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§3-1-1 TITLE

This ordinance shall be known and may be cited as the Soil Erosion and Sedimentation Control Ordinance of the County [City] of _____.

§3-1-2 DEFINITIONS

As-built survey drawings: Drawings specifying the dimensions, location, capacities, and operational capabilities of structures and facilities as they have been constructed.

Available head: The depth of water that is present at the entrance to a pipe during a 100-year storm.

Best Management Practices (BMPs): A collection of structural measures and vegetative practices which, when properly designed, installed and maintained, will provide effective erosion and sediment control. The term “properly designed” means designed in accordance with the hydraulic design specifications contained in the “Manual for Erosion and Sedimentation Control in Georgia” specified in O.C.G.A. 12-7-6 subsection (b).

Board: The Board of Natural Resources.

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Bond: A bond, letter of credit or approved surety method approved by the Land Use Officer.

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

Buffer, stream protection: An undisturbed natural vegetative buffer, measured horizontally from the top of the stream bank, on both banks (as applicable) of the stream.

Commission: The State Soil & Water Conservation Commission.

Construction: Any building or erection of a structure or preparation of a property for same.

Cut: 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 excavated surface. Also known as "excavation."

Cutting: The removal of any soil or other solid material from a natural ground surface.

Department: The Department of Natural Resources.

Design head: The depth of water at the entrance to a pipe that was used in design to force a rate of flow through the pipe needed in the design.

Detention facility: A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

Development: (1) A land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center; (2) any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials; (3) the act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

Development permit: The authorization necessary to carry out the planned development of land and structures, which may include authorization to initiate and conduct a land-disturbing activity. The land development permit is issued by the Land Use Officer.

District: The _____ County Soil and Water Conservation District.

Drainage: A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; most commonly applied to surface water.

Drainage structure: 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.

Drainage system: The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales and ponds, whether of an

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intermittent or continuous nature, and the man-made element which includes culverts, ditches, channels, detention facilities and the storm sewer system.

Elevation: The vertical height or heights above a datum plane which for purposes of this Ordinance shall be the Mean Sea Level datum of the United States Coast and Geodetic Survey of 1929 or other customarily accepted source.

EPD: The Environmental Protection Division of the Georgia Department of Natural Resources.

EPD Director: The Director of the Environmental Protection Division of the Georgia Department of Natural Resources.

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

Erosion and sediment control plan: A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity.

Excavation: The mechanical removal of earth material.

Extended detention: The detention of stormwater runoff for an extended period, typically 24 hours or greater.

Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

Filling: The placement of any soil or other solid material, either organic or inorganic, on a natural ground surface or excavation.

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

Grading: 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: The original elevation of the ground surface prior to cutting or filling.

Hydrologic Soil Group (HSG): A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

Land development: Any land change, including but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

Land development activity: Those actions or activities which comprise, facilitate or result in land development.

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Land disturbance: Any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

Land disturbance activity: Those actions or activities which comprise, facilitate or result in land disturbance.

Land-disturbing activity: Any activity that 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 this ordinance.

Larger Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For 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.

Live detention: The quantity of water capable of being effectively contained by a stormwater detention facility for a specified period of time.

Local Issuing Authority: The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.

Manual for Erosion and Sediment Control in Georgia: A publication of the same name published by the Georgia Soil and Water Conservation Commission, and as amended or supplemented from time to time.

Metropolitan River Protection Act (MRPA): 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.

Natural drainage: Channels formed by the existing surface topography of the earth prior to changes made by unnatural causes.

Natural ground surface: The ground surface in its original state before any grading, excavation or filling.

Nephelometric Turbidity Units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided ordnances of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed ordnances are present.

One-hundred-year flood: A flood that has the probability of occurring once every 100 years and thus has a 1 percent chance of occurring each year.

One-hundred-year flood plain: The land area adjacent to a river, stream, watercourse or lake that has a probability of being flooded once each hundred years and, thus, has a one-percent chance of occurring in any given year.

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Operator: 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 a storm-water pollution prevention 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 storm-water pollution prevention plan or to comply with other permit conditions.

Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

Person: 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.

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

Qualified personnel: Any person who meets or exceeds the education and training requirements of O.C.G.A. 12-7-19.

Reach: A curvilinear segment of a stream or river measured longitudinally between specified points on the stream or river.

Riparian: Belonging or related to the bank of a river, stream, lake, pond or impoundment.

Roadway drainage structure: 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 way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Runoff: The portion of precipitation on the land that reaches the drainage system.

Runoff rate coefficient: The numerical factor which, when multiplied with the average slope for a particular site, will give the release rate of water from that site.

Sediment: Solid material, both organic and inorganic, that is in suspension, is being transported or has been moved from its site of origin by air, water, ice or gravity as a product of erosion.

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

Slope: The degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

Soil and Water Conservation District approved plan: An erosion and sediment control plan approved in writing by the _____ County Soil and Water Conservation District.

Soils: The upper layer of earth that can be dug or plowed; the loose surface material of the earth in which vegetation normally grows.

Stabilization: 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.

State General Permit: The National Pollution Discharge Elimination System general permit or permits for storm-water 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 subsection (f) of O.C.G.A. Code Section 12-5-30.

State waters: 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 the State which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

Static head: The depth of water at the entrance to a culvert when the depth is greater than the diameter of the pipe.

Stream: A stream is defined as beginning at :

- (a) The location of a spring, seep, or groundwater outflow that sustains streamflow; or
- (b) A point in the stream channel with a drainage area of 25 acres or more; or
- (c) Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the Land Use Officer may require field studies to verify the existence of a stream.

Stream bank: The sloping land that contains the stream channel and the normal flows of the stream.

Stream buffer setback: An additional setback, measured horizontally, beyond the undisturbed stream buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

Stream channel: The portion of a watercourse that contains the base flow of the stream.

Stream protection area, or protection area: The combined areas of all required buffers and setbacks applicable to such stream.

Structural erosion and sedimentation control measures (structural practices): Measures 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 sedimentation control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading. Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

Ten-year, twenty-five-year and one-hundred-year storms: Rainfall events having a probability of occurrence once every 10, 25 or 100 years, respectively, or a 10%, 4% or 1% chance of occurring each year, respectively.

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Trout streams: All streams or portions of streams within the watershed as designated by the Game and Fish 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, et seq. 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.

Utilities: All public and private, above or below ground, infrastructure systems providing water, stormwater, sewer, gas, telephone or cable television, and any other service controlled by the Georgia Public Services Commission.

Vegetation: All plant growth, such as trees, shrubs, mosses and grasses.

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

- (a) Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- (b) Temporary seeding, producing short-term vegetative cover; or
- (c) Sodding, covering areas with a turf of perennial sod-forming grass.

Such practices 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 by reason of overflow or floodwater.

Wetlands: Those areas that are inundated or saturated by surface or ground water 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.

§3-1-3 EXEMPTIONS

§3-1-3.1 Generally. This ordinance shall apply to any land-disturbing activity undertaken by any person on any land except for those uses specifically identified in this ordinance. Where this ordinance requires compliance with the section of this ordinance titled "Minimum Requirements for Erosion and Sedimentation Control," the County [City] shall enforce compliance with the minimum requirements as if a land development permit had been issued and any violations of said minimum requirements shall be subject to the same penalties as violations by land development permit holders.

§3-1-3.2 Mining and Quarrying. Surface mining, as same is defined in O.C.G.A. § 12-4-72 and granite quarrying and land clearing for such quarrying are exempt from compliance with this ordinance.

§3-1-3.3 Minor Activities. Minor land-disturbing activities, such as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities, which result in minor soil erosion are exempt from compliance with this ordinance.

§3-1-3.4 Single-family Detached Dwellings. Single-family detached dwellings 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 are exempt from compliance with this ordinance; provided however, that construction of any such residence shall conform to the minimum requirements of this Article titled "Minimum Requirements for Erosion and Sedimentation Control." In addition, such residences and residential construction shall comply with the following:

- (a) Buffer zone along trout streams. There shall be a buffer between the residence and any state waters classified as trout streams pursuant to the Georgia Water Quality Control Act.
- (b) Land disturbance within buffer zone. 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.
- (c) Width for primary 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.
- (d) Width for secondary trout waters. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the EPD 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.
- (e) Enforcement. The minimum requirements for erosion and sedimentation control as specified in this ordinance shall be enforced by the issuing authority.

§3-1-3.5 Agriculture. Exempt from the requirements of this ordinance are those agricultural operations defined in O.C.G.A. § 1-3-3 and which 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 chicken, hens, and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs, and apiarian products; forestry land management practices, including harvesting and farm buildings and farm ponds.

§3-1-3.6 Forestry. 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 this ordinance, 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.

§3-1-3.7 NRCS Projects. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture shall be exempt from compliance with this ordinance.

§3-1-3.8 Small Projects. Any project involving less than one acre of disturbed area shall be exempt from compliance with this ordinance; 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 bank of any state waters. For purposes of this paragraph, "State Waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round. 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 that is not specifically exempted by this Section.

§3-1-3.9 State and Local Projects. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Georgia Department of Transportation, the Georgia Highway Authority, the Georgia Tollway Authority or any water or sewerage authority established by the Georgia General Assembly; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that projects which disturb one or more contiguous acres of land shall be subject to the provisions of O.C.G.A. 12-7-7.1, except where the 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 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.

§3-1-3.10 Electric and Public Utilities. 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 shall be exempt from the requirements of this ordinance, 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 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.

§3-1-3.11 Public Water System Reservoir. Any public water system reservoir shall be exempt from the requirements of this ordinance.

§3-1-4 MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL

§3-1-4.1 General Provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion and sediment control measures and practices which shall be incorporated into erosion and sediment control plans that conform to the requirements of this ordinance.

The application of such 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 and sediment pollution during all stages of any land-disturbing activity.

§3-1-4.2 Best Management Practices.

- (a) Required. Best management practices as set forth in this subsection shall be required for all land-disturbing activities.
- (b) Defense to enforcement action. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the EPD

- Director or to any other allegation of noncompliance with this Section or any substantially similar terms contained in a land development permit for the discharge of stormwater issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the “Georgia Water Quality Control Act.”
- (c) Definitions. As used in this section, 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 subsection (b).
- (d) Violations. 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 State Environmental Protection Division pursuant to subsection (f) of O.C.G.A. 12-5-30, 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 10 nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines issued by the EPD Director. 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. 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 Environmental Protection Division pursuant to subsection (f) of Code Section 12-5-30, the “Georgia Water Quality Control Act,” for each day on which such failure occurs.
- (e) Requirements by EPD Director. The EPD Director may require, in accordance with regulations adopted by the Board of Natural Resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

§3-1-4.3 Minimum Requirements. Land-disturbing activities shall, as a minimum, require 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:

- a. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
- b. Cut-fill operations must be kept to a minimum;
- c. Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
- d. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- e. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- f. Disturbed soil shall be stabilized as quickly as practical;
- g. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;

- h. Permanent vegetation and structural erosion control measures shall be installed as soon as practicable;
- i. To the extent necessary, sediment in run-off 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;
- j. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills;
- k. Cuts and fills may not endanger adjoining property;
- l. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- m. 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;
- n. Land-disturbing activity plans for erosion and sedimentation 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 this Section.
- o. Except as otherwise provided in this Section, 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 EPD Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the EPD Director pursuant to O.C.G.A. 12-2-8, or 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; provided, however, 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 EPD Director as provided in this paragraph. The following requirements shall apply to any such buffer:
 - i. 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 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 stream bed; 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 stream bed; and
 - ii. 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

- p. 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 of Natural Resources, 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 EPD Director 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 shall apply to such buffer:
- i. 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 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 stream bed; 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 stream bed; and
 - ii. 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.

§3-1-5 INJURY NOT PROOF OF A VIOLATION

The fact that land-disturbing activity for which a land development 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 ordinance or the terms of any development permit issued.

§3-1-6 APPLICATION/PERMIT PROCESS GENERALLY

The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the Local Issuing Authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and other ordinances which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the operator is the only party who may obtain a permit.

§3-1-7 APPLICATION REQUIREMENTS

- (a) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the Local Issuing Authority without first obtaining a permit from the Land Use Officer to perform such activity.
- (b) The application for a permit shall be submitted to the Land Use Officer and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in this ordinance. Soil erosion and sedimentation control plans shall conform to the provisions of this ordinance. Applications for a permit will not be accepted unless accompanied by the number of copies of the applicant's soil erosion and sedimentation control plans specified by the Land Use Officer. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to the creation of the plan or that such a visit was not required in accordance with rules and regulations established by the Board of Natural Resources.
- (c) A fee, in the amount of \$100.00 per acre, shall be charged for each acre or fraction thereof in the project area.
- (d) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, 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 the issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the State Environmental Protection Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the State Environmental Protection Division, regardless of the existence of a local issuing authority in the jurisdiction.
- (e) Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. A district shall approve or disapprove a plan within 35 days of receipt. Failure of a district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by this ordinance, and bonding, if required pursuant to this Article, 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.
- (f) If a permit applicant has had two or more violations of previous permits, this Article, or the Erosion and Sedimentation Act, within three years prior to the date of filing of the application under consideration, the Local Issuing Authority may deny the permit application.
 - (g) 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 to issuing the permit. In particular, the Land Use Officer shall require a bond for “habitual violators” (defined as 3 or more convictions in the previous year) and may require such a bond for persons who have violated soil erosion regulations one or more times in the last three years. If the applicant does not comply with this Article 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.

§3-1-8 PLAN REQUIREMENTS

Plans must be prepared to meet the minimum requirements of this Article. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sediment Control in Georgia*, published by the State Soil and Water Conservation Commission as a guide, or through the use of more stringent, alternative 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 ordinance. 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.

§3-1-9 DATA REQUIRED FOR SITE PLAN

The site plan shall include the following:

- (a) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
- (b) Description of existing land use at project site and description of proposed project.
- (c) Name, address, and phone number of the property owner.
- (d) Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls.
- (e) Size of project in acres. If a multi-phase project, provide size of each phase also.
- (f) Activity schedule showing anticipated starting and completion dates for the project. Include the statement, in bold letters, that “the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities.”
- (g) Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.

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- (h) Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
- (i) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.
- (j) Maintenance Statement – “Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source.”
Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

§3-1-10 CONTENT OF PLANS

Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. The certified plans shall contain the following:

- (a) Graphic scale and north point or arrow indicated magnetic north.
- (b) Vicinity maps showing location of project and existing streets.
- (c) Boundary line survey.
- (d) Delineation of disturbed areas within project boundary.
- (e) Existing and planned contours, with an interval in accordance with the following:

Map Scale	Ground Slope	Contour Interval, ft.
1inch = 100 feet or larger scale	Flat, 0-2%	0.5 or 1
	Rolling, 2-8%	1 or 2
	Steep, 8%+	2, 5 or 10

- (f) Adjacent areas and feature areas such as streams, lakes, residential areas, etc. which might be affected.
- (g) Proposed structures or additions to existing structures and paved areas.
- (h) Delineate the 25-foot horizontal buffer adjacent to state waters.
- (i) Delineate the specific horizontal buffer along designated trout streams, where applicable.
- (j) Location of erosion and sedimentation control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*, Chapter 6.

§3-1-11 PERMITS

- (a) Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary.
- (b) No permit shall be issued by the Local Issuing Authority unless the erosion and sedimentation 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 are obtained, bonding requirements, if necessary, 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.

- (c) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (d) 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 ordinance. 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.

§3-1-12 EDUCATION AND CERTIFICATION

After December 31, 2006, all 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 State Soil & Water Conservation Commission in consultation with the State Environmental Protection Division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

§3-1-13 INSPECTION

- (a) The Land Use Officer, or designee including Soil Erosion Inspector, shall have the power to conduct such investigations and inspections as it may reasonably deem necessary to carry out the duties as prescribed in this ordinances, and for that 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. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the State Soil and Water Conservation Commission, the District, or State Environmental Protection 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. To this end, the Land Use Officer or designee is authorized to evade, alter, or remove any physical barriers to his access. If access is denied, the Land Use Officer shall be authorized to seek aid from law enforcement agencies to acquire access, if necessary.
- (b) The Land Use Officer or designee 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 both primary and secondary permittees as such terms are defined in the state general permit.
- (c) Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities.
- (d) Secondary permittees shall be responsible for the installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities.

§3-1-14 NOTICE TO COMPLY

If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined in this ordinance has failed to comply with the approved plan, with permit conditions, or with the provisions of this ordinance, 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 ordinance.

§3-1-15 REMEDIES

If any person commences land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, or violates this Ordinance in any other way, that person shall be subject to any and all enforcement and penalty methods available in the enforcement of this Code, as indicated in Section 1-9.

In addition to enforcement methods authorized in Section 1-9, a violator of this ordinance shall be deemed to have forfeited his performance bond, if required to post one under the provisions of this ordinance. 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.

§3-1-16 LIABILITY

Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance 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.

§3-1-17 INCORPORATION CLAUSE

This ordinance is intended to comply with the provisions of the Georgia Soil Erosion and Sedimentation Act of 1975, as amended, and the qualifications required for _____ County [City of _____] to be a Local Issuing Authority. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, as amended, 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.

Where any provision of this ordinance is in conflict with any provision of that Act, the Act shall control. Or where this ordinance is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, or for qualification as a Local Issuing Authority, such provision of the Act or qualification, so as to meet the mandate of the Act or qualification, shall be fully complied with.

§3-2 GRADING

§3-2-1	PURPOSES
§3-2-2	DEFINITIONS
§3-2-3	GRADING PERMIT REQUIRED
§3-2-4	EXEMPTIONS
§3-2-5	SPECIFICATIONS FOR GRADING PLANS
§3-2-6	SITE GRADING REGULATIONS
§3-2-7	GRADING IN AREAS OF SPECIAL FLOOD HAZARD
§3-2-8	EROSION CONTROL
§3-2-9	GRADING ON STEEP SLOPES
§3-2-10	REQUIREMENTS FOR FILL MATERIAL
§3-2-11	TEMPORARY STOCKPILING DURING CONSTRUCTION OR GRADING
§3-2-12	COMPLIANCE

§3-2-1 PURPOSES

The purposes of this ordinance are to limit grading to the minimum amount necessary; establish minimum requirements for grading work; guard against land instability; prevent the unnecessary removal of vegetation; protect the quality of wetlands and water courses from increased sedimentation; and, to preserve the aesthetic quality of the natural terrain.

§3-2-2 DEFINITIONS

Cut: The removal of naturally occurring earth materials by mechanical means.

Development: Any activity which alters the elevation of the land, removes or destroys plant life, or causes structures of any kind to be erected or removed.

Elevation: The vertical height or heights above a datum plane which for purposes of this ordinance shall be the Mean Sea Level datum of the United States Coast and Geodetic Survey of 1929 or other customarily accepted source.

Existing Grade: The elevation of the ground surface at any given point prior to cutting or filling.

Fill: The deposit of soil, rock or other material by man.

Finished Grade: The elevation of the ground surface at any given point after cutting or filling.

Grading: Any cutting, or filling or combination thereof and includes the land in its cut or filled condition.

Natural Drainage: Channels formed by the existing surface topography of the earth prior to changes made by unnatural causes.

Slope: An inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

§3-2-3 GRADING PERMIT REQUIRED

A grading permit shall be required for all grading activities for any site if the combined volume of excavation, fill, dredging, or other movement of earth materials is more than 50 cubic yards unless specifically exempted by this ordinance. No grading as specified in this section shall take place until grading plans have been submitted to, approved by, and a grading permit issued by the Land Use Officer. At the applicant's option, where there will be construction or placement of a building following grading activities, the grading approval and permit may be a component of any required land use permit or building permit.

[See Commentary]

§3-2-4 EXEMPTIONS

The following grading activities shall be exempt from the requirement to file grading plans and received a grading permit.

- (a) Excavations and filling of cemetery graves.
- (b) Excavations for exploratory investigations by soil scientists, engineering geologists, and the like.
- (c) Grading or filling performed exclusively for agricultural activities in fields such as the planting of crops or the raising of livestock, but not including the construction of any building or structure.
- (d) Operation of surface mines and other activities involving the extraction of mineral and earth materials subject to the regulations and under a permit of the Georgia Department of Natural Resources.
- (e) Sanitary landfills or other landfills subject to the regulations and under a permit of the Georgia Department of Natural Resources.
- (f) Stockpiling and handling of earth material when the earth material is consumed or produced in a process which is the principal use of the site.
- (g) On-site work required for construction, repair, repaving, replacement or reconstruction of an existing road, street or utility installation in a public right-of-way.
- (h) Trenching and backfilling for the installation, reconstruction or repair of utilities on property other than a public right-of-way.
- (i) Underground storage tank removal and replacement that is subject to regulation by a state or federal agency.

§3-2-5 SPECIFICATIONS FOR GRADING PLANS

An application for a grading permit or approval shall be made to the Land Use Officer. The grading plans shall be prepared by, or under the direction of, a registered civil engineer for all applications where the total amount of materials graded is more than 2,500 cubic yards. Grading plans shall show existing and proposed contour lines at an interval of no more than five feet. Grading plans shall outline the areas which are required to remain undisturbed (i.e., tree protection areas, buffers, etc.) and shall indicate all protective measures such as fencing or staking to be placed surrounding such areas. The Land Use Officer may require additional information pertaining to the specific site and any other relevant information needed in order to assess potential hazards associated with the proposed grading activities and to determine whether a grading permit or approval should be issued. Grading plans shall be processed in accordance with procedures for building permits or, when not submitted simultaneously with a

building permit application, shall be processed and a final decision made by the Land Use Officer within thirty (30) days of receiving a completed application.

§3-2-6 SITE GRADING REGULATIONS

- (a) Final graded slopes shall be no steeper than is safe for the intended use. The maximum slopes for cut or fill shall be 2:1 (two feet of horizontal run for each foot of rise or fall), except as approved by the Land Use Officer.
- (b) When a cut is made in rock that requires blasting, the slope may be steeper if presplitting is employed and upon submission of a geotechnical report which substantiates the integrity of the rock in the steeper condition, subject to the review and approval of the Land Use Officer. No blasting shall occur without a valid permit issued by the Fire Marshal.
- (c) Grading shall not create or contribute to flooding, erosion, or increased turbidity, siltation or other forms of pollution in a watercourse.
- (d) All grading shall occur entirely within the site, unless encroachment on adjoining property is shown on grading plans and the applicant provides: proof of ownership, an easement authorizing the encroachment, or a letter signed by the owner of the adjoining property which authorizes such temporary encroachments during construction on the adjoining property.
- (e) Any grading shall be performed in such a manner that final contours appear to be consistent with the existing terrain, both on and adjacent to the site.
- (f) Construction and development plans calling for excessive cutting and filling may be refused a grading permit by the Land Use Officer if it is determined that the proposed land use can be supported with less alteration of the natural terrain.

§3-2-7 GRADING IN AREAS OF SPECIAL FLOOD HAZARD

In addition to requirements for grading approval or permit set forth in this ordinance, any grading in areas of special flood hazard is subject to the requirements of Section 3-3 of this code, "Flood Damage Prevention."

§3-2-8 EROSION CONTROL

Erosion and sedimentation control measures, as required by Section 2-1-7 of this code, shall be coordinated with the sequence of grading, development, and construction operations.

§3-2-9 GRADING ON STEEP SLOPES

In areas where the slope of a given parcel to be developed exceeds 35 percent, at least 85 percent of the ground surface of the parcel shall remain in an undistributed state (i.e., not cut or fill).

[See Commentary]

§3-2-10 REQUIREMENTS FOR FILL MATERIAL

Materials used in fills shall comply with the following requirements:

- (a) Material used in filling shall be appropriate to the site and the intended use of that portion of the site.

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- (b) Fill shall be composed of earth materials. Any rock or other similar irreducible material used in a fill shall be of a maximum diameter of 12 inches and shall compose not more than 20 percent of the total fill material.
- (c) Topsoil shall not be used as a fill material except that the upper 12 inches of a fill site may be covered with topsoil.
- (d) No frozen or thawing material shall be used in a fill.
- (e) No solid waste, hazardous waste or hazardous material may be used in a fill.
- (f) No organic material shall be used in a fill unless approved by the Land Use Officer.
- (g) Fill must be compacted to 95 percent unless the Land Use Officer specifies another standard.

§3-2-11 TEMPORARY STOCKPILING DURING CONSTRUCTION OR GRADING

Temporary stockpiles of earth materials during construction or grading shall not exceed ten feet in height. Stockpiles shall have slopes no greater than one horizontal to one vertical. Stockpiles shall not be placed in locations that would cause suffocation of root systems of trees to be preserved.

§3-2-12 COMPLIANCE

Grading shall be done in accordance with the lines and grades shown on the approved grading plan.