

STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE TO AMEND THE SANDY SPRINGS: LAND DEVELOPMENT REGULATIONS, CHAPTER 109 SECTIONS 250-252 RELATED TO EROSION AND SEDIMENTATION CONTROL REGULATIONS

WHEREAS, the Mayor and City Council of the City of Sandy Springs find that from time to time it is necessary to amend sections of the Land Development Regulations to correct, clarify, and update the provisions of the Ordinance; and

WHEREAS, the Georgia Soil and Water Conservation Commission (GSWCC) has updated the Georgia Manual for Erosion and Sediment Control (the "Green Book") with a new 2016 edition that includes an "Equivalent Best Management Practices" list developed in coordination with the Georgia Department of Transportation; and

WHEREAS, the City of Sandy Springs as a Locally Issuing Authority must comply with the GSWCC Erosion and Sediment Control current standards through the City of Sandy Springs provisions for erosion and sediment control as found in Chapter 109, *Natural Resources and Environmental Protection*.

NOW, THEREFORE, to accomplish the foregoing with amended language to reflect the new GSWCC Manual, the City Council of the City of Sandy Springs, Georgia, pursuant to its authority, does hereby adopt the following Ordinance:

1. Chapter 109, *Natural Resources and Environmental Protection*, Section 109 Sec. 109-250 – 252, *Soil Erosion, Sedimentation and Pollution Control Ordinance* is hereby amended as follows:

Sec. 109-250. - Definitions.

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

Approved plan means an erosion and sedimentation control plan approved in writing by the City of Sandy Springs or the Fulton County Soil and Water Conservation District.

Best management practices (BMPs) means 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.

Board means the board of natural resources.

Buffer means the area of land immediately adjacent to the banks/points of wretched vegetation of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Certified personnel means a person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Commission means the Georgia Soil and Water Conservation Commission (GSWCC).

CPESC means certified professional in erosion and sediment control with current certification by EnviroCert, Inc.

Cut means 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.

Department means the Georgia Department of Natural Resources (DNR).

Design professional means 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.

Director means the director, or his designees, of the City of Sandy Springs Department of Community Development.

Director, EPD means the director of the environmental protection division or an authorized representative.

District means the region 3 soil and water conservation district.

Division means the environmental protection division (EPD) of the department of natural resources.

Drainage structure means 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 stormwater management, drainage control, or flood control purposes.

Erosion means the process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion, sedimentation and pollution control plan means a plan required by the Erosion and Sedimentation Act, O.C.G.A. tit. 12, ch. 7, that includes, as a minimum, protections at least as stringent as the state general permit, best management practices, and requirements in section 109-252(c) of this article and amendments to the manual approved by the Georgia Soil and Water Commission, as specified in O.C.G.A. § 12-7-6(b), adopted by reference in section 109-253(c) (1) of the City of Sandy Springs Code, and commonly referred to as the "Green Book." The Manual for Erosion and Sediment Control in Georgia is currently available from the Georgia Soil and Water Conservation Commission (<http://www.gaswcc.org>).

Fill means 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.

Final stabilization means 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 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or equivalent permanent stabilization measures (such as the use of riprap, 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.

Finished grade means the final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Grading means 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.

Ground elevation means the original elevation of the ground surface prior to cutting or filling.

Land-disturbing activity means 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 109-251(5).

Larger common plan of development or sale means 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.

Local issuing authority means the governing authority of any county or municipality which is certified pursuant to subsection O.C.G.A. § 12-7-8(a).

Metropolitan River Protection Act (MRPA) Chattahoochee Corridor Plan; state law referenced as O.C.G.A. § 12-5-440 et seq. that addresses development impacts within 2,000 feet of the Chattahoochee River and its impoundments.

Minor land disturbance activity means activities such as home gardens and individual home landscaping, minor repairs, maintenance work, fences, and other related activities.

Natural ground surface means the ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU) means 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.

Notice or official notice means a written communication by the city to the owner, operator, or person conducting land-disturbing activity, including a notice to comply pursuant to section 109-255, a stop work order pursuant to sections 109-255(b)(1), or a fine pursuant to section 109-255(d). Notice shall be deemed official when it meets one of the following requirements:

- (1) Communicated in writing to the owner or operator via U.S. mail;
- (2) Hand-delivered to the owner, operator, or person conducting land-disturbing activity;
- (3) Posted in a conspicuous location on the site; or
- (4) Electronic communications such as email or phone text messages.

NOI means a notice of intent form provided by EPD for coverage under the state general permit.

NOT means a notice of termination form provided by EPD to terminate coverage under the state general permit.

Operator means 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.

Outfall means the location where stormwater 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.

Permit means the authorization necessary to conduct a land-disturbing activity under the provisions of this article.

Person means 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.

Phase or phased means subparts or segments of construction projects where the subpart or segment is constructed and stabilized prior to completing construction activities on the entire construction site. Phased construction is not intended to be used in stand-alone residential development.

Project means the entire proposed development project regardless of the size of the area of land to be disturbed.

Properly designed means 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 or issuance of a building permit or land disturbance permit.

Roadway drainage structure means a device such as a bridge, culvert, or ditch, composed of a virtually nonerodible 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.

Sediment means 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.

Sedimentation means the process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Soil and water conservation district approved plan means an erosion, sedimentation and pollution control plan approved in writing by the region 3 soil and water conservation district.

Stabilization means 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.

Stand alone residential development means the development or redevelopment of a single-family dwelling and associated accessory structures on an individual parcel where proposed disturbance is less than one acre and not part of a larger common development for which an active NPDES general permit is in place.

State general permit means the National Pollution Discharge Elimination System (NPDES) general permit or permits for stormwater 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 O.C.G.A. § 12-5-30(f).

State waters means 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.

Structural erosion, sedimentation and pollution control practices means 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."

Trout streams means 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.

Vegetative erosion and sedimentation control measures means measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) 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."

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 due to overflow or floodwater.

Wetlands means those areas that are inundated or saturated by surface or groundwater 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.

(Ord. No. 2014-08-27, § 1(Exh. A), 8-19-2014)

• **Sec. 109-252. - 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 [from which this article derived] and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities that are not exempted by this article 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 sections 109-252(b) and (c) of this article. 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 article and the NPDES general permit.

(b)

Minimum requirements/BMPs.

(1)

Best management practices as set forth in sections 109-252(b) and (c) of this article 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 stormwater issued pursuant to O.C.G.A. § 12-5-30(f), 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(b).

(2)

A discharge of stormwater 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 O.C.G.A. § 12-5-30(f), 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 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten 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, EPD. 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 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 O.C.G.A. § 12-5-30(f), 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 [subsections] (c)(15) and (16), 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 runoff 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 109-252(b)(2) of this article;
 - (15)

Except as provided in paragraph (16) 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, EPD determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director, EPD 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 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 groundwater table year round; for which groundwater 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, EPD 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 streambed; 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 streambed; 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, EPD 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 streambed; 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 streambed; 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.

(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 subsections 109-252(b) and (c) of this article.

(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 article or the terms of the permit.

(Ord. No. 2014-08-27, § 1(Exh. A), 8-19-2014)

2.

All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

3.

Severability. Should any court of competent jurisdiction declare any section of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

4.

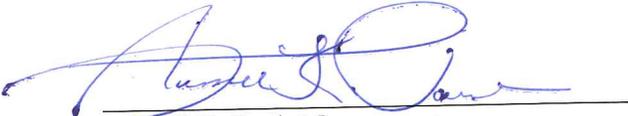
Repeal of Conflicting Provisions. It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

5.

This Ordinance is effective February 7th, 2017; and

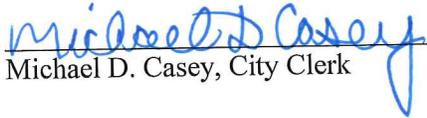
APPROVED AND ADOPTED this the 7th day of February, 2017.

Approved:



Russell K. Paul, Mayor

Attest:



Michael D. Casey, City Clerk

(Seal)

