

**Pierce County Board of Commissioners
Regular Meeting Minutes
Tuesday, July 7, 2020 6:00PM**

1. **Call to Order** – Chairman Bennett called the meeting to order at 6:00PM
2. **Invocation and Pledge of Allegiance** – Commissioner David Lowman gave an invocation and Harold Rozier led the pledge of allegiance.
3. **Approval of the Agenda** – Commissioner David Lowman made a motion to approve the agenda as presented. Commissioner Harold Rozier seconded the motion. All voted aye and motion was approved.
4. **Approval of Minutes**
 - a. **Regular Meeting Minutes, June 2, 2020**

Commissioner David Lowman made a motion to approve the minutes from the June 2, 2020 meeting as presented. Commissioner Harold Rozier seconded the motion. All voted aye and motion was approved.

5. **County Manager Report and May 2020 Financials.** – Chairman Bennett shared since County Manager Rubenbauer was out on vacation. Thank you to all the constitutional officers, department heads and employees for working hard to manage our expenditures. Over all we are 6.57% below budget.

Financial Report & County Manager Report

July 7, 2020

- Financial Report as of 05/31/2020
 - a. No financial information available as of 7/2/2020.
- County Manager Report
 - a. Roads
 - i. Pierce County has been awarded an additional LMIG to repair two culverts that impact our industrial park. One is located on Dean Still Road and the other is located on Bowen Road. This will also allow for the resurfacing of a poor road condition found on Old Alma Road. Statewide Engineering is currently working on a bid package and we will be able to recoup 90% of the cost up to approximately \$211,000. Thank you to Chairman Bennett, GDOT Congressional District 1 Board Member Ann Purcell, State Senator Tyler Harper, State Representative Steven Meeks, and GDOT District 5 State Aid Coordinator Jeremy Barwick for their continued support of Pierce County.
 - ii. GTIB Awards have been made, but unfortunately Pierce County was not selected for either the Horseshoe Project or the Sandy Bottom Road Project. The Horseshoe project was a hard decision according to David with the Georgia State Road & Toll Authority, but there were so many applications this year. We will be applying again when the grant opens for next year with additional projects.
 - iii. Cross Swamp Road had to be closed for pipe replacement and rebuilding a section of roadway that was damaged by four wheelers and trucks bogging near the branch between Pint Road and Oliver Road. This road should be reopened by Monday, July 13th.
 - b. Fire/EMA
 - i. Southside and Bearville fire stations now have power installed
 1. Electric Roll-up doors are to be adjusted this week.
 2. After all adjustment are done a final inspection will take place
 3. Hope to have projects fully complete by the end of the week
 - c. Parks & Recreation

- i. Scoreboards arrived yesterday and installation is scheduled to be completed this week.
- ii. Baseball camp has begun this week
- iii. Basketball camp registration finishes this week
- iv. looking at hosting a corn hole tournament in the near future

Pierce County Board of Commissioners
Summary Financial Report
May 31, 2020

5/31/2020
General Fund-Cash & Investment \$ 6,358,252

General Fund - Revenues (YTD Totals)	Original Budget	Amended Budget	YTD 2020 Actual	%	YTD 2019 Actual
Taxes	\$ 8,365,000	\$ 8,365,000	\$ 6,042,181	72.2%	\$ 5,668,963
Licenses/Fees/Permits	\$ 140,500	\$ 140,500	\$ 52,593	37.4%	\$ 78,301
Charges for Services	\$ 521,850	\$ 521,850	\$ 217,874	41.8%	\$ 491,865
Fines/Forfeitures	\$ 180,600	\$ 180,600	\$ 72,739	40.3%	\$ 71,832
Intergovernmental	\$ 110,000	\$ 110,000	\$ 78,873	71.7%	\$ 56,785
Other	\$ 169,500	\$ 169,500	\$ 21,323	12.6%	\$ 87,828
Total Revenues	\$ 9,487,450	\$ 9,487,450	\$ 6,485,582	68.4%	\$ 6,455,574

Expenditures Analysis by Function (YTD Totals)	Original Budget	Amended Budget	YTD 2020 Actual	%	YTD 2019 Actual
General Admin	\$ 2,099,265	\$ 2,099,265	\$ 588,229	28.0%	\$ 846,943
Judiciary	\$ 1,113,637	\$ 1,113,637	\$ 444,160	39.9%	\$ 462,310
Public Safety	\$ 3,908,895	\$ 3,908,895	\$ 1,532,935	39.2%	\$ 1,650,316
Public Works	\$ 1,169,503	\$ 1,169,503	\$ 389,154	33.3%	\$ 460,044
Health & Welfare	\$ 343,115	\$ 343,115	\$ 61,206	17.8%	\$ 109,855
Community Development	\$ 456,343	\$ 456,343	\$ 181,857	39.9%	\$ 170,911
Contingency	\$ 80,000	\$ 80,000	\$ -	0.0%	\$ -
Total Expenditures	\$ 9,170,758	\$ 9,170,758	\$ 3,197,543	34.9%	\$ 3,700,377
Transfers to F911	\$ 41,692	\$ 41,692	\$ 17,372	41.7%	\$ 29,297
Transfers to Rec	\$ 275,000	\$ 275,000	\$ 114,583	41.7%	\$ 83,333
Total Expenditures/Transfers	\$ 9,487,450	\$ 9,487,450	\$ 3,329,497	35.1%	\$ 3,813,008

Payroll (Current Month)	Total Payroll	Overtime Pay	OT Hours Pd
Road	\$ 28,153	\$ 512	30.00
Sheriff Admin/Patrol/Detectives	\$ 69,431	\$ 14,056	561.00
Jail/Work Detail	\$ 47,936	\$ 13,254	696.25
EMS	\$ -	\$ -	-
F911	\$ 14,079	\$ 2,476	131.50
Other Depts	\$ 119,441	\$ 816	160.25
Totals	\$ 279,041	\$ 31,115	1,579.00

Other Items (YTD Totals)	Year 2020	Year 2019	Increase (Decrease)
Revenue-Loc Opt Sales Tax	\$ 531,080	\$ 502,321	\$ 28,759
Revenue-EMS Collections	\$ 1,650	\$ 190,065	\$ (188,416)
Revenue-Fines & Forfeiture	\$ 72,739	\$ 71,832	\$ 906
Expenditures-Total Payroll	\$ 1,477,636	\$ 1,782,132	\$ (304,495)
Expenditures-Overtime Pay	\$ 148,066	\$ 237,254	\$ (89,188)
Expenditures-Electricity	\$ 90,903	\$ 89,921	\$ 982
Expenditures-Fuel Costs	\$ 76,457	\$ 80,603	\$ (4,146)
Expenditures-Prisoner Housing	\$ 34,022	\$ 90,045	\$ (56,023)

6. Approval of Amendment to FTA 5311 Procurement Policy for Pierce County Transit.

The Pierce County Board of Commissioners does hereby amend the FTA 5311 Procurement Policy for Pierce County as follows:

3.1.1.1 Micro-Purchases

3.1.1.2 Definition

Micro-purchases are those purchases of products and services that cost less than **\$10,000**.

3.1.1.2. Approval Authority

Micro-purchases must be approved in writing by one of the following Pierce County Transit employees:

- Purchasing Agent; or
- County Manager.

3.1.1.3. Competition

Pierce County Transit may acquire products and services valued at less than **\$10,000** without obtaining competitive quotations but must be approved in writing by GDOT. Micro-purchases should be distributed equitably among qualified suppliers.

3.1.2. Small Purchases

3.1.2.1. Definition

FTA defines small purchases are those purchases of products and services, including construction services, that cost greater than \$10,000 but not more than \$249,999.

3.1.3. Formal Purchases

3.1.3.1. Definition

Large purchases are those purchases of products and services that cost greater the Federal threshold of \$250,000.

Effective July 7, 2020 thresholds are increased as presented in this amendment.

Signed this 7th day of July, 2020.

Neal Bennett
Chairman

Amy Hitt
County Clerk

Commissioner Harold Rozier made a motion to approve the amendment to the Procurement Policy for the FTA5311 Transit program. Commissioner David Lowman seconded the motion. All voted aye and motion was approved.

7. Approval of Amendment to the TPO Contract with MIDS, INC.

Amendment #1-2020

Pierce County Third Party Operator Agreement

WHEREAS it is the desire of GDOT to have all Third Party Operating (TPO) agreements utilize unit rate reimbursement methodology effective FY2021. The existing TPO agreement between Pierce County and MIDS Transportation, Inc.; which is presently utilizing fixed expense reimbursement; with this amendment will transition to unit rate reimbursement methodology effective July 1, 2020.

This amendment is made and entered into the 1st day of July, 2020 by and between the Board of Commissioners of Pierce County, Georgia, hereinafter referred to as the "COUNTY" and MIDS Transportation, Inc., as the Third Party Operator, hereinafter referred to as "TPO";

The following language is hereby deleted from the existing TPO agreement:

COMPENSATION

TPO shall be reimbursed for the costs for the performance of this Agreement from farebox collections, purchase of services agreements, and GDOT in accordance with their rules and regulations. COUNTY shall at no time reimburse TPO for services rendered or have any monetary liability to TPO and TPO shall look solely to fares collected or received pursuant to service agreements and to GDOT for compensation under this Agreement. All profits and losses resulting from operation of this program shall belong to, and be the sole responsibility of, TPO.

The following language is hereby added to the existing TPO agreement:

COMPENSATION

TPO shall be reimbursed for the costs for the performance of this Agreement based on actual Trips Performed. Documentation from the scheduling and dispatching software will be utilized to compute the monthly trip numbers. TPO will invoice the COUNTY monthly for purchased transit operations. The COUNTY will seek monthly reimbursement from GDOT for purchased transit services and will reimburse the TPO the same. Dispatching, trip reservations, scheduling, supervision of these services and all other activities detailed in the TPO agreement are included in the Trip Rate.

For FY2021 as a result of COVID-19 the CARES Act Funding has provided for reimbursement of 100% of operating and capital cost with no local match requirement for all 5311 operations. The base trip rate for FY2021 will be \$26.46/trip. There will also be a Supplemental (floating/adjustable) trip rate used to reimburse for cost not recovered under the base trip rate.

This Supplemental Trip Rate will be adjusted each month to ensure that the cost of operating the system under current COVID-19 situations are covered. Information from the monthly vehicle reports will be utilized to determine this rate.

The sum of the # of trips x base trip rate and # of trips x supplemental trip rate minus actual farebox collected will equal the monthly purchased transit invoice amount. This amount will also equal the amount of the Subrecipient Request for Reimbursement (SRR) which will be submitted monthly to GDOT in accordance with their rules and regulations.

All profits and losses resulting from operation of this program shall belong to, and be the sole responsibility of the TPO. Total annual compensation from the COUNTY to the TPO shall not exceed the GDOT approved

annual budget amount unless documented justification is submitted and approved by GDOT, COUNTY and TPO.

IN WITNESS WHEREOF, COUNTY and MIDS Transportation, Inc. have caused this agreement to be duly executed by their authorized representatives as of the day and year first above written.

On behalf of the Board of Commissioners of
Pierce County, Georgia

Chairman Board of Commissioners

Commissioner David Lowman made a motion to approve the amendment for the TPO agreement with MIDS. Commissioner Harold Rozier seconded the motion. All voted aye and motion was approved.

8. Approval of Unison Behavioral Health county participation contract for July 1, 2020 through June 30, 2021.

UNISON BEHAVIORAL HEALTH
COUNTY PARTICIPATION CONTRACT

For and in consideration of the agreement of **PIERCE COUNTY BOARD OF COMMISSIONERS** to participate in costs of personnel, travel and variable expenses for Unison Behavioral Health to the extent of **\$7,500.00**.

Unison Behavioral Health agrees to provide the following services:

- A. Mental Health Services
- B. Developmental Disabilities Services
- C. Substance Abuse Services

As specified in the master agreement with the Georgia Department of Behavioral Health and Developmental Disabilities.

Control of Services

Program administration shall rest entirely with Unison Behavioral Health and the Chief Executive Officer of said body. They shall have final determination concerning questions of eligibility for services.

Reimbursement

Reimbursement to Unison Behavioral Health for services rendered shall be made monthly in 12 equal installments. Such reimbursement shall be due and payable on or before the 1st of each of the twelve months covered by the contract period of July 1, 2020 through June 30, 2021 or shall be paid in one annual payment due in July which is the 1st month of the fiscal year.

Termination of Contract

This contract shall be terminated under the following conditions:

- a. At the end of the fiscal year covered by this contract.
- b. At any time by either party to contract, following 30 days written notice to the affected party.

We have examined the contract and agree to the provisions as set herein.

Signed, Sealed and delivered on this 7th day of July, 2020 in the presence of:

[Signature]
Witness

[Signature]
Notary Public



[Signature]
Chairman, County Commissioners



Signed, sealed and delivered on this _____ day of _____, 20____, in the presence of:

Witness

Notary Public

Glyn Thomas, Ph.D., CEO
Unison Behavioral Health

Commissioner David Lowman made a motion to approve the annual renewal of the Unison Behavioral Health county participation contract for July 1, 2020 through June 30, 2021 as presented. Commissioner Harold Rozier seconded the motion. All voted aye and motion was approved.

9. Request to approve a Pierce County Social Media Policy. Chairman Bennett shared that the policy being presented came from ACCG as a recommendation of guidelines for employees to follow. The policy allows for constitutional officers to create a more restrictive policy than this but does require that the presented policy be followed by all county employees. Commissioner Lowman stated that he feels this policy is not too strict and is a good starting point.

**PIERCE COUNTY
SOCIAL MEDIA POLICY**

A. Purpose and Intent.

The purpose and intent of this policy is to establish guidelines for employees who engage in social media activity as defined herein. This policy is not intended to prohibit any employee's personal expression in general or through social media activity in particular; however, because such activity can adversely affect the efficiency and effectiveness of Pierce County operations, as well as undermine public trust and confidence, a certain amount of regulation is necessary and appropriate. This policy therefore attempts to strike a reasonable balance between the employees' interest in engaging in social media activity and the County's interest in preventing unnecessary disruption to or interference with its operations and relationship to the public it serves.

B. Definitions.

1. For purposes of this policy, the term “social media” is defined as the online technologies through which employees and other individuals engage in “social media activity” as defined below. In most cases, the term refers to internet-based websites such as MySpace®, Facebook®, Twitter®, LinkedIn®, Google+®, YouTube®, Tumblr®, and Blogger®. Online social media technologies covered by this policy also include, but are not limited to, such applications as web logs/blogs, video logs/vlogs, message boards, podcasts, and wikis.

2. For purposes of this policy, the term, “social media activity” is defined as the act of sharing information or otherwise communicating through social media, including, but not limited to, the posting, uploading, reviewing, downloading, and/or forwarding of text, audio recordings, video recordings, photographs/images, symbols, or hyperlinks.

C. Scope of Policy.

1. This policy applies to all employees of the County without regard to whether their social media activity is conducted in or outside the workplace, while on or off-duty, or anonymously or through the use of pseudonyms.

2. This policy applies to all employees of the County without regard to job title, position or rank; however, with the approval of the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other department, office or affiliated agency of the County having special or unique concerns pertaining to its employees’ social media activity may adopt and implement more restrictive SOP’s or other internal rules narrowly designed to address such concerns.

D. Prohibitions on Social Media Activity.

1. All employees of the County should remain mindful that, as public servants, they are generally held to higher standards than the general public with regard to their on-duty and off-duty conduct, professionalism, and ethics. As a result, certain social media activity that may be tolerated or even acceptable in the private sector may nevertheless constitute a violation of this policy.

2. Each employee of the County who engages in social media activity must take personal responsibility for ensuring that such activity is consistent with all policies of the County, including, but not limited to, those pertaining to making false or misleading statements, promoting or endorsing violence or illegal activity, promoting or endorsing the abuse of alcohol or drugs, disparaging individuals or groups based on race, ethnicity, national origin, gender, sexual orientation, religion, disability, or other characteristics protected by law, or otherwise engaging in conduct unbecoming an employee of the County, bringing discredit to the County, or interfering with or detrimental to the mission or function of the County.

3. Employees must refrain from engaging in any social media activity which disqualifies them from performing, or in any way reasonably calls into question their ability to objectively perform, any essential function of their jobs. Examples of such functions include, but are not limited to, testifying, making hiring or promotion decisions or recommendations, conducting performance evaluations, and determining eligibility for County programs.

4. While any employee, at his/her discretion, may engage in social media activity with any other employee(s) consistent with the prohibitions, limitations and restrictions, and guidelines of this policy, no employee may be required or otherwise compelled to engage in such activity with another employee.

5. No employee, whether for purposes of engaging in social media activity or otherwise, may disclose or otherwise reveal any privileged or confidential information of the County, any other current or former employee of the County, or any applicant for employment with the County.

E. Limitations and Restrictions on Social Media Activity.

1. Employees are strongly discouraged from disclosing or otherwise revealing their status as employees of the County through social media and, except as otherwise authorized in advance by the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other department, office or affiliated agency of the County, are strictly prohibited from directly or indirectly representing themselves to be speaking on behalf of the County. Similarly, in the absence of prior approval, employees’ social media activity should not reveal or depict the County’s adopted logos, seals, symbols, uniforms, patches, badges, or similar items identified with the County.

2. Except as otherwise authorized in advance by the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other

department, office or affiliated agency of the County, if an employee's status as an employee of the County is disclosed, revealed, or otherwise made apparent in connection with his/her social media activity, his/her social media activity must include a prominently displayed disclaimer to the effect that the activity reflects only the employee's personal views or opinions and not those of the County; provided, however, that no disclaimer will shield an employee from the imposition of appropriate corrective and/or disciplinary action for social media activity which otherwise violates this policy. Employees should recognize that social media activity is generally more likely to violate this policy and other policies of the County if their status as County employees is disclosed or revealed in connection therewith.

3. Except as otherwise authorized in advance by the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other department, office or affiliated agency of the County, no employee may utilize County computers or equipment for purposes of engaging in social media activity.

4. Except as otherwise authorized in advance by the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other department, office or affiliated agency of the County, no employee, whether for purposes of engaging in social media activity or otherwise, may post or upload any information, audio recordings, video recordings, photographs/images, etc. from County computers or equipment.

5. To preserve the continuity of the County's message, ensure accuracy, and avoid unnecessary confusion in the community, except as otherwise authorized in advance by the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other department, office or affiliated agency of the County, employees should refrain from engaging in any social media activity that purports or serves to announce or explain the details of County programs, projects, activities, initiatives, or events.

6. Exceptions to the above-stated limitations and restrictions may be authorized by the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other department, office or affiliated agency of the County; provided, however, that any request for such an exception represents a promise by the employee that, if approved, the disclosure of information, photographs, audio, video, etc. via social media activity will be fully consistent with the letter and spirit of this and all other policies of the City, any internal SOP's or rules adopted by his/her department director, as well as any laws pertaining to copyrights, trademarks, trade secrets, patents, and privacy and reputational rights.

7. The County reserves the right to require any employee to remove immediately any posted or uploaded text, audio recordings, video recordings, photographs/images, etc. (even if previously approved) if such posted material constitutes a violation of this policy or other County policies.

F. Application to Other Policies.

All personnel policies of the County relating to employee conduct apply equally to conduct that occurs through social media. This includes, but is not limited to, policies relating to discrimination, harassment, retaliation, workplace violence, conflicts of interest, and political activity. Any conflicts or inconsistencies between this policy and any one or more other policies shall be resolved by the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other department, office or affiliated agency of the County.

G. Duty to Report.

All employees have an ongoing duty to report any violations of this policy by any other employee. The County considers this duty to report to be a critical component of its efforts to enforce this policy, and thereby ensure the safety, well-being, morale, and efficiency of its employees, preserve its reputation and goodwill in the community, and avoid or minimize unnecessary disruptions to or interference with its operations and service to the public.

H. No Expectation of Privacy in Social Media Activity.

1. County employees should be aware that social media activity is not secure or private, even if active steps are taken to restrict access. Once information has been posted or exchanged via social media, it is generally trackable, traceable, and accessible indefinitely. For this reason, and consistent with the County's current Technology and Acceptable Use Policy, employees should have no expectation of privacy in any social media activity conducted in the workplace and/or on-duty or in any social media activity which otherwise directly or indirectly relates to or affects the County, any of its departments, or its employees.

2. The County reserves the right to inspect or monitor any social media activity engaged in by its employees using County-owned computers or other electronic equipment or devices. In addition, employees may be required to provide access to any social media websites or other applications in which they participate upon a determination by the City that there is reasonable suspicion to believe that such access will reveal evidence of a violation of this policy or any other County policy.

I. Corrective and/or Disciplinary Action; Other Potential Consequences.

1. Employees engaging in social media activity in violation of this policy will be held accountable, and corrective and/or disciplinary action, up to and including termination of employment, may be taken in accordance with the County's disciplinary policies procedures.

2. If an employee is sued in part due to his/her social media activity under circumstances where the County would ordinarily provide a defense and/or indemnify the employee, the County reserves the right to withhold or withdraw such defense or indemnification in the event any such activity is found to violate this policy or any other policy of the County.

J. Interpretation and Application.

1. Nothing in this policy is intended to or will be applied in a manner that violates any employee's constitutional rights, including rights to freedom of speech, expression, and association, or federal or state rights to engage in any statutorily-protected activity.

2. Any employee unsure about the application of this policy to any particular social media activity should seek guidance from the County Manager, the Sheriff, Tax Commissioner, Superior Clerk of Courts, Probate Judge, or Magistrate Judge and any other department, office or affiliated agency of the County before engaging in such activity.

3. This policy is intended for internal use of the County only and should not be construed as establishing a higher duty or standard of care for purposes of any third-party civil claims against the County and/or its employees. A violation of this policy by an employee provides only a basis for corrective and/or disciplinary action against such employee by the County.

Commissioner David Lowman made a motion to approve the Social Media policy as presented. Commissioner Harold Rozier seconded the motion. All voted aye and motion was approved.

10. Request to approve Soil Erosion, Sedimentation and Pollution Control

Ordinance. Chairman Bennett shared that currently EPD issues permits but we feel we need to be more involved in this process. Mr. Bond is aware of his role in this process and we are ready to move forward.

**PIERCE COUNTY, GEORGIA
ORDINANCE NO. 20-07**

AN ORDINANCE BY THE PIERCE COUNTY BOARD OF COMMISSIONERS TO ADOPT REGULATIONS OF THE SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

WHEREAS, O.C.G.A. § 36-1-20 authorizes the County to adopt ordinances preserving the public health, safety, and welfare, and to adopt appropriate measures to enforce those ordinances; and

WHEREAS, O.C.G.A. § 12-7-4 the governing authority of each county shall adopt a comprehensive ordinance relating to land-disturbing activities, and

WHEREAS, in the interests of the health, safety, and general welfare of the citizens of Pierce County, Georgia, the Board of Commissioners of Pierce County desires to exercise its authority to adopt an ordinance regulating soil erosion, sedimentation and pollution control; and

WHEREAS, the Joint Planning Commission voted to discontinue Pierce County's Certification as a "Local Issuing Authority" under Georgia's Erosion and Sedimentation Act of 1975 without the proper authority of the local governing authority, and

WHEREAS, the governing body of Pierce County received a letter from Georgia EPD pertaining to the relinquishment of the "Local Issuing Authority" in December 2015, and

WHEREAS, appropriate notice and hearing on the ordinance contained herein have been carried out according to general and local law.

NOW, THEREFORE, BE IT ORDAINED, BY PIERCE COUNTY BOARD OF COMMISSIONERS

TITLE

This ordinance will be known as “**Pierce County Soil Erosion, Sedimentation and Pollution Control Ordinance.**”

SECTION II DEFINITIONS

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

1. **Best Management Practices (BMPs):**

These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the ‘Manual for Erosion and Sediment Control in Georgia’ published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

1. **Board:** The Board of Natural Resources.
2. **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.
3. **Certified Personnel:** A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
4. **Coastal Marshlands:** Shall have the same meaning as in O.C.G.A. 12-5-282.
5. **Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).
6. **CPESC:** Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPEESC, Inc.
7. **Cut:** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
8. **Department:** The Georgia Department of Natural Resources (DNR).
9. **Design Professional:** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
10. **Director:** The Director of the Environmental Protection Division or an authorized representative.
11. **District:** The Satilla River Soil and Water Conservation District.
12. **Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.
13. **Drainage Structure:** A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.
14. **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.
15. **Erosion, Sedimentation and Pollution Control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protection at least as stringent as the State General Permit, best management practices, and requirements in section IV.C. of this ordinance.
16. **Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
17. **Final Stabilization:** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.
18. **Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
19. **Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
20. **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.
21. **Land-Disturbing Activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing,

dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section III, Paragraph 5.

22. **Larger Common Plan of Development or Sale:** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
23. **Local Issuing Authority:** The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.
24. **Metropolitan River Protection Act (MRPA):** A state law referenced as O.C.G.A. 12-5-440 et.seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
25. **Natural Ground Surface:** The ground surface in its original state before any grading, excavation or filling.
26. **Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.
27. **NOI:** A Notice of Intent form provided by EPD for coverage under the State General Permit.
28. **NOT:** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
29. **Operator:** The party or parties that have: (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.
30. **Outfall:** The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.
31. **Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
32. **Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.
33. **Phase or Phased:** Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
34. **Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.
35. **Properly Designed:** Designed in accordance with the design requirements and specifications contained in the “Manual for Erosion and Sediment Control in Georgia” (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
36. **Roadway Drainage Structure:** A device such as a bridge, culvert, or ditch, composed of a virtually nonerrodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
37. **Sediment:** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
38. **Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
39. **Soil and Water Conservation District Approved Plan:** An erosion, sedimentation and pollution control plan approved in writing by the Satilla River Soil and Water Conservation District.
40. **Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
41. **State General Permit:** The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state’s authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.
42. **State Waters:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a

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

43. **Structural Erosion, Sedimentation and Pollution Control Practices:** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.
44. **Trout Streams:** All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.epd.georgia.gov. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.
45. **Vegetative Erosion and Sedimentation Control Measures:** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:
 - a. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
 - b. Temporary seeding, producing short-term vegetative cover; or
 - c. Sodding, covering areas with a turf of perennial sod-forming grass.

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

46. **Watercourse:** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.
47. **Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

SECTION III EXEMPTIONS

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

1. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".
2. Granite quarrying and land clearing for such quarrying;
3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
4. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;
5. Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section IV C. of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;

8. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;
9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
11. Any public water system reservoir.

**SECTION IV
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 ordinance 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 Section IV B. & C. of this ordinance. 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 ordinance and the NPDES General Permit.

B. MINIMUM REQUIREMENTS/ BMPs

1. Best management practices as set forth in Section IV B. & C. of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).
2. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the

Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

4. The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
 5. The LIA may set more stringent buffer requirements than stated in C.15,16 and 17, 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 Section IV B. 2. of this ordinance;
 15. Except as provided in paragraph (16) and (17) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or 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 of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
16. There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed ; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; 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 Chapter 5 of Title 12 of this title, 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 Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 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; and
- 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 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 any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section IV B. & C. of this ordinance.
- 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 ordinance or the terms of the permit.

SECTION V 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 Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.

B. APPLICATION REQUIREMENTS

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Pierce County, Georgia without first obtaining a permit from the Planning & Codes Office 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 Planning & Codes Office and must include the applicant’s erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section V C. of this ordinance. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section IV B. & C. of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by three (3) copies of the applicant’s erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.
3. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
4. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section IV C. 15, 16 and 17 have been obtained, all fees have been paid, and bonding, if required as per Section V B.6., have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the revised Plan submittal.
5. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
6. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

C. PLAN REQUIREMENTS

1. Plans must be prepared to meet the minimum requirements as contained in Section IV B. & C. of this ordinance, 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 ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. 12-7-20.
2. Data Required for Site Plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

D. PERMITS

1. Permits shall be issued or denied as soon as practicable but, in any event, not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
2. No permit shall be issued by the Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section IV C. 15, 16 and 17 are obtained, bonding requirements, if necessary, as per Section V B. 6. are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
3. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
4. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
5. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
6. The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

SECTION VI INSPECTION AND ENFORCEMENT

- A. The Pierce County Code Enforcement Officer will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the Local Issuing Authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which 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 ordinance.
- B. The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- C. The Pierce County Code Enforcement Officer, or Sheriff's Deputy, shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- D. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- E. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness

of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.

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

SECTION VII 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 ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.

B. STOP-WORK ORDERS

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

C. BOND 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 ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section V B. 6. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

D. MONETARY PENALTIES

1. Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose 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 ordinance under county ordinances approved under this ordinance 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.

SECTION VIII EDUCATION AND CERTIFICATION

- A. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of

involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

- B. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
- D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

**SECTION IX
ADMINISTRATIVE APPEAL
JUDICIAL REVIEW**

A. ADMINISTRATIVE REMEDIES

The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Pierce County Board of Commissioners within 15 days after receipt by the Local Issuing Authority of written notice of appeal.

B. JUDICIAL REVIEW

Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Pierce County, Georgia.

**SECTION X
EFFECTIVITY, VALIDITY
AND LIABILITY**

A. EFFECTIVITY

This ordinance shall become effective on the 8th day of July, 2020.

B. VALIDITY

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

C. LIABILITY

1. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.
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 ordinance or the terms of the permit.
3. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

Adopted this 7th day of July, 2020.

**PIERCE COUNTY BOARD OF
COMMISSIONERS:**

Neal Bennett, Chairman

Harold Rozier, District 1 Commissioner

David Lowman, District 4 Commissioner

Attest:

Amy Hitt, County Clerk

Commissioner David Lowman made a motion to approve the Soil Erosion, Sedimentation and Pollution Control Ordinance 20-07. Commissioner Harold Rozier seconded the motion. All voted aye and motion was approved.

- 11. Request to select a Construction Manager for the Jail Addition project.** Chairman Bennett stated that the process of selecting the construction manager has been going on for a couple of months. Our architect firm Studio 8 has been leading the process. Proposals were submitted and three companies were chosen to have an interview and make a presentation. Allstate Construction Group presented a cost estimate of \$3,752,137, R H Tyson Construction presented a cost estimate of \$3,795,000 and Garbutt Construction presented a cost estimate of \$4,435,756. The cost estimates were close and the companies were ranked based on experience as well. Studio 8 stated that Allstate had the strongest experience record by far and was also the lowest cost estimate.

Commissioner David Lowman made a motion to use RH Tyson Construction for the jail addition construction manager based on them being a local business and the next lowest cost estimate. Commissioner Harold Rozier seconded the motion. All voted aye and motion was approved.

- 12. Request to approve Resolution to Revise the Service Delivery Strategy.** Chairman Bennett stated that the plan is supposed to be updated often and this is just an update. The cities have all approved the current revision. This revision is to be compliant with some grant applications.

RESOLUTION

Pierce County Board of Commissioners Adopt Revised Service Delivery Strategy

WHEREAS, one of the requirements of the Georgia Planning Act of 1989 is that all local governments review and revise, if applicable, sections of their Service Delivery Strategy as part of the mandatory updating of their Comprehensive Plan; and

WHEREAS, the intent of this legislation is to provide a flexible framework within which local governments in each county can develop a service delivery system that is both efficient and responsive to citizens in their county; and

WHEREAS, Pierce County has reviewed, and revised as necessary, each section of the current Service Delivery Strategy and all applicable agreements to ensure the Strategy is currently eliminating inefficiencies from duplication of services and competition between local governments and provides a mechanism to resolve disputes over local government service delivery, funding equity, and land use.

THEREFORE, BE IT RESOLVED, that the Pierce County Board of Commissioners agrees to approve the revisions and continue the unchanged provisions of the Strategy, and authorizes the Chairman of the Pierce County Board of Commissioners to sign the updated "Certifications" page that indicates the agreement of all jurisdictions required to approve the changes of this Strategy.

Adopted this 7th day of July, 2020

BY: _____

Neal Bennett, Chairman

ATTEST: _____

Amy Hitt, County Clerk

Commissioner David Lowman made a motion to approve the revised Service Delivery Strategy Resolution as presented. Commissioner Harold Rozier seconded the motion. All voted aye and motion was approved.

- 13. Request to approve the purchase of fire engine(s) up to \$60,000 from the 14SPLOST.** Chairman Bennett shared that Santo Nino, Fire Chief has been working

to move the Fire Department forward. This approval will allow us to upgrade 1 possibly 2 engines in the County fleet. Commissioner Lowman stated that the Northside engine is a 1985 and as a fire fighter he appreciates this move to newer equipment.

Commissioner Harold Rozier made a motion to approve the purchase of a fire engine(s) up to \$60,000 from the 14SPLOST funds. Commissioner David Lowman seconded the motion. All voted aye and the motion was approved.

14. Adjourn – Chairman Bennett asked the community to continue to follow the Governor’s orders and wear a mask, maintain social distancing and wash hands often.

Meeting adjourned at 6:28PM

Neal Bennett

Harold Rozier

Mike Streat

Randy Dixon

David Lowman