

Land Disturbance-101

For those who are following the controversial Land Disturbance Addendum, or for those who may still be confused about this Addendum, I will try to provide an overview and discuss the sections that present a problem for the average landowner.

First, it should be noted that if this Addendum is passed, it will become part of the Soil and Erosion Control Ordinance that has existed since 2001. The Soil and Erosion Control Ordinance is a State Ordinance that governs the disturbance of land, complete with definitions, objectives, fines, civil relief, etc. I have copied the definition of “Land Disturbing Activity” verbatim from the Soil and Erosion Control Ordinance so we can refer to it when necessary. The complete Soil and Erosion Control Ordinance, as well as the Addendum, are both available in full on “The Macon Conservative” Facebook Page.

“Land-disturbing activity means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.”

Second, it should be noted that landowners who are negatively impacted by their neighbor with a rented track hoe are already afforded Civil Relief under the existing Soil and Erosion Control Ordinance. So, if anyone tells you we need this Addendum to protect your property from a rogue landowner from Georgia/Florida/Alabama, forget it.

1. the proposed Addendum doesn't do that, and
2. that protection already exists in the current Soil and Erosion Control Ordinance. §153.22 Civil Relief.

The Land Disturbance Addendum – What it means to you

The proposed 2-page Addendum is about “Licensing” and applies to All Persons “EXCEPT” those specifically excluded. Quickly jumping to the bottom of the Addendum we find the part that pertains to the landowner disturbing his own property. It's short enough to quote in its entirety, and for ease of discussion, I will separate it accordingly. Sentence 1 & 2

(E) Exception (**Sentence 1 & 2**)

“This section shall not apply to anyone who is actually performing the land disturbance activity on property that they personally own and do not sell or offer to sell or transfer that property to another party for a period of one year after completion of any activity regulated by this ordinance. A signed affidavit shall be required stating the property owner does own the

property and will not sell or offer to sell or transfer this property for one year as previously stated. “

Let's look at those first couple of sentences. If this Addendum is passed and becomes part of the 2001 ordinance, anyone who "disturbs land" (please refer back to the definition of land disturbing activity) will be required to sign an affidavit that he won't sell, attempt to sell, or transfer his property for a period of one (1) year.

Think about what that may mean to you and/or the way you use your land. For example, if you cut a pad to park your RV on, or level an area to build a deck on, or anything else that requires you "disturb" your land, you will be required to sign an affidavit that allows the government to monitor when you can list, sell or transfer your land.

And now let's look at that last sentence.

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(E) Exception (**Sentence 3**)

"In order to qualify for this exception, the owner must take and pass the Land Disturbance License test but will not be required to pay the \$100 fee nor will they be issued a Macon County Land Disturbance License."

To qualify for this test requires the applicant take a 4-hour continuing education course. By itself, taking a 4-hour course followed by a test, is a lot of hoops for a landowner to jump through, just so he can "disturb" his land. Add that to the restrictions of selling your property for a year and your looking at an unimaginable mess.

And if you're thinking you can simply ignore these requirements and go on about your merry "land disturbing" way, well no, that's not a good idea at all. Please refer to the "Penalties" section of the Addendum immediately preceding the "(E) Exception" area. It reads:

"(D) Penalties

- (1) Any person conducting a land disturbance activity who does not hold either a valid Macon County Land Disturbance License or a valid NC General Contractors License authorizing such activity shall be required to pay a \$500 fine unto Macon County. For each day or portion thereof any person who continues such activity before complying with the applicable License requirement an additional \$500 will be added to the original fine."

So let's pull all of the preceding info together and see what it means to you. In a nutshell, to legally perform a land disturbing project on your land will require 1 of 2 options.

1. Hire a licensed contractor or,
2. Take a land disturbance course, pass a test, and sign an affidavit stating you will not sell or offer to sell or transfer this property for a period of one year.

If you ignore these requirements and get caught doing the work yourself, you are subject to a \$500.00 a day fine and/or Class 2 misdemeanor.

And for what purpose? I've already pointed out that the existing Soil and Erosion Control Ordinance governs land disturbance, defines legal requirements for the work being done, and provides a set of fines that can be quite daunting if levied.

So what then is the real reason for a law that would force landowners to adhere to such unrealistic and overreaching requirements? Each of us must form his/her own opinion but one thing is for sure. This is not about needing an ordinance to protect the environment because that already exists. This is about something else, and it's not in the benefit of the Macon County property owner.