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**CITY COUNCIL AGENDA ITEM**

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**TO:** Mayor & City Council

**DATE:** August 14, 2014

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** Soil Erosion, Sedimentation and Pollution Control Code Amendments

**MEETING DATE:** For Submission onto the August 19, 2014, City Council Regular Meeting Agenda

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*BACKGROUND INFORMATION: (Attach additional pages if necessary)*

See attached:

Memorandum  
Proposed Code Amendments

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APPROVAL BY CITY MANAGER:                     JFM                     APPROVED

PLACED ON AGENDA FOR: **08/19/2014**

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES (  ) NO

CITY ATTORNEY APPROVAL:                     [Signature]                    

REMARKS:

**To:** John McDonough, City Manager

**From:** Angela Parker, Community Development Director

**Date:** August 8, 2014 for submission onto the August 19, 2014 City Council Agenda

**Agenda Item:** Soil Erosion, Sedimentation and Pollution Control Code Amendments

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**Background:**

Chapter 109 – Natural Resources and Environmental Protection, Article VI., Soil Erosion, Sedimentation and Pollution Control of the City Code was adopted by the City of Sandy Springs in April, 2010. This code section is based upon the Georgia Erosion and Sedimentation Act of 1975 as amended in 2003. It establishes the requirements for erosion control plans and the provisions for enforcement of the Code.

**Discussion:**

Soil Erosion, Sedimentation and Pollution Control Code Amendments are proposed that:

- Standardize the language among Code sections that address erosion and simplify wording to facilitate a better understanding of the ordinance
- Establish requirements for projects where less than one acre is disturbed
- Establish permit requirements and procedures for stand-alone single family residential development where land disturbance is less than one acre
- Clarify language to facilitate more effective enforcement
- Remove verbiage allowing five days to correct violation prior to issuance to a Stop Work Order
- Require erosion control inspection logs be maintained for all projects
- Require a design professional to seal on the erosion control design

The existing Code lacks specific provisions for stand-alone residential development where land disturbance of less than one acre is proposed. These amendments establish plan requirements and site development requirements for single family home construction that is not a part of a larger development and where land disturbance is less than one acre.

**Department of Community Development Recommendation:**

This item was presented as a part of the Natural Resource Protection Special Called Work Session on August 6, 2014. Staff recommends **Approval** of the Erosion Control Code Amendments.

**Attachment:**

Proposed Soil Erosion, Sedimentation and Pollution Control Code Amendments  
Summary Power Point

# DRAFT ARTICLE VI REVISION

## Subpart B - LAND DEVELOPMENT REGULATIONS Chapter 109 - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

### ARTICLE VI. SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

#### **ARTICLE VI. SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL** <sup>[2]</sup>

[Sec. 109-249. Title and Findings.](#)

[Sec. 109-250. Definitions.](#)

[Sec. 109-251. Exemptions.](#)

[Sec. 109-252. Minimum requirements for erosion, sedimentation and pollution control using best management practices.](#)

[Sec. 109-253. Application/permit process.](#)

[Sec. 109-254. Inspection and enforcement.](#)

[Sec. 109-255. Penalties and incentives.](#)

[Sec. 109-256. Education and certification.](#)

[Sec. 109-257. Administrative appeal; judicial review.](#)

[Sec. 109-258. Effectivity, validity and liability.](#)

[Secs. 109-259—109-360. Reserved.](#)

#### **Sec. 109-249. Title and Findings.**

- a) *Title.* This article will be known as "The City of Sandy Springs Soil Erosion, Sedimentation and Pollution Control Ordinance.
- b) *Findings.* The City of Sandy Springs finds that soil erosion and sediment deposition onto land and into water within the watersheds of the City are a result of failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses. It is therefore declared to be the policy of the City of Sandy Springs and the intent of this Article to strengthen and extend the present erosion and sediment control activities and programs of the City of Sandy Springs and to provide for the establishment and implementation of a City-wide comprehensive soil erosion and sediment control program to conserve and protect the land, water, air, and other resources of the City of Sandy Springs.

(Ord. No. 2010-04-11, § I, 4-20-2010)

#### **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.

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*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 Certified Profession in Erosion and Sediment Control, Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, 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 Certified Professional in Erosion and Sediment Control, Inc.

*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 subsection 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>).

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*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 subsection 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)* means a state law referenced as O.C.G.A. § 12-5-440 et seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.~~

*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 2000 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.\

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*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:

- a) Communicated in writing to the owner or operator via U.S. mail;
- b) Hand-delivered to the owner, operator, or person conducting land-disturbing activity; or
- c) Posted in a conspicuous location on the site.
- d) 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 as standalone 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 nonerrodible 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.

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*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.gaepd.org](http://www.gaepd.org). 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* means 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~~

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intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of 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. 2010-04-11, § II, 4-20-2010)

#### Sec. 109-251. Exemptions.

This article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "The Georgia Surface Mining Act of 1968".
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities. If such activities cause excessive erosion an official notice shall be provided to implement a best management practice (BMP) to stop continued erosion.
- (4) ~~The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director, EPD may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of O.C.G.A. § 12-7-6(b) and the buffer zones provided by this paragraph shall be enforced by the local issuing authority;~~ The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan or development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however,
  - a) Construction of any such residence (single-family) shall conform to the minimum requirements as set forth in section 109-252 (c) of this article.
  - b) For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the

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Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted.

c) The minimum requirements of section 109-252(c) of this article and the buffer zones provided by this section shall be enforced by the city;

- (5) Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including, but not limited to, chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aquaculture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in subsections 109-252(c)(15) and (16) of this article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
- (8) Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the banks/points of wrested vegetation of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events ~~and intermittent streams which do not have water in them year-round~~; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by paragraphs (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section;
- (9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the Georgia Highway Authority, or the state road and tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the department of transportation or the state road and tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; except where the

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department of transportation, the Georgia Highway Authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6, as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

- (10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6, as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

- (11) Any public water system reservoir.

(Ord. No. 2010-04-11, § III, 4-20-2010)

#### **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 which 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 subsections 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 subsections 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

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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, regarding 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;

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- (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 subsection 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

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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. 2010-04-11, § IV, 4-20-2010)

#### **Sec. 109-253. Application/permit process.**

- (a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this article, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.

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(b) *Application requirements.*

- (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Sandy Springs, Georgia, without first obtaining a permit from the City of Sandy Springs Department of Community Development to perform such activity and providing a copy of notice of intent submitted to EPD, if applicable.
- (2) The application for a permit shall be submitted to the City of Sandy Springs Department of Community Development and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection 109-253(c) of this article. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land-disturbing activity proposed will be carried out in such a manner that the provisions of subsections 109-252(b) and (c) of this article will be met. Applications for a permit will not be accepted unless accompanied by three copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-10.
- (3) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph O.C.G.A. § 12-5-23(5)(a), provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a), half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17(9) or (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
- (4) ~~Receipt of an application and plan for a permit, the City shall refer the application and plan to the district for its review and approval **approve** or disapproval **disapprove** concerning the adequacy of the erosion, sedimentation and pollution control plan. The district **City** shall approve or disapprove a plan within 35 days of receipt. Failure of the district **City** 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 **City**, and any variances required by subsections 109-252(c)(15) and (16) has been obtained, all fees have been paid, and bonding, if required as per subsection 109-253(b)(6) have 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.~~
- (5) If a permit applicant has had two or more violations of previous permits, this article section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the local issuing authority may deny the permit application.
- (6) The local issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior

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to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the local issuing authority with respect to alleged permit violations.

(c) *Plan requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in subsections 109-252(b) and (c) of this article, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The "Manual for Erosion and Sediment Control in Georgia" is hereby incorporated by reference into this article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures, including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land-disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.
- (2) Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

(d) *Stand Alone Residential Development Permit and Procedures*

- (1) All building permits for a stand alone residential development or redevelopment shall be submitted for review and approval that includes an erosion control plan and details.
- (2) The building permit shall include a site erosion control plan, sealed by a Georgia registered Engineer, Landscape Architect, Certified Person in Erosion and Sediment Control (CPESC) or Land Surveyor, to accompany the building plans. No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the local issuing authority pursuant to section 109-252 (c). All proposed BMPs on the site erosion control plan shall be designed per requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia"
- (3) At the time of the preconstruction meeting the owner, operator or applicant shall sign the Memorandum of Understanding titled "Erosion Control Responsibilities". This document is on file with the Department of Community Development.
- (4) Self-inspections and rain event logs
  - a) The on-site operator, owner or applicant shall perform self-inspections of the erosion control BMP's daily when land disturbing is underway and at a minimum of once per week when the site is stabilized.
  - b) An inspection be conducted after every rain event of 0.5 inches or more within a 24 hour period.
  - c) Any problems noted during these inspections should be logged and corrected immediately.

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d) A log of the self-inspections and remedial measures undertaken must be available for review by the City of Sandy Springs at any time during the development and up to the final site stabilization.

**(e) Permits.**

- (1) Permits shall be issued or denied as soon as practicable, but in any event not later than 45 days after receipt by the local issuing authority of a completed application, providing variances and bonding are obtained, where necessary, and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- (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 subsections 109-252(c)(15) and (16) are obtained, bonding requirements, if necessary, as per subsection 109-253(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.
- (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this article, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
- (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (5) The permit may be suspended, revoked, or modified by the local issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- (6) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. § 12-7-7(f)(1).

(Ord. No. 2010-04-11, § V, 4-20-2010)

#### **Sec. 109-254. Inspection and enforcement.**

- (a) The director will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing

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activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article.

- (b) The local issuing authority must amend its ordinances to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.
- (c) The director shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (d) No person shall refuse entry or access to any authorized representative or agent of the local issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (e) The district or the commission or both shall semi-annually review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). The district or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.
- (f) The division may periodically review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. § 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority.

(Ord. No. 2010-04-11, § VI, 4-20-2010)

#### **Sec. 109-255. Penalties and incentives.**

- (a) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this article without first obtaining said permit, the person shall be subject to revocation of ~~his business license,~~ **the** work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.
- (b) *Stop-work orders.*

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- (1) For the first and ~~second~~ violations of the provisions of this article, the director, EPD or the local issuing authority shall ~~issue a written warning~~ **provide official notice** to the violator. The violator shall ~~have 48 hours five days~~ **have 48 hours** to correct the violation. If the violation is not corrected ~~within five days~~ **48 hours**, the director, EPD or the local issuing authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred. **In cases where there is danger of damage to state waters, stormwater systems or adjacent property a stop work order may be issued and the violator shall correct the violation immediately.** ~~provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the director, EPD or the local issuing authority shall issue an immediate stop-work order in lieu of a warning;~~
  - (2) For a ~~third second and each subsequent~~ violation, the director, EPD or the local issuing authority shall ~~issue an immediate stop-work order;~~ and
  - (2) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
  - (3) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, **failure to follow the approved plan, failure to maintain required BMPs** or significant amounts of sediment, as determined by the local issuing authority or by the director, EPD or his or her designee, have been or are being discharged into state waters, **offsite or public streets** and where best management practices have not been properly designed, installed, and maintained, a stop-work order shall be issued and **citation may be issued,** by the local issuing authority or by the director, EPD or his or her designee. All such stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop-work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
- (c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection 109-253(b)(6). The local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- (d) *Monetary penalties.* **Any person who violates any provisions of this article, or any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or order of the director may be cited for the violation of this article.** Any person who violates any provisions of this article, or any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director, EPD issued as provided in this article, shall be liable for a civil penalty not to exceed \$2,500.00 per day, **except that the penalty for violations associated with Stand Alone Residential Development shall be pursuant to Section 1-10 of the City Code.** For the purpose of enforcing the provisions of this article, notwithstanding any provisions in any City Charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation, **except that the penalty for violations associated for Stand Alone Residential Development shall be pursuant to Section 1-10 of the City Code for each violation.** Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate

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court or any other court of competent jurisdiction trying cases brought as violations of this article under county ordinances approved under this article shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation, **except that the penalty for violations associated with Stand Alone Residential Development shall be pursuant to Section 1-10 of the City Code for each violation.** Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(Ord. No. 2010-04-11, § VII, 4-20-2010)

#### **Sec. 109-256. Education and certification.**

- (a) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.
- (b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- (c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this article.
- (d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in O.C.G.A. § 12-7-19(b)(4) and shall not be required to meet any educational requirements that exceed those specified in said subsection.

(Ord. No. 2010-04-11, § VIII, 4-20-2010)

#### **Sec. 109-257. Administrative appeal; judicial review.**

- (a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the local issuing authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the board of appeals within 30 days after receipt by the local issuing authority of written notice of appeal.
- (b) *Judicial review.* Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Fulton County, Georgia.

(Ord. No. 2010-04-11, § IX, 4-20-2011)

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#### **Sec. 109-258. Effectivity, validity and liability.**

- (a) Effectivity. This article shall become effective on the twentieth day of April, 2010.
- (b) *Validity*. If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this article.
- (c) *Liability*.
  - (1) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the local issuing authority or district for damage to any person or property.
  - (2) The fact that a 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.
  - (3) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

(Ord. No. 2010-04-11, § X, 4-20-2010)

#### **Secs. 109-259—109-360. Reserved.**

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#### FOOTNOTE(S):

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**Editor's note**— Ord. No. 2010-04-11, §§ I—X, adopted April 20, 2010, amended art. VI in its entirety as set out herein. Former art. VI, §§ 109-249—109-256, 109-274—109-277, 109-295, 109-296 pertained to soil erosion and sedimentation control and derived from Ord. No. 2005-12-12, § 5(ch. 14, art. 7), §§ 1—14, adopted Dec. 13, 2005; Ord. No. 2007-11-62, §§ 1, 2, adopted Nov. 20, 2007; Ord. No. 2009-03-12, § II, adopted Mar. 17, 2009. ([Back](#))

# EROSION CONTROL AMENDMENTS

August 19 2014



# Proposed Amendment

2

## Chapter 109 – Natural Resources and Environmental Protection, Article VI, Soil Erosion, Sedimentation and Pollution Control

- Adopted April, 2010
- Based upon the Georgia Erosion and Sedimentation Act of 1975, as amended in 2003

# Proposed Amendment

3

## Amend Soil Erosion, Sedimentation and Pollution Control Code to:

- Establish permit requirements and procedures for stand alone single family residential development where land disturbance is less than one acre
- Require the building permit include a separate Erosion Control Plan
- Require a design professional (engineer, landscape architect, erosion and sediment control certified designer) seal on the erosion control design

# Proposed Amendment

4

## Amend Soil Erosion, Sedimentation and Pollution Control Code to:

- Require execution of Memorandum of Understanding titled “Erosion Control Responsibilities” at onsite preconstruction meeting
- Require erosion control inspection logs be maintained for stand alone single family residential projects
- Require self-inspections be performed of erosion control BMPs daily and immediately following rainfall events
- Require documentation of remedial measures taken to maintain BMPs

# Proposed Amendment

5

## Amend Soil Erosion, Sedimentation and Pollution Control Code to:

- Require Georgia Soil Water Conservation Commission Level 1A certification for all single family home builders
- Standardize the language among Code sections that address erosion and simplify wording to facilitate a better understanding of the ordinance
- Clarify language to facilitate more effective enforcement
- Remove verbiage allowing five days to correct violation prior to issuance to a Stop Work Order

# Amendment - SF Construction

6

- Requires establishment of “Contractor Responsibilities”
- Requires regular inspections by contractor
- Requires inspection logs be maintained



# Amendment – SF Construction

7

- Requires inspections following rain events
- Requires documentation of inspections and remedial measures taken



# EROSION CONTROL AMENDMENTS

August 19 2014

