

**Topic:** Erosion & Sedimentation Control  
**Resource Type:** Regulations  
**State:** Georgia  
**Jurisdiction Type:** Municipal  
**Municipality:** City of Alpharetta  
**Year** (*adopted, written, etc.*): 1990-2001  
**Community Type – applicable to:** Urban; Suburban  
**Title:** Alpharetta Soil Erosion and Sedimentation Control Ordinance  
**Document Last Updated in Database:** August 3, 2015

### ***Abstract***

The purpose of this ordinance is to decrease erosion and erosion hazards and to minimize flood damage by requiring permits for land disturbing activities. Undisturbed vegetative buffers of at least 35 feet along all state waters and of at least 50 feet along primary trout waters must be maintained with no exceptions. Runoff which results in a defined turbidity increase in receiving waters is considered a violation.

### ***Resource***

ARTICLE V. SOIL EROSION AND SEDIMENTATION CONTROL\* Adopted March-26-1990

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\*Editor's note: Ord. No. 272, §§ 1--9, adopted March 26, 1990, enacted soil erosion and sedimentation control regulations which have been codified as superseding the provisions of former Art. V, §§ 5-98--5-112, which pertained to similar subject matter and which derived from Ord. No. 252, §§ 2--8, adopted Jan. 9, 1989.

Cross references: Flood damage control, § 5-68 et seq.; Chattahoochee River protection, § 5-118 et seq.

State law references: Erosion and Sedimentation Control Act of 1975, O.C.G.A. § 12-7-1 et seq.  
Sec. 5-98. Title.

This article will be known as the "Alpharetta Soil Erosion and Sedimentation Control Ordinance."

(Ord. No. 272, § 1, 3-26-90; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 1, 8-6-01)

Sec. 5-99. Definitions.

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

**Appeal:** A request for review of the city engineer's interpretation of any provision of this article, or a request for a variance.

**Area of special flood hazard:** The land in the floodplain within a community subject to flooding with a one-percent chance of being equaled or exceeded in any given year and with a drainage area of one (1) square mile (640 acres) or greater.

**Article:** Reference to the Official Code for the City of Alpharetta.

**Base flood:** The flood having a one-percent chance of being equaled or exceeded in any given year.

**Best Management Practices (BMPS):** A collection of structural measures and vegetative practices which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control for all rainfall events up to and including a 25-year, 24-hour rainfall event.

**Board:** The board of natural resources.

**Board of appeals:** The Alpharetta board of appeals.

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

**City:** The City of Alpharetta, Georgia

**City engineer:** The deputy director for the City of Alpharetta, acting head of engineering, or designee of the aforementioned for the City of Alpharetta.

**Code:** The O.C.G.A. (The Official Code of Georgia Annotated).

**Conservation commission:** The state soil and water conservation commission.

**Corridor:** The area of land adjacent to a stream that lies within a defined buffer or setback.

**Council:** The council of the City of Alpharetta, Georgia.

**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 or excavated surface. (Also referred to as excavation.)

**Department:** The state department of natural resources.

Director: The director of the environmental protection division of the state department of natural resources.

District: The county soil and water conservation district.

Division: The environmental protection division of the state department of natural resources.

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 storm-water management drainage control, or flood control purposes.

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

Erosion and sediment control plan: A plan for the control of soil erosion and sediment resulting from land-disturbing activity. (Also referred to as the "plan.")

Existing grade: The vertical location of the existing ground surface prior to cutting or filling.

FEMA: The Federal Emergency Management Agency.

Fill: A portion of land surface to which soil or other solid material has been added to 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.

Flood insurance study: The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Grading:** Altering ground surfaces to specified elevations, dimensions, and/or slopes; 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.

**Issuing authority:** The governing authority which has been certified by the director of the environmental protection division of the department of natural resources as an issuing agent pursuant to the Erosion and Sedimentation Act of 1975, as amended, or the division in these instances where an application for a permit is submitted to any county or municipality.

**Land-disturbing activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in section 5-100(5).

**Metropolitan River Protection Act (MRPA):** A state law in the Code as presented in section 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

**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 particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

**One hundred-year flood plain:** Land in the flood plain subject to a one (1) percent or greater statistical occurrence probability of flooding in any given year.

**Perennial stream:** A stream, which flows throughout the whole year that is designated and shown as a permanent stream by a blue line on the 7.5-minute quadrangle maps of the US Geological Survey Maps.

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

**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 this state, any interstate body or other legal entity.

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

Roadway drainage structure: A device such as a bridge, culvert or ditch composed of a virtually nonerrodible material such as concrete, plastic, steel 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.

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 degrees.

Soil and water conservation district approved plan: An erosion and sedimentation control plan approved in writing by the county soil and water conservation district.

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 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.

Stream bank: The confining cut of ground surface that defines a stream channel and is normally identified at a point where the water flow has wrested the vegetation.

Structural erosion and sedimentation control measures: 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 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, sediment traps and land grading, etc. Such measures can be found in the publication "Manual for Erosion and Sediment Control in Georgia."

Trout streams: First order trout waters are streams into which no other streams flow except springs. All streams or portions of streams within the watershed as designated by the game and fish division of the state department of natural resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A., section 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.

Variance: A grant of relief from the requirements of this article that permits construction or activities in a manner otherwise prohibited by this article, where specific enforcement would result in unnecessary hardship.

Vegetative erosion and sediment control practices: Measures for the stabilization of erosive or sediment-producing areas by covering the soil with:

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

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.

(Ord. No. 272, § 2, 3-26-90; Ord. No. 381, § 1, 8-19-96; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 2, 8-6-01)

Cross references: Rules of construction and definitions generally, § 1-2; definition of "surface mining," § 5-99(6).

Sec. 5-100. 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 the Code Section 12-4-72, "Mineral Resources and Caves Act."
- (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, and other related activities which result in minor soil erosion;

(4) The construction of single family residences when such are constructed by or under contract with the owner for his or her own occupancy, or the construction of single family residences not a part of a platted subdivision, planned community or an association of other residential lots consisting of more than two (2) lots 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 section 5-101 of this article. 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 the Code section 12-5-20. 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 fifty (50) horizontal feet and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet but the director may grant variances to no less than thirty-five (35) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, the buffer shall be at least thirty-five (35) horizontal feet and no variance to a smaller buffer shall be granted. The minimum requirements set forth in section 5-101 of this article shall be enforced by the city.

(5) Agricultural operations as defined in the Code section 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 aqua culture, 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 section 5-101(c) 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 (3) years after completion of such forestry practices.

(7) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(8) Any project involving one-tenth ( 1/10) acre or less; provided, however, that this exemption shall not apply to any land-disturbing activity within two hundred (200) feet of the bank of any state waters, and 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;

provided, however, that any person responsible for a project which involves one-tenth (1/10) acre or less, which involves land-disturbing activity, and which is within two hundred (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 city from regulating any such project which is not specifically exempted by section 5-101 of this article or by paragraphs (1), (2), (3), (4), (5), (6), (7), (9), or (10) of this section.

(9) Construction or maintenance projects undertaken or financed in whole or in part by the department of transportation, the state highway authority or the state tollway authority; or any road construction or maintenance project undertaken by any county or municipality, provided, however, that such projects shall conform to the minimum requirements set forth in section 5-101 of this article; provided further that construction or maintenance projects of the department of transportation or state tollway authority which disturb five (5) or more contiguous acres of land shall be subject to provisions of the Code section 12-7-7.1.

(10) Any land-disturbing activities conducted by any airport authority, provided that any such land-disturbing activity shall conform to the minimum standards set forth in section 5-101 of this article.

(11) Any land-disturbing activities conducted by any municipal electrical system or any electric membership corporation or any public utility under the regulatory jurisdiction of the public service commission, provided that such land-disturbance activity shall conform to the minimum requirements set forth in this article.

(12) Where this section requires compliance with the minimum requirements set forth in this article, the city shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.

(Ord. No. 272, § 3, 3-26-90; Ord. No. 381, § 1, 8-19-96; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 3, 8-6-01)

Sec. 5-101. Minimum requirements for erosion and sedimentation control by using best management practices.

(a) General provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities that are not excluded by this article shall contain provisions for application of soil erosion and sediment control measures and practices. The provisions shall be incorporated into the erosion and sediment control plans. Soil erosion and sediment control measures and practices shall conform to the requirements 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 and sediment pollution during all stages of any land-disturbing activity.



(b) Minimum requirements/BMP's. The permittee shall follow sound conservation and engineering practices to prevent and minimize erosion and resulting sedimentation consistent with the following:

(1) Best management practices, as set forth in this article, shall be required for all land-disturbing activities. Proper design, installation, documentation and maintenance of best management practices shall constitute a complete defense to any action by the city engineer 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 subsection (f) of Code section 12-5-30. As used, the term "proper design" and "properly designed" means designed to control soil erosion and sedimentation for all rainfall events up to and including a 25-year, 24-hour rainfall event.

(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 the city or by the division or of any general permit for construction activities issued by the division pursuant to subsection (f) of the Code Section 12-5-30, for each day on which such discharge results in the turbidity of the receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm waterfisheries or by more than ten (10) 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.

(3) Failure to properly design, install or maintain best management practices shall constitute a violation of any land-disturbing permit issued by the city or by the division or of any general permit for construction activities issued by the division pursuant to subsection (f) of the Code section 12-5-30, for each day on which the failure occurs.

(4) The city engineer may require, in accordance with regulations adopted by council, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

(c) The rules and regulations, ordinances or resolutions adopted pursuant to this section for the purpose of governing land-disturbing activities shall require, as a minimum, 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 in the "Manual for Erosion and Sediment Control in Georgia" published by the state soil and water conservation commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

(1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;

- (2) Cut-fill operations must be kept to a minimum with slopes no less than two (2) horizontal units to one (1) vertical unit;
- (3) Development plans must conform to topography and soil type so as to create the lowest practical 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 measures shall be installed as soon as practicable;
- (9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of this article (or Code section 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 surface 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 and do not damage the stream banks to the point that stabilization is required;
- (14) 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 state waters beyond the levels specified in section 5-101(b)(2) of this article.
- (15) An established undisturbed buffer on all state waters shall be recognized as the base flood elevation of the flood hazard areas inundated by 100-year floods. This undisturbed buffer shall be identified by a current flood insurance study of the Federal Emergency Management Agency (FEMA), or as determined by a registered or certified professional in engineering or land surveying with supportive computations and maps bearing the

professional signature/seal. Where state waters exist but no base flood elevation or professional computation data are obtainable, a distance measured horizontally from the stream bank at five (5) times the width of the stream at the top of bank shall establish the undisturbed buffer. Except where the city engineer determines to allow a variance with mitigation that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code section 12-2-8, 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 aforesaid horizontal buffer distances are at least fifty (50) feet on state waters classified as "trout stream" or thirty-five (35) feet on all remaining state waters as established pursuant to Code section 12-7-6 and to the Metropolitan River Protection Act, shall remain in force unless a variance is granted by the director as provided in Code section 12-2-8. 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 and all disturbed areas of the site are stabilized.
- b. All protective vegetative cover within a buffer remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the streambed.

GRAPHIC LINK: Undisturbed Vegetative Buffers

- c. Nothing contained in this section shall prevent the city from adopting rules and regulations, ordinances or resolutions that contain requirements that exceed the minimum requirements in this section.
- d. A request to allow a variance that is at least as protective of natural resources and the environment as the minimum buffer requirements as set forth in subsections 5-101(b) and (c) of this article shall be presented to the city engineer; provided, however the requests are at least thirty-five (35) feet from banks of all state waters and fifty (50) feet from the banks of state waters classified as "trout streams" pursuant to Code section 12-7-6; where as such variance requests shall be made to the director (EPD). In all cases in which a buffer variance is issued, the following conditions shall apply:
  1. The variance shall be the minimum reduction in buffer width necessary to provide relief. Streams shall not be piped if a buffer width reduction is sufficient to provide relief.
  2. Disturbance of existing natural (and native) buffer vegetation shall be minimized.
- e. The city engineer may require mitigation of buffer variances, the purpose of which is to offset the impacts of the buffer encroachment. Mitigation shall provide buffer functions that replace those lost by the buffer impacts. Mitigation should be on-site when possible. The amount of mitigation shall be in proportion to the degree of expected water quality and habitat impairment and approved by the city engineer. Where lost functions cannot be

replaced, mitigation shall provide other buffer functions that are beneficial to the water quality and/or aquatic habitat quality.

f. The fact that a land-disturbing activity for which a permit has been issued results in injury on 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 in the terms of the permit.

(Ord. No. 272, § 4, 3-26-90; Ord. No. 381, § 1, 8-19-96; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 4, 8-6-01)

Sec. 5-102. Application/permit process.

(a) General. The property owner, developer and designated planners and engineers shall review the general development and detailed plans of the city that affect the tract to be developed and the area surrounding it. They shall review local ordinances including but not limited to: zoning, stormwater management, subdivision, flood damage prevention, wetland protection, soil erosion and sedimentation control, and others, inclusive of federal and state laws, which regulate the development of land within the jurisdictional boundaries of the issuing authority. However, the property owner is the only party that can obtain a permit.

(b) Application requirements.

(1) No person shall conduct any land disturbing activity within the confines of the city without first obtaining a permit from the city engineer to perform such activity.

(2) The application for a permit shall be submitted to the city engineer 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 section 5-102(c) of this article. Soil erosion and sedimentation control plans shall conform to the provisions of section 5-101(b) of this article. Applications for a permit will not be accepted unless accompanied by six (6) copies of the applicant's soil erosion and sedimentation control plans.

(3) A fee payable to the city shall be paid with each application. The amount of the fee shall be established from time to time by the city council.

(4) Immediately upon receipt of an application and plan for a permit, the city shall grant approval or disapproval concerning the adequacy of the erosion and sediment control plan. No permit will be issued unless the, plan if applicable, is referred to the local district for its review and has been approved by the district, and any variances required by subsections 5-101(b)(15) and (16), easements, and bonding, if required as per subsection 5-102(b)(5), have been obtained. A district review shall not be required if the city and the state EPD have entered into an agreement, which allows the city to conduct such reviews and approval of a plan without referring the applicant to the district.

(5) When reviewing any application for a land-disturbing activity permit, the city shall consider the past record of the permit applicant in complying with previous land-disturbing

activity permits and this article. If a permit applicant has had three (3) or more violations of previous permits or this article as amended, within three (3) years prior to the date of filing of the application under consideration, the city may deny the permit application. The city 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 three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this article or with the conditions of the permit after issuance, the city 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.

(6) The applicant for a land disturbance permit must complete the city's "Fundamentals of Erosion and Sedimentation Control" course prior to receiving a permit. The onsite superintendent of the job must possess a valid certificate of course completion. City erosion control inspectors may request the onsite superintendent show the course verification card at any time deemed necessary. If the superintendent does not possess a valid certificate of completion, all land disturbance activities will be stopped until an onsite superintendent attends the course.

(c) Plan requirements.

(1) Plans must be prepared to meet the minimum requirements as contained in subsection 5-101(b) of this article. Conformance with the minimum requirements may be attained through the use of design criteria in the current Edition 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 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 storm water management facilities, local ordinances and state laws.

(2) Required data on for site plan:

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. Include land lots, section, and district of the project location.

c. Name, address, and telephone number of developer/owner.

d. Name and telephone number of 24-hour local contact who is responsible for erosion and sediment controls.

- e. Project or phase area in total acres with acreage of all disturbed soil areas.
  - f. Delineate all state waters located on or within two-hundred (200) feet of the project or provide a statement: "THIS PROJECT DOES NOT CONTAIN ANY STATE WATERS OR WETLANDS."
  - g. Provide a bolded installation statement "THE ESCAPE OF SEDIMENT FROM THE SITE SHALL BE PREVENTED BY THE INSTALLATION OF EROSION CONTROL MEASURES AND PRACTICES PRIOR TO, OR CONCURRENT WITH, LAND-DISTURBING ACTIVITIES."
  - h. Activity schedule. Show anticipated starting and completion dates for project events, including but not limited to project vegetation/mulching.
  - i. Storm-water and sediment management systems-storage capacity, hydrologic study, and calculations, including off-site contributing drainage areas and off-site impacted drainage areas.
  - j. Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. Vegetative plan shall show options for year-round specific seeding times of the appropriate geographic region in the state.
  - k. Detail drawings for all structural practices. Specifications must, at a minimum, meet guidelines set forth in the "Manual for Erosion and Sediment Control in Georgia."
  - l. Provide a bolded maintenance statement. "EROSION CONTROL MEASURES WILL BE MAINTAINED AT ALL TIMES. IF FULL IMPLEMENTATION OF THE APPROVED PLAN DOES NOT PROVIDE FOR EFFECTIVE EROSION CONTROL, ADDITIONAL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE IMPLEMENTED TO CONTROL OR TREAT THE SEDIMENT SOURCE"
  - m. Ground cover statement. "All disturbed areas must be vegetated within fourteen (14) days of final grade."
  - n. Fill slope statement. "All fill slopes shall have silt fence at the bottom of the slope."
- (3) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering land surveying, or erosion and sedimentation control.
- a. Graphic scale and north point or arrow indicating magnetic north.
  - b. Vicinity maps showing location of project and existing streets.
  - c. Boundary survey, showing bearings and headings on all project boundaries.

- d. Delineation of disturbed areas within project boundary.
- e. A map scale of one (1) inch equal to one hundred (100) feet or larger is required for existing and planned contours, with contour lines drawn at an interval in accordance with the following:

TABLE INSET:

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

- f. Adjacent areas and feature areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.
- g. Proposed structures or additions to existing structures and paved areas.
- h. Delineate adjacent to all state waters the 100-year flood base elevation as an undisturbed vegetative buffer. (Reference data used in determination of base elevations.)
- i. Delineate adjacent to all state waters the minimum 35-foot undisturbed vegetative buffer for a distance measured horizontally from the banks of all state waters.
- j. Delineate a fifty (50) foot undisturbed vegetative buffer for a distance measured horizontally from the bank along the classifications of designated "trout streams," where applicable.
- k. Location of erosion and sediment control practices, using uniform coding symbols from the "Manual for Erosion and Sediment Control in Georgia," chapter 6.

(4) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the owner.

(d) Permits.

(1) 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 city of a properly completed application, providing variances, easements, and bonding are obtained, where necessary.

(2) No permit shall be issued by the city unless the erosion and sedimentation control plan has been approved by the district and the city has affirmatively determined that the plan is in compliance with this article, any variances required by subsection 5-101(b) are obtained, bonding requirements, if necessary, pursuant to subsection 5-102(b)(5) are met and all ordinances and rules and regulations in effect within the city's jurisdictional boundaries are

met. If the permit is denied, the reason(s) for denial shall be furnished in writing to the applicant.

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

(4) A permit issued by the city may specify any conditions under which the land disturbing activity shall be undertaken. The issuance of a permit does not relieve the permittee of any obligation or responsibility of complying with the provisions of any other laws or rules and regulations of any federal, local or additional state authority.

(5) The permit may be suspended, revoked, or modified by the city as to all or any portion of the land affected by the plan, upon a finding that the holder or his successor in title is not in compliance with the approved plan, BMP's, 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) No permit shall be issued unless the applicant provides a written statement by the county tax office and the city finance department certifying that all ad valorem taxes levied against the property and due and owing have been paid.

(7) The permit is effective until completion of the permitted land disturbing activity project. However, if the permitted land disturbing activity project is not complete or initiated within twelve (12) months from the date of permit issuance, the permit will become null and void. If not more than twenty-four (24) months have elapsed from the permit date of issuance, the person originally issued the expired permit may reapply for a new permit. The person shall pay a reapplication fee in the amount of half the original land disturbance fee to obtain a replacement permit before land disturbance activities are allowed to commence.

(Ord. No. 272, § 5, 3-26-90; Ord. No. 381, § 1, 8-19-96; Ord. No. 435, 12-20-99; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 5, 8-6-01)

#### Sec. 5-103. Inspection and enforcement.

(a) The city 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. If, through inspection, it is deemed that a person engaged in land disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions or with the provisions of this article, a written warning 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 and shall be subject to the penalties set forth in section 5-104 of this article.



(b) The city shall have the power to conduct such investigations as it may 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.

(c) No person shall refuse entry or access to any authorized representative or agent of the city, the conservation 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.

(d) The city shall require all persons holding a permit to request an initial project inspection by the city engineer prior to the commencing of any land disturbance activity.

(e) A final land disturbance inspection by the city engineer shall be requested by the person holding the permit for a final erosion control approval. No certificate of occupancy or closure of the land disturbance permit shall be effective until a final site erosion control approval is received from the city engineer.

(Ord. No. 272, § 6, 3-26-90; Ord. No. 381, § 1, 8-19-96; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 6, 8-6-01)

#### Sec. 5-104. Penalties and incentives.

(a) Failure to obtain a permit for land-disturbing activity. If any person commences any land-disturbing activity requiring a permit as prescribed in this article without first obtaining said permit, such person may be subject to revocation of his business license, work permit, levied monetary penalties as contained in subsection 5-104(e) of this article, or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the city.

(b) Stop-work orders.

(1) For any violations of the provisions of this article, the city engineer may issue a written warning to the violator. The violator shall have a maximum of five (5) days from the issuance of the written warning to correct the violations. If the violations are not corrected within five days, the city engineer shall issue a stop-work order requiring that all activities relating to the project be stopped except those activities necessary for corrective action or mitigation of the violation or activities required to ensure public safety and health. However, if a 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 city engineer shall issue an immediate stop-work order in lieu of a warning.

(2) For three (3) identical and successive violations of the project, the city engineer shall issue an immediate stop-work order. Where an emergency exists, no written notice shall be required.

(3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such notice shall be in writing and shall be given to the owner of the property, or an agent of the owner, or the person in charge, or conspicuously posted on the project, and shall state the necessary corrective actions with a completion date before other activities can resume.

(c) Bond forfeiture. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with this article, a written notice to comply shall be served upon that person or served in the same manner as provided above in subsection 5-104(b)(3) of this article. The notice shall set forth the measures necessary to achieve compliance with this article 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 section 5-102(b)(5), the city 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) Any person who receives three (3) consecutive related written violations will be required to attend the "Fundamentals of Erosion and Sedimentation Control" course again. If after completing the course again, the same person receives a subsequently identical written violation within three (3) years of completing the course, requests for other city land disturbance permits will be denied to that person. The person may appeal within thirty (30) days of the denial by requesting to be placed on the city council's agenda and appear before city council at the regular scheduled meeting to request additional permits.

(e) Monetary civil penalties.

(1) Any person who violates any provisions of this article, the rules and regulations adopted pursuant hereto, 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 city engineer issued as provided in this article shall be liable for a monetary penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation, or by a sentence of imprisonment not exceeding sixty (60) days in jail or both fines and imprisonment or work alternative. Each day during which the violation, failure, or refusal to comply continues shall constitute a separate violation.

(2) The following penalties shall apply to land-disturbing activities performed in violation of any provision of this article, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this article;

a. There shall be a minimum penalty of two hundred fifty dollars (\$250.00) per day for each violation involving the construction of a single-family dwelling by or under contract with the owner; and

b. There shall be a minimum penalty of one thousand dollars (\$1,000.00) per day for each violation involving land-disturbing activities other than as provided in subsection a. of this paragraph.

(3) After the city engineer completes three (3) documented final land disturbance inspections requested by the permit holder for the same permit, a fee of fifty dollars (\$50.00) shall be required for each additional inspection request of the same land disturbance permit.

(Ord. No. 272, § 7, 3-26-90; Ord. No. 381, § 1, 8-19-96; Ord. No. 435, 12-20-99; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 7, 8-6-01)

#### Sec. 5-105. Administrative appeal, judicial review.

(a) Administrative remedies. The suspension, revocation, penalty, modification or grant with conditions of a permit by the city upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any this article shall entitle the person submitting the plan or holding the permit within thirty (30) days of the violation to a hearing before the board of appeals within fifteen (15) days after receipt by the city of written notice of appeal.

(b) Judicial review. Any person, aggrieved by a decision or order of the city, after exhausting his administrative remedies, shall have the right to appeal de novo to the superior court of the county.

(Ord. No. 272, § 8, 3-26-90; Ord. No. 381, § 1, 8-19-96; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 8, 8-6-01)

#### Sec. 5-106. Validity; liability; effective date.

(a) Validity. If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decision shall not affect the remaining portions of this article.

(b) 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 city 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 and persons to violate the state Erosion and Sedimentation Control Act of 1975, the state Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

(c) Effective date. This article shall become effective immediately upon its adoption.

(Ord. No. 272, § 9, 3-26-90; Ord. No. 478, § 1, 7-2-01; Ord. No. 479, § 9, 8-6-01)

Secs. 5-107--5-117. Reserved.