



Small town. Big difference.

City of Lilburn  
340 Main Street  
Lilburn, GA 30047

**City Council**  
**Meeting Agenda**

Council Chambers – 2<sup>nd</sup> Floor  
Monday, November 7, 2016  
7:30 p.m.

**Council**

Johnny Crist, Mayor  
Brian Burchik, Post 1  
Scott Batterton, Post 2  
Eddie Price, Post 3  
Tim Dunn, Post 4

*As set forth in the Americans with Disabilities Act of 1990, the City of Lilburn does not discriminate on the basis of disability in the admission or access to, or treatment or employment in its programs or activities. Doug Stacks, 340 Main Street, Lilburn, GA 30047 has been designated to coordinate compliance with the non-discrimination requirements contained in section 13.107 of the Department of Justice regulations, information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA coordinator.*

*The City of Lilburn will assist citizens with special needs given proper notice (seven working days). Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of the City of Lilburn should be directed to Doug Stacks, 340 Main Street, Lilburn, GA 30047, telephone number 770-921-2210.*

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **PLEDGE TO THE FLAG**
- IV. **APPROVAL OF AGENDA**
- V. **ANNOUNCEMENTS**
  - November 29 – Lilburn Tree Lighting, 7:00 p.m. to 8:00 p.m.
  - December 3<sup>rd</sup> – Lilburn Christmas Parade, 10:00 a.m. to 1:00 p.m.
- VI. **CEREMONIAL MATTER – NONE**
- VII. **PUBLIC COMMENT – NONE**
- VIII. **APPROVAL OF MINUTES**
  - Consideration of the **City Council Regular meeting minutes and Executive Meeting Minutes from October 10, 2016.**
- IX. **PUBLIC HEARING - NONE**
- X. **AGENDA**
  1. **STATE MANUAL FOR EROSION AND SEDIMENT CONTROL UPDATE – DIRECTOR OF PLANNING & ECONOMIC DEVELOPMENT**

As a housekeeping effort, the City is required to adopt revisions to the State Manual for Erosion Control in Georgia (Green Book) within 1 year of adoption. The Manual (6th edition) and model ordinance was revised in January, 2016 and went into effect in June, 2016.

There are a few new definitions and sections within the manual that address coastal marshlands, updates to best management practices, and accommodations for Low Impact Development, so we're proposing text amendments to the city's Soil Erosion Sedimentation and Pollution Control Ordinance to match the revised model ordinance. Sections impacted are:

- 102-22 Definitions
- 109-24 Minimum requirements... using best management practices
- 109-25 Application/permit process

**Staff recommends a motion to approve Ordinance 2016-506 adopting the revision to the State Manual for Erosion Control in Georgia.**

Attachment: *Ordinance 2016-506, Soil Erosion Sedimentation & Pollution Control Ordinance Revisions*

2. **104 FIRST AVENUE RIGHT-OF-WAY ABANDONMENT – DIRECTOR OF PLANNING & ECONOMIC DEVELOPMENT**

The former Planning office is under contract for a subdivision. It is two parcels of land having different right-of-way widths – one being 100 feet (104 First Avenue) and the other 40 feet (98 First Avenue). For consistency of front setbacks along the road, we are proposing that the right-of-way in front of 104 First Avenue be reduced to 50 feet contingent upon the closing of the property.

Attached is a concept showing what is proposed. The houses will be located close to the right-of-way with rear alley access to rear loaded garages as well as having on-street parking.

**Staff recommends a motion to authorize the Mayor to sign all documents necessary to reduce the right-of-way at 104 First Avenue to 50 feet upon the sale of the property.**

Attachment: *Concept Plan*

- XI. **ADJOURNMENT**

# CITY OF LILBURN

## AGENDA ITEM 1

<b>Date:</b>	October 31, 2016	<b>To:</b>	<b>Mayor and Council</b>
<b>From:</b>	Doug Stacks	<b>Department:</b>	Planning & Econ Dev't
<b>Work Session Date:</b>	November 7, 2016	<b>Presenter:</b>	Doug Stacks
<b>Agenda Title:</b>	<b>State Manual for Erosion and Sediment Control Update</b>		
<b>Audio/Visual Req'ts:</b>	n/a	<b>Meeting Date:</b>	November 7, 2016

### Agenda Item (Background/History/Details):

As a housekeeping effort, the City is required to adopt revisions to the State Manual for Erosion Control in Georgia (Green Book) within 1 year of adoption. The Manual (6<sup>th</sup> edition) and model ordinance was revised in January, 2016 and went into effect in June, 2016.

There are a few new definitions and sections within the manual that address coastal marshlands, updates to best management practices, and accommodations for Low Impact Development, so we're proposing text amendments to the city's Soil Erosion Sedimentation and Pollution Control Ordinance to match the revised model ordinance. Sections impacted are:

- 102-22 Definitions
- 109-24 Minimum requirements... using best management practices
- 109-25 Application/permit process

### Staff Recommendation:

**Staff recommends a motion to approve Ordinance 2016-506 adopting the revision to the State Manual for Erosion Control in Georgia.**

### Department Head Approval:

### Mayor's Signature Required:

**YES**

**NO**

### List Attachments:

1. Ordinance 2016-506
2. Soil Erosion Sedimentation & Pollution Control Ordinance Revisions

Text amendments proposed to Chapter 109, Article II. -Soil Erosion, Sedimentation and Pollution Control. Sections impacted are 109-22, 109-24 and 109-25.

**Sec. 109-22 - Definitions:**

Insert/Amend:

[Coastal Marshlands: Shall have the same meaning as in O.C.G.A. 12-5-282.](#)

Revise:

*CPESC:* Certified professional in erosion and sediment control with current certification by [Certified Profession in Erosion and Sediment Control Inc., a corporation registered in North Carolina EnviroCert, Inc.](#), which is also referred to as CPESC or CPESC, Inc.

*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 [Certified Professional in Erosion and Sediment Control Inc. EnviroCert, Inc.](#) [Design professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.](#)

*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 \(excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region\), or equivalent permanent stabilization measures \(such as the use of rip rap, gabions, permanent mulches or geotextiles\) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region.](#) Final stabilization applies to each phase of construction.

*Trout streams:* All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at [www.gaepd.org](#) [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.

**Sec. 109-24. - Minimum requirements for erosion, sedimentation and pollution control using best management practices.**

Revise 109-24.(c)

- (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:

Insert/Amend 109-24(c) after (16)b.:

(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.

**Sec. 109-25. - Application/permit process.**

Revise 109-25.(b)(4)

- (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 109-24(c)(15), (16) and (176) ~~has~~ve been obtained, all fees have been paid, and bonding, if required as per section 109-25(b)(6), ~~has~~ve 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.

Revise 109-25.(d)(2)

- (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 article, any variances required by section 109-24(c)(15), (16) and (176) are obtained, bonding requirements, if necessary, as per section 109-25(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.



# City of Lilburn

in Gwinnett County

State of Georgia

Ordinance  
Number:

**2016-506**

Date of Reading and Adoption: November 7, 2016  
At the meeting of the Lilburn City Council held at 76 Main Street, Lilburn, Georgia.

## **AN ORDINANCE TO AMEND THE CITY OF LILBURN DEVELOPMENT REGULATIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN GEORGIA**, that the following sections within ARTICLE IV - STORMWATER DISCHARGES of Chapter 109 - ENVIRONMENT of the City of Lilburn Code of Ordinances shall be amended to read as follows:

Sec. 109-22 - Definitions:

Insert/Amend:

Coastal Marshlands: Shall have the same meaning as in O.C.G.A. 12-5-282.

Revise:

CPESC: Certified professional in erosion and sediment control with current certification by ~~Certified Profession in Erosion and Sediment Control Inc., a corporation registered in North Carolina~~ EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.

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 ~~Certified Professional in Erosion and Sediment Control Inc.~~ EnviroCert, Inc. Design professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.

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). or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

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regulations for Water Quality Control, Chapter 391-3-6 at [www.gaepd.org](http://www.gaepd.org) [www.epd.georgia.gov](http://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.

Sec. 109-24. - Minimum requirements for erosion, sedimentation and pollution control using best management practices.

Revise 109-24.(c)

(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:

Insert/Amend 109-24(c) after (16)b.:

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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.

Sec. 109-25. - Application/permit process.

Revise 109-25.(b)(4)

(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 109-24\(c\)\(15\)](#), [\(16\)](#) and [\(17\)](#) have been obtained, all fees have been paid, and bonding, if required as per [section 109-25\(b\)\(6\)](#), has 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.

Revise 109-25.(d)(2)

(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 article, any variances required by [section 109-24](#)(c)(15), [\(16\)](#) and [\(176\)](#) are obtained, bonding requirements, if necessary, as per [section 109-25](#)(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.

**NOW THEREFORE BE IT ORDAINED** that said amendment is adopted and approved by the City Council of the City of Lilburn, Georgia, and effective immediately.

**SO ORDAINED** this the 7<sup>th</sup> day of November, 2016.

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Johnny D. Crist, Mayor  
City of Lilburn

ATTEST:

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Melissa L. Penate, City Clerk

## CITY OF LILBURN AGENDA ITEM 2

<b>Date:</b>	October 31, 2016	<b>To:</b>	<b>Mayor and Council</b>
<b>From:</b>	Doug Stacks	<b>Department:</b>	Planning & Econ Dev't
<b>Work Session Date:</b>	November 7, 2016	<b>Presenter:</b>	Doug Stacks
<b>Agenda Title:</b>	<b>104 First Avenue Right-of-Way Abandonment</b>		
<b>Audio/Visual Req'ts:</b>	n/a	<b>Meeting Date:</b>	November 7, 2016

### Agenda Item (Background/History/Details):

The former Planning office is under contract for a subdivision. It is two parcels of land having different right-of-way widths – one being 100 feet (104 First Avenue) and the other 40 feet (98 First Avenue). For consistency of front setbacks along the road, we are proposing that the right-of-way in front of 104 First Avenue be reduced to 50 feet contingent upon the closing of the property.

Attached is a concept showing what is proposed. The houses will be located close to the right-of-way with rear alley access to rear loaded garages as well as having on-street parking

### Staff Recommendation:

Staff recommends a motion to "authorize the Mayor to sign all documents necessary to reduce the right-of-way at 104 First Avenue to 50 feet upon the sale of the property."

### Department Head Approval:

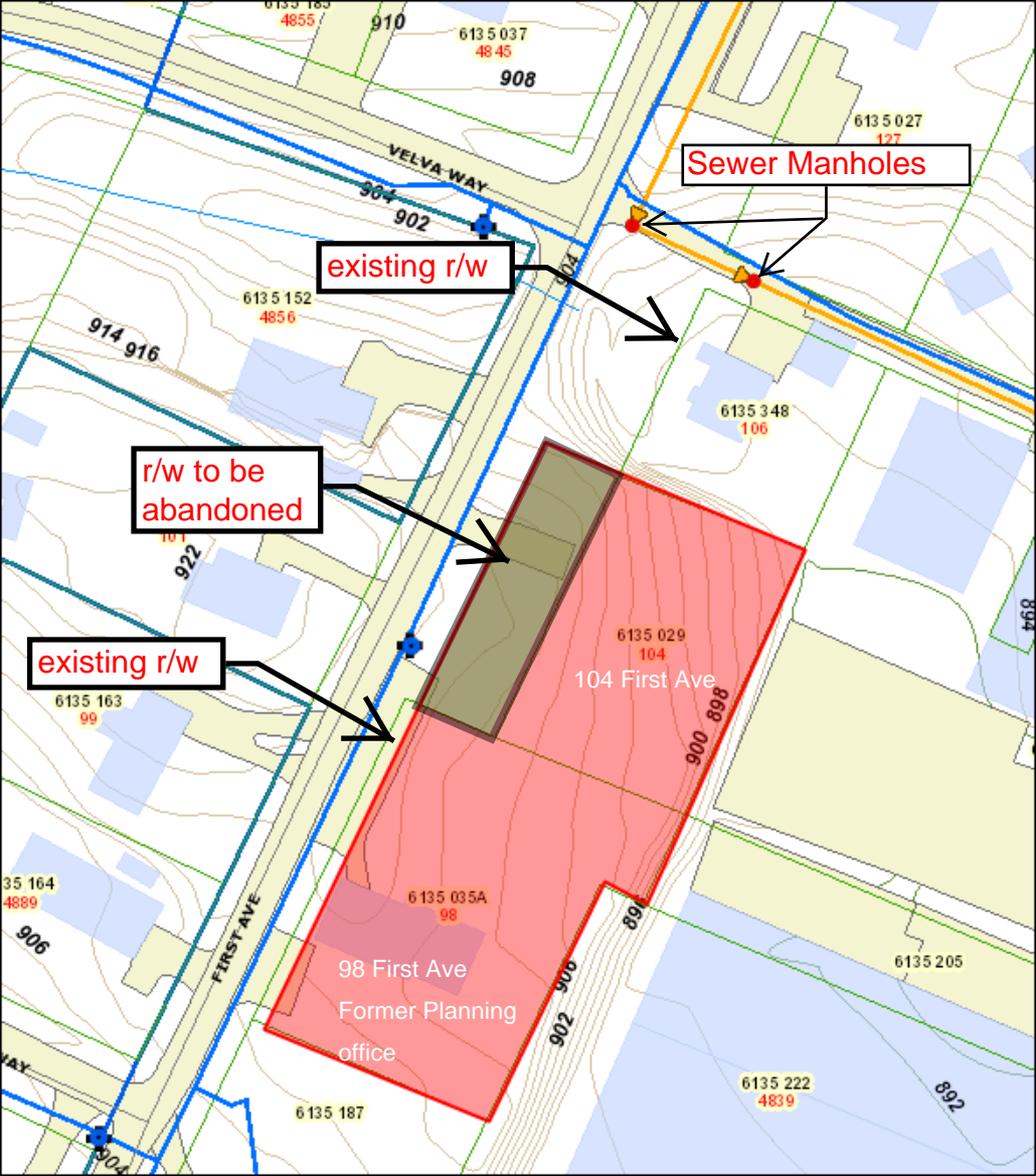
### Mayor's Signature Required:

YES

NO

### List Attachments:

1. Concept plan



Sewer Manholes

existing r/w

r/w to be abandoned

existing r/w

104 First Ave

98 First Ave  
Former Planning  
office

6135 187

6135 029  
104

6135 035A  
98

6135 205

6135 222  
4839

6135 027  
127

6135 037  
4845  
908

6135 185  
4855

910

6135 152  
4856

914 916

6135 348  
106

922

6135 163  
99

35 164  
4889

906

900 898

902 900

892

VELVA WAY

FIRST AVE

**CITY OF LILBURN  
AGENDA ITEM 3**

<b>Date:</b>	10/31/16	<b>To: Mayor and Council</b>	11/2/16
<b>From:</b>	Bill Johnsa	<b>Department:</b>	City Manager
<b>Work Session/Reg. Mtg. Date Requested:</b>	11/7/16	<b>Presenter:</b>	Bill Johnsa
<b>Agenda Title:</b>	City of Lilburn Noise Ordinance - Discussion		
<b>Audio/Visual Requirements:</b>	n/a	<b>Deadline Date:</b>	n/a

<b>Agenda Item (Background/History/Details):</b>
Staff would like to discuss the current Noise Ordinance/Control – Article III and related issues. We have experienced multiple complaints and have conducted site visits in designated areas.

<b>Staff Recommendations:</b>
Staff recommends the following: <b>“For discussion only. Revisions to be made by Mayor and Council”.</b>

<b>Department Head Approval:</b>	B. Johnsa
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<b>Mayor/Council Signature Required:</b>	<b>YES</b>	<b>NO</b>
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<b>List Attachments:</b>
<b>1. Article III - Noise Control</b>

**Financial Information (For Financial Services Use Only)**

<b>Budgeted Yes/No</b>	<b>Fund Name &amp; Code</b>	<b>Current Balance</b>	<b>Requested Allocation</b>	<b>City Manager's Initials</b>
N/A				<b>BJ</b>



# City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

**2014-466**

Date of Reading and Adoption: January 13<sup>th</sup>, 2013  
At the meeting of the Lilburn City Council held at 76 Main Street, Lilburn, Georgia.

**AN ORDINANCE TO AMEND CHAPTER 42, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE III NOISE CONTROL, OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN; TO DELETE THE ORDINANCE IN ITS ENTIRETY AND BE REPLACED; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**WHEREAS,** the City Council adopted the Code of the City of Lilburn on August 8<sup>th</sup>, 2005; and,

**WHEREAS,** the Code of the City of Lilburn provides that the text thereof may be amended from time to time by adoption of amending ordinance by the City Council; and,

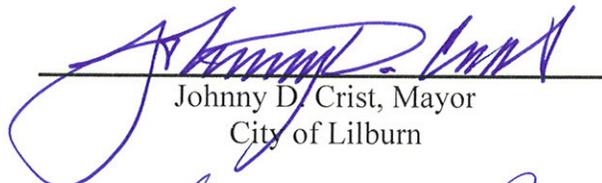
**WHEREAS,** the City Council finds that the following amendment to the Code of the City of Lilburn promotes the health, safety, convenience, order, prosperity and the general welfare of the present and future inhabitants of the City of Lilburn.

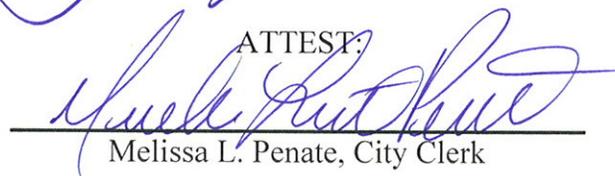
**IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN, GEORGIA,** THAT CHAPTER 42, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE III NOISE CONTROL, OF THE CODE OF LILBURN SHALL BE AMENDED BY DELETING ARTICLE III IN ITS ENTIRETY AND BE REPLACED IN LIEU THEREOF THE FOLLOWING NOISE CONTROL ORDINANCE AS SET FORTH IN "ATTACHMENT A."

**BE IT FURTHER ORDAINED** that this ordinance becomes effective upon its adoption.

**BE IT FURTHER ORDAINED** that all regulations of parts of regulations in conflict with this Ordinance are hereby rescinded to the extent of said conflict.

**SO ORDAINED** this the 13th day of January, 2014

  
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Johnny D. Crist, Mayor  
City of Lilburn

ATTEST:  
  
\_\_\_\_\_  
Melissa L. Penate, City Clerk

## ARTICLE III. NOISE CONTROL

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### **Sec. 42-51. Purpose.**

- (a) The City of Lilburn finds that excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, a substantial body of science and technology exists by which excessive sound may be substantially abated; and, the people have a right to, and should be ensured an environment free from excessive sound, it is the policy of the City of Lilburn to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.
- (b) This article shall apply to the control of sound originating within the limits of the City of Lilburn.

### **Sec. 42-52. Definitions.**

The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise.

*Ambient sound level* is the total sound pressure level in the area of interest including the noise source of interest.

*A-Weighting* is the electronic filtering in sound level meters that models human hearing frequency sensitivity.

*Background sound level* is the total sound pressure level in the area of interest excluding the noise source of interest.

*Commercial area* is a group of commercial facilities and the abutting public right-of-way and public spaces.

*Commercial facility* is any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit.

*Construction* is any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

*C-weighting* is the electronic filtering in sound level meters that models a flat response (output equals input) over the range of maximum human hearing frequency sensitivity.

*dBA* is the A-weighted unit of sound pressure level.

*dBC* is the C-weighted unit of sound pressure level.

*Decibel (dB)* is the unit of measurement for sound pressure level at a specified location.

*Emergency work* is any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

*Impulsive sound* is a sound having a duration of less than one second with an abrupt onset and rapid decay.

*Industrial facility* is any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, warehousing, distribution or production of durable or nondurable goods.

*Legal holiday* is a City of Lilburn legal holiday as established by the city each year.

*Measuring instrument* is an instrument such as a sound level meter, integrating sound level meter or dosimeter used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of ANSI Standard S1.4-1983.

*Motor vehicle* is any vehicle that is propelled or drawn on land by an engine or motor.

*Muffler* is a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

*Multiunit building* is any building wherein there are two or more dwelling units.

*The municipality* is the City of Lilburn.

*Noise* is any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout Lilburn or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

*Noise investigator* is a City of Lilburn Police Officer, or designee assigned to investigate and enforce the provisions of this article.

*Noise disturbance* is any sound that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.

*Person* is any individual, corporation, company, association, society, firm partnership, joint stock company, or any political subdivision, agency or instrumentality of.

*Public right-of-way* is any street, avenue, boulevard, road, highway, sidewalk, or alley that is leased, owned, or controlled by a governmental entity.

*Public space* is any real property or structures thereon that is owned, leased, or controlled by a governmental entity.

*Real property line* is either (a) the imaginary line, including its vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwelling unit that is one in a multiunit building.

*Residential area* is a group of residential properties and the abutting public rights-of-way and public spaces.

*Residential property* is property legally used for human habitation, except for hotels and motels which are commercial establishments.

*Sound level* is the instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.

*Sound pressure level (SPL)* is 20 multiplied by the logarithm, to the base 10, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

*Town Center Overlay* is the area designated on the Official Zoning Map of Lilburn.

*Weekday* is any day, Monday through Friday, that is not a legal holiday.

#### **Sec. 42-53. Powers and duties.**

The provisions of this article shall be enforced by the City of Lilburn Police Department or Gwinnett County Animal Control as appropriate.

#### **Sec. 42-54. Duties and responsibilities of other departments.**

All departments and agencies of the City of Lilburn shall carry out their programs according to law.

#### **Sec. 42-55. Sound measurement procedures.**

- (a) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions.
- (b) All tests shall be conducted in accordance with the following procedures:

- (1) The noise investigator shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
- (2) Measurements shall be taken at or within the property line of the affected person, except when the affected party is in a multiunit residential building. In such a case the sound level is measured from any point inside the affected unit.
- (3) The measuring instrument must be calibrated using a calibrator recommended by the measuring instrument manufacturer before and after each series of readings.
- (4) No outdoor measurements shall be taken:
  - a. When wind speeds (including gusts) exceed 15 mph;
  - b. Without a windscreen, recommended by the measuring instrument manufacturer, properly attached to the measuring instrument;
  - c. Under any condition that allows the measuring instrument to become wet (e.g., rain, snow, or condensation); or
  - d. When the ambient temperature is out of the range of the tolerance of the measuring instrument.
- (c) Prior to taking noise measurements the noise investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.
- (d) When measuring continuous sound, or sound that is sustained for more than one second at a time, the measuring instrument shall be set for A-weighting, slow response, and the range (if the measuring instrument is designed to read levels over different ranges) shall be set to that range in which the meter reads closest to the middle of the scale. The minimum and maximum readings shall be recorded to indicate the range of monitored values along with the central tendency average most often displayed.
- (e) The measuring instrument shall be placed at a minimum height of three feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the measuring instruments manufacturer.
- (f) If extraneous sound sources, such as aircraft flyovers or barking dogs, that are unrelated to the measurements increase the monitored sound levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored sound levels of interest.
- (g) The monitoring session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question.

**Sec. 42-56. Sound level limitations.**

- (a) Except as authorized elsewhere in this article, no person shall cause, allow, or permit the operation of any sound source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the sound level limits set forth below unless otherwise noted. Such a sound constitutes a noise disturbance.

TABLE 1 SOUND LEVEL LIMITS BY RECEIVING PROPERTY

Receiving Property	Time	Sound Level Limit
Residential, public space, institutional, or noise sensitive facility	7:00 a.m. to 10:00 p.m. 10:00 p.m. to 7:00 a.m.	70 dBA 65 dBA
Commercial or business	7:00 a.m. to 10:00 p.m. 10:00 p.m. to 7:00 a.m.	75 dBA 70 dBA
Industrial or manufacturing	At all times	85 dBA

- (1) If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m. to 10:00 p.m.) limits of Table 1 shall be increased by 10 dBA.
- (2) In residential multiunit buildings, the limit between 7:00 a.m. and 10:00 p.m. is 55 dBA and between 10:00 p.m. and 7:00 a.m. is 45 dBA, for sounds originating in another dwelling within the same building.

**Sec. 42-57. Exemptions.**

- (a) The following are exempt from the sound level limits of section 42-56:
  - (1) Noise from public safety vehicles and emergency signaling devices;
  - (2) Noise from celebrations and events with amplified or unamplified sound that are operating within the parameters set forth for approved and permitted special events within the Town Center Overlay area between the hours of 7:00 a.m. and 10:30 p.m., or as otherwise allowed by the Lilburn City Council;
  - (3) Noise from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to band, choir, and orchestral performances;
  - (4) Noise that results from the activities of a sports league between the hours of 7:00 a.m. and 11:59 p.m.;
  - (5) Noise from a vehicle alarm or exterior burglar alarm of any building provided such alarm shall terminate its operation within five minutes of its activation;
  - (6) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 7:00 a.m. and 10:00 p.m., provided such use generates less than 85 dBA at or within any real property line of a residential property;
  - (7) Sound from bells and chimes while being used in conjunction with a governmental facility, religious observance or service;
  - (8) Noise from construction activity, including the operation of tools or equipment used in construction, drilling, earthmoving, excavating, or demolition work between the hours of 7:00 a.m. and 9:00 p.m. on a weekday or when the following day is a weekday, and between 8:00 a.m. and 8:00 p.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, except for emergency work, by a

- waiver issued pursuant to section 42-39, or when the sound level does not exceed any applicable limit specified in section 42-56;
- (9) Noise from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal;
  - (10) Noise from emergency work;
  - (11) Noise from surface carriers engaged in commerce by railroad;
  - (12) Noise from garbage cans, refuse, or similar collection, or the compacting of refuse by persons engaged in garbage collection, whether private or municipal, between the hours of 7:00 a.m. and 8:00 p.m. on a weekday or when the following day is a weekday, and between 8:00 a.m. and 8:00 p.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, or when the sound level does not exceed any applicable limit specified in section 42-56;
  - (13) Noise from a commercial vehicle in motion on a public roadway. Nothing in this code section nor any regulation based thereon shall conflict with the Georgia Traffic Code, Georgia Public Service Commission, or Georgia Board of Public Safety regulations applying to the securing of loads and the regulating of equipment on motor vehicles.

**Sec. 42-58. Specific prohibited acts.**

- (a) No person shall cause, allow, or permit to be made verbally or mechanically any noise disturbance, as defined in section 42-56;
- (b) Notwithstanding the provisions of section 42-56, no person shall cause, suffer, allow, or permit the following acts:
  - (1) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance (as defined in section 42-56) for any person other than the operator of the device;
  - (2) Noise created by animals when it violates the standards adopted in the Gwinnett County Animal Control Ordinance.
  - (3) Owning, possessing, or harboring any animal or bird that, frequently or for continued duration, generates sounds that create a noise disturbance (as defined in section 42-56) across a residential property line;
  - (4) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, between 9:00 p.m. and 7:00 a.m. on a weekday or when the following day is a weekday, and between 9:00 p.m. and 9:00 a.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, when the sound therefrom creates a noise disturbance (as defined in section 42-56) across a residential property line;
  - (5) Operating or permitting the operation of any motor vehicle whose manufacturer's gross weight rating is in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, on a public

right-of-way or public space within 150 feet of a residential area between 7:00 p.m. and 7:00 a.m.

**Sec. 42-59. Temporary relief.**

- (a) Any person may apply to the city for a temporary relief from one or more of the provisions of this article. Temporary waivers not exceeding 30 consecutive days may be administratively approved the Lilburn City Manager, or designee. Extended waivers, those exceeding 30 consecutive days, but in no case longer than 12 consecutive months, shall be reviewed and considered by the Lilburn City Council. The city shall establish rules and procedures for reviewing any waiver. Applications for a permit of variance shall supply information including, but not limited to:
  - (1) The nature, time and location of the noise source for which such application is made;
  - (2) The reason for which the permit of variance is requested, including the hardship that will result to the applicant or the public if the permit of variance is not granted;
  - (3) The level of noise that will occur during the period of the variance.
- (b) Waivers may be revoked if there is a violation of conditions of the waiver, misrepresentation of fact by the applicant, or material change in any of the circumstances surrounding the application.

**Sec. 42-60. Penalties.**

Each violation under this article shall constitute a separate and distinct offense. Such offense shall be punishable by a fine not to exceed \$1,000.00, imprisonment in the city or county jail not exceeding six months, or both a fine and sentence of imprisonment; and all sentences may be in the alternative and fines may be imposed with the alternative of sentence to imprisonment if the fines are not paid.

**Sec. 42-61. Severability.**

If any provision of this article is held to be unconstitutional, preempted by federal law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this article shall not be invalidated.

**Secs. 42-62—42-76. Reserved.**