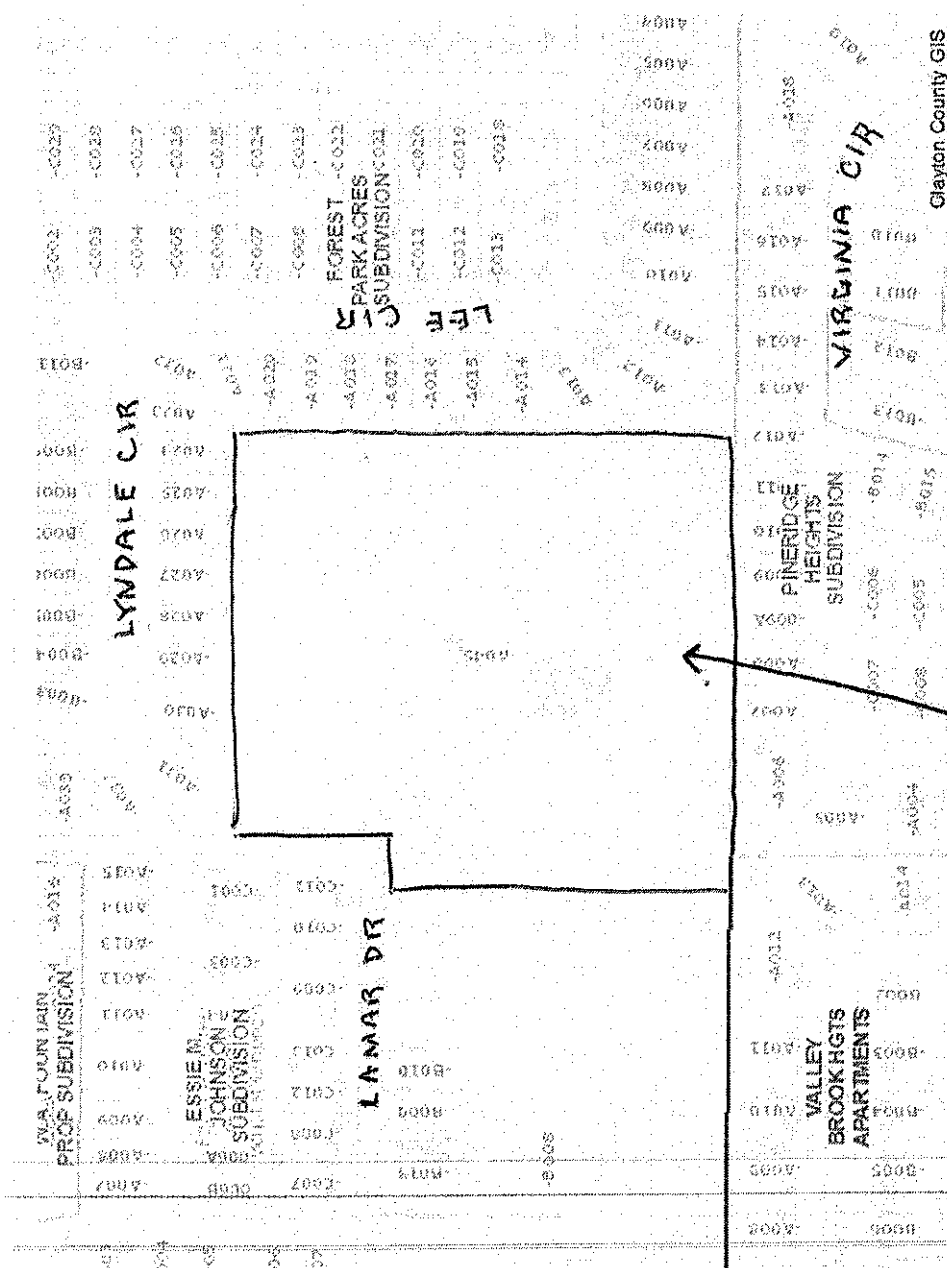
ATTEST:

Mike Blandenburg, City Clerk

APPROVED BY:

City Attorney

Exhibit "A"



WASTE TRANSFER STATION

SPECIAL TAX DISTRICT
PARCEL ID - 13079C-A045
STREET ADDRESS - 327 LAMAR DRIVE
FOREST PARK, GA 30297