



ASSOCIATION OF GEORGIA SURVEYORS

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November 3, 2006

VIA CERTIFIED MAIL NO. 7006 0810 0005 9389 4491
RETURN RECEIPT REQUESTED

Kit Dunlap, Chairman
Metropolitan North Georgia Water Planning District
40 Courtland Street, N.E.
Atlanta, Georgia 30303

Re: MODEL ORDINANCE

Madam Chairman:

The Association of Georgia Surveyors demands that Section 3.3, Page 11 of the Model Ordinance be revised only as follows:

“This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a Certified Design Professional licensed in the state of Georgia, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the stormwater design manual.”

This language is your only legal recourse. Any exclusionary or limiting language will result in violation of civil liberties. Please review, once again, the enclosed pertinent language of O.C.G.A. 43-15-2(6)(D) and O.C.G.A. 12-7-4.

Sections C, D, E, and F of the Model Ordinance, in literal terms, define the scope of practice that applies only to Land Surveyors. (See O.C.G.A. 43-15-2(6)(D). Note that the language “stormwater management facilities” and “hydrologic studies” are the compelling language of this general law as it describes detention ponds, the design of which requires existing, post-developed, and downstream “study”. Professional Engineers and Landscape Architects do not have the same explicit language in their general law; however Civil Engineers and Landscape Architects generally have the capabilities to provide hydrologic studies.

The GEA and their coalition would have you believe that the substitution of their word “analysis” for the word “study or studies” somehow disqualifies general laws O.C.G.A. 12-7-4 and O.C.G.A. 43-15-2(6)(D).

Webster’s Dictionary proves this tactic utterly ludicrous, and patronizing.

For MNGWPD to ignore these facts and to exclude Land Surveyors at the behest of the coalition seems, according to our legal counsel, to imply collusion and could implicate MNGWPD in a violation of the Sherman Anti-Trust Act, or similar acts, by the Federal Trade Commission, relative to monopolies.

The Association of Georgia Surveyors urges you to not violate general law with your Model Ordinance. MNGWPD has been deceived by powerful lobby groups and “coalitions” who would have you proceed with the unlawful ordinance in the belief that their “roar” will frighten away devoted professionals from hard earned livelihoods.

Do not be further deceived.

Consider the language offered above as the AGS response to your November 20, 2006 deadline for public comments.

Meanwhile, AGS supports the fundamental goals and principles of MNGWPD in the quest for water quality improvement.

Sincerely,

Terry M. Scarborough
President, AGS

cc: Hon. Thurbert Baker, Attorney General
GAASLA
The Atlanta Journal and Constitution
ACCG

ENCLOSURE

(1.) O.C.G.A. 12-7-4(b)

(b) Nothing in this chapter shall be construed as to limit or exclude any design professional, including but not limited to any professional engineer or registered land surveyor, or Natural Resource Conservation Service employee, within any county, municipality, or consolidated government in this state from performing such professional services as may be incidental to the practice of his or her profession, including any and all soil erosion and sedimentation control plans, storm water management reports including hydrological studies, and site plans, when such professional has demonstrated competence through such qualifications, education, experience, and licensing as required for practice in this state by applicable provisions of Title 43 related to such profession; provided however, that any such person shall be subject to the requirements of Code Section 12-7-19

(2.) O.C.G.A. 43-15-2(6) (D)

D) The design, platting, layout, incidental to subdivisions of any tract of land by a land surveyor, of:

(i) Grading plans and site plans;

(ii) Erosion and sediment control plans, including detention ponds, provided that no impoundment shall be designed on a live (perennial) stream; provided, further, that such detention ponds:

(I) Contain no more than five acre-feet of water storage at maximum pool (top of dam) or are no more than ten feet in height for a dry storage pond;

(II) Are no more than six feet in height for a permanent (wet) storage pond; or

(III) Contain no more than three acre-feet of water storage at maximum pool (top of dam) if the height is more than ten feet but less than 13 feet for a dry storage pond;

(iii) Storm water management plans and facilities, including hydrologic studies and temporary sediment basins, provided that the contributing drainage area shall not be larger than 100 acres.