

City of Valdosta Land Development Regulations

Chapter 306 Soil Erosion, Sedimentation, and Pollution Control

Section 306-1 Exemptions

This chapter shall not apply to any of the following activities:

- (A) Surface mining, as the same is defined in O.C.G.A. § 12-4-72, the "Mineral Resources and Caves Act."
- (B) Granite quarrying and land clearing for such quarrying.
- (C) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion.
- (D) The construction of single-family residences, when such construction disturbs less than 1 acre and is not part of a larger common plan of development or sale with a planned disturbance of equal to or greater than 1 acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in subsection 306-2(C) and the stream buffer zones provided by Section 306-2(E)(15) and (16) of this Chapter, which shall be enforced by the City Engineer.
- (E) Agricultural operations as defined in O.C.G.A. § 1-3-3 to include those practices involving the establishment, cultivation, or harvesting of products of the field or orchards; the preparation and planting of pasture lands; farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings.
- (F) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in subsections 306-2(C)(15) and (16), 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 3 years after completion of such forestry practices.
- (G) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture.
- (H) 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, or the state road and tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Georgia Department of Transportation or state road and tollway authority which disturb 1 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, in which case a copy of the notice of intent under the state general permit shall be submitted to the City Engineer, the City Engineer 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.
- (I) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electric system or any public

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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 City Engineer 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.

- (J) Any public water system reservoir.
- (K) Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained in this chapter shall prevent a city or county which is a local issuing authority from regulating any such project which is not specifically exempted by paragraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), or (J) of this Code section;

Section 306-2 Minimum Requirements for Soil Erosion, Sedimentation, and Pollution Control Using Best Management Practices

- (A) General Provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this chapter shall contain provisions for application of soil erosion, sedimentation, and pollution control measures and practices. Those provisions shall be incorporated into the soil erosion, sedimentation, and pollution control plans. Soil erosion, sedimentation, and pollution control measures and practices shall conform to the minimum requirements of Section 306-2(B) through Section 306-2(E). 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. Submittal of the NOI is required along with the plan. Measures shall be installed to prevent or control soil erosion, sedimentation, and pollution during all stages of any land-disturbing activity. Full copies of the requirements for state permits are available for download from the Georgia EPD at <http://www.gaepd.org/> or from the City of Valdosta's Engineering Department.
- (B) Notice of Intent (NOI).
 - (1) As part of the permit process, a NOI shall be submitted to the City of Valdosta and the EPD director. This submittal shall be in accordance with the requirements of the respective general NPDES permits for construction activities issued by the EPD.
 - (2) This submittal is required for both new construction activities and construction activities that began on or before the effective date of this chapter.
- (C) Minimum Requirements/BMPs.
 - (1) BMPs, as set forth in this subsection through subsection (E) below shall be required for all land-disturbing activities. Proper design, installation, and maintenance of BMPs shall constitute a complete defense to any action by the EPD Director or to any other allegation of noncompliance with subsection (C)(2) of this Section or any substantially similar terms

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contained in a permit for the discharge of storm-water issued pursuant to O.C.G.A. § 12-5-30(f) of the Georgia Water Quality Control Act. As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the *Manual for Erosion and Sediment Control in Georgia* specified in O.C.G.A. § 12-7-6 subsection (b).

- (2) A discharge of stormwater runoff from disturbed areas where BMPs have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by the City Engineer or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f) of 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 NTUs for waters supporting warm water fisheries or by more than 10 NTUs for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be 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 5 acres.
 - (3) Outfall monitoring may be required pursuant to the requirements of the applicable general NPDES permits for construction activities issued by the EPD.
 - (4) Failure to properly design, install, or maintain BMPs shall constitute a violation of any land-disturbing permit issued by the City Engineer or any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f) for each day on which such failure occurs. BMP maintenance as a result of the permit holder's routine inspections shall not be considered a violation for the purposes of this section. If, during the course of the permit holder's routine inspection, BMP failures are observed that resulted in sediment deposition into waters of the state, the permit holder shall correct the BMP failures and shall submit a summary of violations to the City Engineer and to EPD in accordance with the guidelines provided by the EPD Director.
 - (5) The EPD Director may require, in accordance with regulations adopted by the DNR Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
- (D) The plan shall be designed, installed, and maintained for the entire construction activity covered under the applicable general NPDES permits for construction activities issued by the EPD. The plan must be prepared by a design professional as defined by the applicable general NPDES permits for construction activities issued by the EPD. A certification statement provided in each of the general NPDES permits for construction activities issued by the EPD in part IV. The certification statement must be included and signed by the design professional preparing the plan.
- (E) The rules, regulations, ordinance, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and BMPs, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, shall be consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
- (1) Stripping of vegetation, re-grading, and other development activities shall be conducted in a manner so as to minimize erosion;
 - (2) Cut and fill operations must be kept to a minimum;
 - (3) Development plans must conform to topography and soil type, so as to create the lowest practical erosion potential;

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- (4) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (6) Disturbed soil shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (9) To the extent necessary, sediment in 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 through 12-7-18, "the Erosion and Sedimentation Act of 1975";
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces 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 must be kept to a minimum;
- (14) Land-disturbing activity plans for soil erosion, sedimentation, and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (c) of this Section.
- (15) Except as provided in Section 306-2(E)(16), there is established a 25-foot buffer along the banks of all state waters (see also, Section 310-112), 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 said 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 of Chapter 5 of Title 12, "*the Georgia Water Quality Control Act*" shall remain in force unless a variance is granted by the director as provided in this subsection. The following requirements shall apply to any such buffer:
 - (a) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the 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

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- (b) The buffer shall not apply to the following land disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.
- (16) Additional buffers beyond those listed in subsection (E)(15) of this Section may be required for the site. Applicant should refer to Article 4 of Chapter 310 for additional requirements;
- (17) Grading operations or other soil disturbing activities that are suspended for more than 7 calendar days shall have temporary vegetation, mulching, silt fence, and/or other erosion control measures, at the discretion of the City Engineer, employed to protect the soil from erosive elements. Grading operations or other soil disturbing activities that are abandoned or without activity for 30 calendar days shall have permanent grassing, silt fence and/or other erosion control measures employed to protect the area. If the site includes proposed roadbeds, it shall be regraded to remove any grass, weeds or other perishable matter prior to final acceptance of subgrade.
- (F) The Mayor and City Council may adopt rules and regulations, ordinances or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section 306-2(B) through Section 306-2(E).
- (G) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this chapter or the terms of the permit.

Section 306-3 Application and Permit Process

- (A) General. The property owner, developer, and designated planners and engineers shall review the general development plans and detailed plans with the City Engineer that affect the tract to be developed and the area surrounding it. They shall review this LDR and other ordinances which regulate the development of land within the jurisdictional boundaries of the City of Valdosta. However, the operator is the only party who may obtain a permit.
 - (1) Enforcement Authority. The City Engineer shall have authority to administer and enforce these regulations as designee for the City of Valdosta, the Mayor and City Council, except where otherwise stated.
- (B) Application Requirements.
 - (1) 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 as developed by the commission pursuant to O.C.G.A. section 12-7-20.
 - (2) Each permittee proposing to subdivide property for development shall meet with the City Engineer for a pre-application conference to discuss the project and the local and state permitting strategy as provided in Section 302-24. All permittees of other construction types may request a pre-application conference for advisement of their permit applicability.
 - (3) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Valdosta without first obtaining a land disturbance permit from the City Engineer to perform such activity.
 - (4) The application for a land disturbance permit shall be submitted to the City Engineer. Such application shall be accompanied by the applicant's NOI, soil erosion, sedimentation, and pollution control plans and by such supportive data as will affirmatively demonstrate that the land-disturbing activity proposed will be carried out in such a manner that the minimum

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requirements set forth in Section 306-2(B) through Section 306-2(E) shall be met. Applications for a land disturbance permit will not be accepted unless accompanied by 4 copies of the applicant's soil erosion, sedimentation, and pollution control plan, hydrology report and storm drainage plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by DNR Board.

- (5) A fee shall be charged for each application based on the fee structure established by the Mayor and City Council and shall be made prior to the issuance of any land-disturbing activity. If an application undergoes more than 2 reviews an additional fee will apply.
 - (6) In addition to the City of Valdosta 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. Half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. § 12-7-17 shall be submitted in full to the EPD, regardless of the existence of a City Engineer in the jurisdiction.
 - (7) Immediately upon receipt of an application, NOI, and plan for a permit, the City Engineer shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the NOI and soil erosion, sedimentation, and pollution control plan. A District shall approve or disapprove the plan within 45 working days of receipt. Failure of the District to act within 45 working days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the City Engineer. No permit will be issued unless the NOI and the plan have been approved by the District, and any variances required by Section 306-2, and bonding, if required, as per Section 306-3, have been obtained. Such review will not be required if the City of Valdosta and the District have entered into agreement which allows the City of Valdosta to conduct such review and approval of the NOI and plan without referring the application, NOI, and plan to the District.
 - (8) Additional Fees.
 - (a) If a permit applicant has had 2 or more violations of previous permits, this chapter, or the Erosion and Sedimentation Act, O.C.G.A. § 12-5-20 et seq. as amended, within 3 years prior to the date of filing of the application under consideration, the City Engineer may deny the permit application.
 - (b) The City Engineer 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. If the applicant does not comply with this chapter or with the conditions of the permit after issuance, the City Engineer 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.
 - (c) Land Disturbance commencing before Permit Issuance: Any person who commences land disturbance on any property before obtaining the necessary permit, shall be subject to a penalty of 100% of the usual permit fee in addition to the required permit fees.
- (C) Plan Requirements. Plans must be prepared to meet the minimum requirements as contained in Section 306-2(B) through Section 306-2(E). Conformance with those minimum requirements may be attained through the use of design criteria specified in the current issue of the *Manual for Erosion and Sediment Control in Georgia*, published by the GA Soil and Water Conservation Commission as a guide; or through the use of more stringent, alternate design criteria which conform to sound

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conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia*, as revised, is hereby incorporated by reference into this chapter. 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.

(D) Data Required for Site Plan.

- (1) Requirements for erosion, sedimentation, and pollution control plans are fully detailed in the GA Soil and Water Conservation Commission's Guidance Document and Checklists. These documents and checklists are available for download from the Georgia EPD at <http://gaswcc.georgia.gov/> or from the City of Valdosta's Planning and Zoning Department.
- (2) A completed checklist is required to be submitted with the site plans.

(E) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional license in the State of Georgia in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control.

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

(G) The City Engineer may notify the permittee at any time that the plan is deficient. Within 7 calendar days of such notation, the permittee shall make the required changes to the plan, as appropriate to correct the deficiency, and shall submit the amended plan to the City Engineer.

(H) Sampling Requirements.

- (1) Sampling may be required pursuant to the requirements of the applicable general NPDES permit for construction activities issued by the EPD to prove that no excess sediment from land disturbing activities is escaping to state waters. See Part IV.D.5 of the applicable NPDES permit for construction activities issued by the EPD.
- (2) The above sampling requirements do not apply to the construction of single-family homes not part of a developed community or common development, unless the disturbance exceeds 5 acres for the home construction.

(I) Permits.

- (1) Permits shall be issued or denied as soon as practicable, but in any event not later than 45 working days after receipt by the City Engineer of the completed application, providing variances and bonding is obtained where necessary.
- (2) No permit shall be issued by the City Engineer unless the soil erosion, sedimentation, and pollution control plan has been approved by the City Engineer; the City Engineer has affirmatively determined that the plan is in compliance with this chapter; any variances required by subsection 306-2(E)(15) are obtained; bonding requirements, if necessary, as per subsection 306-3(B)(5) are met; and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the City of Valdosta are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
- (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.

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- (5) The permit may be suspended, revoked, or modified by the City Engineer, 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 soil erosion, sedimentation, and pollution control plan or that the holder or his successor in title is in violation of this chapter or the Georgia Soil Erosion and Sediment Control Act, O.C.G.A. § 12-7-1 et seq. 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 statement by the Tax Assessors that all ad valorem taxes levied against the property and due and owing have been paid.
- (7) Qualified personnel provided by the permittee shall make regular inspection of all control measures at least once every 7 calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater in accordance with the inspection schedule outlines in the approved soil erosion, sedimentation, and pollution control plan. The purpose of such inspections will be to determine the overall effectiveness of the plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City Engineer on a weekly basis for the duration of the project or until final stabilization is achieved.
- (8) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in accordance with O.C.G.A. 12-7-7 (f) (1).

Section 306-4 Inspection and Enforcement

- (A) The City Engineer shall 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 approved plan and if the measures required in the plan are effective in controlling soil erosion, sedimentation, and pollution. Also, the City Engineer shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of BMPs where the primary permittee is conducting land disturbing activities. Secondary permittees shall be responsible for installation and maintenance of BMPs where the secondary permittee is conducting land disturbing activities. 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 chapter, 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 chapter and subject to the penalties for violation of this chapter, a stop work order, and/or other enforcement action provided for in this chapter.
- (B) The City Engineer shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this chapter, and when necessary issue citations and/or court summons, 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) The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- (D) No person shall refuse entry or access to any authorized representative or agent of the City of Valdosta, the GA Soil and Water Conservation Commission, the District or EPD 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 or her official duties. If such permission is refused, or is otherwise unobtainable, then the

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City Engineer may seek issuance of a search warrant from any court of competent jurisdiction upon showing probable cause to believe that a violation of this section may exist.

- (E) The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
- (F) The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

Section 306-5 Penalties and Incentives

- (A) Failure to Obtain a Permit for Land-disturbing Activity. If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the specified fines, conduct of a business and associated work activities within the jurisdictional boundaries of the Issuing Authority. See Section 306-3(B)(8). In addition:
 - (1) Failure to design install and maintain proper BMP'S shall constitute a violation of Section 306-2(C).
 - (2) After the building permit is issued and prior to any land disturbance activity, all BMP's shall be installed. Upon completion of installation, the City Engineer shall be called for inspection and shall have 24 hours to complete said inspection. If approved, the City Engineer shall place his or her stamp on the building permit. If rejected, no stamp shall be placed on the building permit.
 - (3) No other site or building inspections will be conducted unless the BMP'S are approved.
 - (4) In the event that deficiencies are found after approval, but during construction, a written notice shall be affixed to the permit. Owner shall have 24 hours to take corrective action.
 - (5) Failure to make corrections after 24 hours may result in suspension of building inspections, and the issuance of a citation/court summons. Inspections may be suspended until the matter is resolved.
 - (6) Most common violations are as follows. Silt fence down and not being maintained, and sediment tracked into street, gravel tracked out into street, concrete trucks washed out into an unprotected area and paint cans and brushes being washed out into an unprotected area.
- (B) Stop-work Orders.

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- (1) For the first violation of the provisions of this chapter, the City Engineer shall issue to the violator a written warning in the form of written notice to comply. The violator shall have five days to correct the violation. If the violation is not corrected within 5 days after the initial violation, the City shall issue a second written warning to the violator. If the violation is not corrected within 5 days of issuance of second notice to comply, then the City Engineer shall issue a stop-work order requiring that land-disturbing activities and construction activities be stopped, with the exception of the installation and maintenance of temporary or permanent erosion, sedimentation, and pollution controls, until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state; or if the land-disturbing activities are conducted without obtaining the necessary permit, the City Engineer shall issue an immediate stop-work order in lieu of a warning;
 - (2) For a third and each subsequent violation, the City Engineer shall issue an immediate stop-work order;
 - (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;
 - (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the City Engineer, have been or are being discharged into state waters and where BMPs have not been properly designed, installed and maintained, a stop work order shall be issued by the City Engineer. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land disturbing activities on the site with the exception of the installation and maintenance of temporary or permanent soil erosion, sediment, and pollution controls.
- (C) Bond Forfeiture. If, through inspection by the City Engineer, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter 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 302-30. The City Engineer may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- (D) Monetary Penalties. Any person who violates any provisions of this Chapter or any permit condition or limitation established pursuant to this Chapter or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this Chapter shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this chapter, notwithstanding any provisions in any City Charter to the contrary, municipal courts shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which the violation or failure or refusal to comply continues shall be a separate violation.
- (E) Certificate of Occupancy. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter and, in addition to other penalties, the City Engineer may request that the City Engineer refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the measures necessary to achieve compliance

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with the plan have been completed and all violations of this chapter have been brought into compliance.

Section 306-6 Education and Certification

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

Section 306-7 Administrative Appeal and Judicial Review

- (A) Administrative Remedies.
 - (1) If the City Engineer determines that a permit holder is not in compliance with the approved soil erosion, sedimentation, and pollution control plan; or that the permit holder is in violation of permit conditions; or that the permit holder is in violation of any chapter; or that a proposed plan submitted by a permit applicant is not sufficient to meet the requirements of this section, the City Engineer may suspend the permit, revoke the permit, or deny the application for a permit, as applicable.
 - (2) An aggrieved permit holder or permit applicant may appeal the decision of the City Engineer regarding such denial, suspension or revocation by appeal to the Mayor and City Council. The decision of the City Engineer shall be final unless a written appeal is filed within 15 calendar days. All such appeals shall be filed in the office of the City Clerk. An appeal shall not stay the City Engineer decision.
 - (3) The Mayor and City Council shall conduct a hearing on an appeal within 30 calendar days after receipt of the written request for a hearing unless the permit holder or permit applicant requests an extension in writing for good cause that is granted by the Mayor and City Council. The hearing shall be conducted before the Mayor and City Council at the date and time established by the Mayor and City Council and after reasonable notice of no less than 5 calendar days has been provided to the applicant. At the hearing, the Mayor and City Council shall receive oral and written testimony regarding the permit or permit application, and each

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party may present evidence and witnesses and be represented by legal counsel. The appeal shall be sustained by the Mayor and City Council if the Mayor and City Council finds that the City Engineer made an erroneous finding of material fact or that the City Engineer acted in an arbitrary manner in reaching his or her decision.

- (4) The Mayor and City Council shall render a written decision and issue notice of the decision to the permit holder/permit applicant within 10 working days after the conclusion of the hearing. The decision of the Mayor and City Council shall be final.
- (B) Judicial Review. The appeal process contained in this section shall be a condition precedent to an aggrieved property owner seeking judicial relief. Any person, aggrieved by a decision or order of the City Engineer, after exhausting his administrative remedies, shall have the right to appeal de novo within 30 calendar days of the date of service of the decision of the Mayor and City Council to the Superior Court of Lowndes County.

Section 306-8 Severability and Liability

(A) Severability. If any section, paragraph, clause, phrase, or provision of this chapter shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this chapter.

(B) Liability.

- (1) Neither the approval of a plan under the provisions of this chapter, nor the compliance with provisions of this chapter 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 Engineer or the GA Soil and Water Conservation Commission 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 chapter or the terms of the permit.
- (3) No provision of this chapter shall authorize any persons to violate the Georgia Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1 et seq.; the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq.; the rules and regulations promulgated and approved there under; or to pollute any waters of the state as defined thereby.
- (4) If any provision of this chapter is in conflict with the Georgia Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1 et seq.; the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq.; and the rules and regulations promulgated and approved there under, then the provisions of the said state statutes and rules and regulations shall control.