

LUMPKIN COUNTY RESOLUTION No. 2009-28

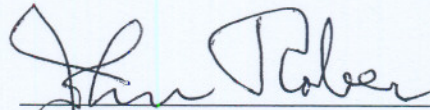
**A RESOLUTION TO APPROVE THE
LUMPKIN COUNTY MINOR LAND DISTURBING ORDINANCE,
TO ADOPT CERTAIN STATE DEFINITIONS
AND
TO PROVIDE FOR ENFORCEMENT**

Whereas, the governing authority of Lumpkin County, on advice of the Planning Department, desires to adopt certain definitions and procedures identified by the Georgia Environmental Protection Department as minor land disturbing activities, and permitted with less formality than that required for a Land Disturbing Permit; and,

Whereas, the governing authority of Lumpkin County has reviewed and considered the proposed ordinance;

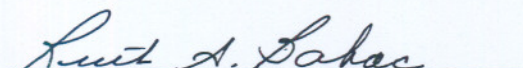
Now therefore, it is hereby resolved that the ordinance attached hereto as Exhibit "A," which is by reference incorporated herein, shall be adopted and known as the "Lumpkin County Minor Land Disturbing Ordinance."

Resolved, adopted and effective this 19th day of March, 2009.



John Raber, Chairman
Lumpkin County Board of Commissioners

Attest:



Ruth A. Bohac
Clerk, Lumpkin County

Lumpkin County Standard Operating Procedure For Determining Minor Land Disturbing Activities

Minor Land Disturbing Activities

This guideline is intended to clarify the land disturbing activities that can occur within the state-protected stream buffer under the minor land disturbance exemption and without a variance from EPD.

Definition:

OCCA 12-7-17(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.

Additional criteria to be considered:

OCCA 12-7-6(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 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.

Minor land disturbing does not apply to disturbance associated with non-residential construction projects. The Erosion and Sedimentation Act of 1975 intends for the minor land disturbing exemption to apply only to activities associated with individual homes and does not extend the exemption to any similar activities not associated with individual homes. Therefore, the exemption applies to individual home gardens, individual home landscaping, individual home repairs, individual home maintenance work, individual home fences, and other related individual home activities where the cumulative impact to the buffer does not exceed a total of 100 square feet. Appropriate Best Management Practices are to be designed, installed, and maintained for exempt projects to control erosion and sedimentation for the duration of the project and until final stabilization is achieved.

The term minor land disturbance is not found in the NPDES General Construction Permits and is therefore not applicable to sites covered by the General Permits. For common developments, once an individual lot meets the criteria for Notice of Termination (NOT) submittal and an NOT has been properly submitted to EPD, land disturbance by the homeowner within the buffer may meet the criteria of minor land disturbance and may therefore be exempt from the variance requirement. For residential stand alone construction projects minor land disturbance may apply once the project meets the criteria for NOT submittal and an NOT has been properly submitted to EPD. The minor land disturbance exemption would not apply to non-residential stand alone construction projects.

For minor land disturbing activities within the state-protected stream buffer:

- A. The following land disturbing activities are examples of projects **in addition to** those specifically listed in OCGA 12-7-17(3) that would be considered minor land disturbing and do not require a buffer variance.
1. Elevated structures such as decks, gazebos, patios, walkways, viewing platforms or open picnic shelters provided:
 - a. No more than 100 square feet of footprint of the elevated structure extends into or over the buffer; and
 - b. No grading, cutting, filling or similar land disturbing activities occur as a part of site preparation, construction or subsequent development; and
 - c. The structure is built on posts, concrete blocks or similar; and
 - d. Permanent protective vegetative cover remains or protective measures (e.g. mulch, gravel) are installed within the footprint of the elevated structure to prevent post-construction erosion and to protect water quality and aquatic habitat; and
 - e. A natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - f. No poured or prefab concrete or asphalt slabs, pads or foundations are constructed or placed as a part of site preparation, structure construction, or subsequent development; and
 2. A pervious ground level walkway approach to a dock or similar structure provided:
 - a. No more than 100 square feet of the constructed walkway extends into or over the buffer; and
 - b. No grading, cutting, filling or similar land disturbing activities occur as a part of site preparation, construction or subsequent development; and
 - c. No poured or prefab concrete or asphalt slabs, pads, supports or foundations are constructed or placed as a part of site preparation, structure construction, or subsequent development; and
 - d. All ground preparation and walkway material placement is completed with the use of hand-held equipment.
- B. The following land disturbing activities are examples of projects that would not be considered minor land disturbing and would require a buffer variance.
1. Any land disturbance utilizing wheeled or tracked machinery or equipment that enters or is physically located within the state waters buffer.
 2. Paving with concrete and/or asphalt.
 3. Any project or combination of projects on the same property which results in more than 100 square feet of structure and/or walkway within or extending into the buffer regardless of when the construction takes place.
 4. The construction of a barbeque pit.
 5. The construction of a ground-level patio.
 6. The construction of a swimming pool.
 7. The construction of a structural or decorative retaining wall.
 8. The construction of a seawall where land disturbance within the state waters buffer will occur.
 9. Backfilling any seawall construction within the state waters buffer.
 10. The construction or placement of any structure resulting in the removal or eventual loss of permanent protective vegetation around or underneath the structure, thereby allowing post-construction erosion to occur.