



25           *Best management practices (BMP's)* are sound conservation and  
26 engineering practices that prevent or minimize erosion and resulting sedimentation  
27 , which are consistent with, and no less stringent than, those practices contained  
28 in the 'Manual for Erosion and Sediment Control in Georgia' published by the  
29 Commission as of January 1 of the year in which the land-disturbing activity  
30 was permitted.  
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33           *CP ESC* means a Certified Professional in Erosion and Sediment  
34 Control with current certification by, EnviroCert, Inc. which is also referred to  
35 as CPESC or CPESC, Inc.

36           *Cut* means a portion of land surface or area from which earth has been  
37 removed or will be removed by excavation; the depth below original ground surface  
38 to the excavated surface. Also known as "excavation."

39           *Design professional* means a professional licensed by the State in the field of:  
40 engineering, architecture, landscape architecture, forestry, geology, or land  
41 surveying; or a person that is a certified professional in erosion and sediment control  
42 (CPESC) with a current certification by EnviroCert, Inc. Design Professionals shall  
43 practice in a manner that complies with applicable Georgia law governing  
44 professional licensure.

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46           *Director, EPD* means the Director of the Environmental Protection Division  
47 or an authorized representative.

48           *Erosion , Sedimentation and Pollution Control Plan* means a plan required  
49 by the Erosion and Sedimentation Act, O.C.G.A. § 12-7-1 et seq., that includes ,  
50 protections at least as stringent as the State General Permit, best management practices,  
51 and requirements in Sec. 14-38(b)(4)(c) of this ordinance.

52           *Fill* means a portion of land surface to which soil or other solid material has  
53 been added; the depth above the original ground surface or an excavation.

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55           *Final stabilization* means that all soil-disturbing activities at the site have been  
56 completed, and that for unpaved areas and areas not covered by permanent structures  
57 and areas located outside the waste disposal limits of a landfill cell that has been  
58 certified by EPD for waste disposal, one hundred (100) percent of the soil surface is  
59 uniformly covered in permanent vegetation with a density of seventy (70) percent or  
60 greater, or landscaped according to the Erosion, Sedimentation and Pollution Control  
61 Plan (uniformly covered with landscaping materials in planned landscape areas), or  
62 equivalent permanent stabilization measures as defined in the Manual for Erosion  
63 and Sediment Control in Georgia, as amended (excluding a crop of annual vegetation  
64 and seeding of target crop perennials appropriate for the region). Final stabilization  
65 applies to each phase of construction.

66 *Nephelometric turbidity units (NTU's)* means numerical units of measure  
67 based upon photometric analytical techniques for measuring the light scattered  
68 by finely divided particles of a substance in suspension. This technique is used to  
69 estimate the extent of turbidity in water in which colloiddally dispersed or  
70 suspended particles are present.

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72 *Operator* means the party or parties that have: (a) operational control of construction  
73 project plans and specifications, including the ability to make modifications to those plans  
74 and specifications; or (b) day-to-day operational control of those activities that are necessary to  
75 ensure compliance with an erosion, sedimentation and pollution control plan for the site or  
76 other permit conditions, such as a person authorized to direct workers at a site to carry out  
77 activities required by the erosion, sedimentation and pollution control plan or to comply with  
78 other permit conditions.

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80 *Person* means any individual, partnership, firm, association, joint venture, public or  
81 private corporation, trust, estate, commission, board, public or private institution, utility ,  
82 cooperative, state agency, municipality or other political subdivision of the State of Georgia,  
83 any interstate body or any other legal entity.

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85 *Sediment* means solid material, both organic and inorganic, that is in suspension, is  
86 being transported, or has been moved from its site of origin by wind, air, water, ice or gravity  
87 as a product of erosion.

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89 *Soil and water conservation district approved plan* means an erosion, sedimentation  
90 and pollution control plan approved in writing by the City of Lithonia.

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92 *State general permit* means the National Pollution Discharge Elimination System  
93 (NPDES) general permit or permits for storm-water runoff from construction activities as is  
94 now in effect or as may be amended or reissued in the future pursuant to the state's authority to  
95 implement the same through federal delegation under the Federal Water Pollution Control  
96 Act, as amended, 33 U.S.C.  
97 § 1251 et seq. and O.C.G.A. § 12-5-30(£).

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99 *State waters* means any and all rivers , streams, creeks, branches, lakes , reservoirs , ponds,  
100 drainage systems, springs, wells, and other bodies of surface or subsurface water,  
101 natural or  
102 artificial, lying within or forming a part of the boundaries of the State of Georgia, which are  
103 not entirely confined and retained completely upon the property of a single individual,  
104 partnership, or corporation.

105  
106 **Sec. 6.1 Standards.**

107 A. *Exemptions.* This section shall apply to any land-disturbing activity undertaken by any



- 108 person on any land except for the following:
- 109 1. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, the "Georgia Surface  
110 MineAct of 1968";
  - 111 2. Granite quarrying and land clearing for such quarrying;
  - 112 3. Such minor land-disturbing activities as home gardens and individual home landscaping  
113 , repairs , maintenance work, fences, and other related activities which result in minor  
114 soil erosion;
  - 115 4. The construction of single-family residences, when such construction disturbs less  
116 than one (1) acre and is not a part of a larger common plan of development or sale with  
117 a planned disturbance of equal to or greater than one (1) acre and not otherwise  
118 exempted under this paragraph; provided, however, that construction of any such  
119 residence shall conform to the minimum requirements as set forth in subsection 14-  
120 38(b)(4) and this paragraph. For single-family residence construction covered by the  
121 provisions of this paragraph, there shall be a buffer zone between the residence and  
122 any state waters classified as trout streams pursuant to article 2 of chapter 5 of the  
123 Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing  
124 activity shall be constructed between the residence and the point where vegetation  
125 has been wrested by normal stream flow or wave action from the banks of the trout  
126 waters. For primary trout waters, the buffer zone shall be at least fifty  
127 (50) horizontal feet and no variance to a smaller buffer shall be granted. For  
128 secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the  
129 development director may grant variances to no less than twenty-five (25) feet.  
130 Regardless of whether a trout stream is primary or secondary, for first order trout  
131 waters, which are streams into which no other streams flow except for springs, the  
132 buffer shall be at least twenty-five (25) horizontal feet, and no variance to a smaller  
133 buffer shall be granted. The minimum requirements of subsection 14-38(b)(4) and  
134 the buffer zones provided by this section shall be enforced by the development  
135 department;
  - 136 5. Agricultural operations as defined in O.C.G.A. § 1-3-3, "Definitions", to include  
137 raising, harvesting or storing of products of the field or orchard; feeding, breeding  
138 or managing livestock or poultry; producing or storing feed for use in the production of  
139 livestock , including but not limited to cattle, calves, swine, hogs, goats, sheep, and  
140 rabbits or for use in the production of poultry, including but not limited to chickens,  
141 hens and turkeys; producing plants, trees, fowl, or animals; the production of  
142 aquaculture, horticultural, dairy, livestock , poultry, eggs and apiarian products;  
143 farm buildings and farm ponds;
  - 144
  - 145 6. Forestry land management practices, including harvesting; provided, however,  
146 that when such exempt forestry practices cause or result in land-disturbing or  
147 other activities otherwise prohibited in a buffer, as established in paragraphs 15.  
148 and 16. of subsection (b)(4)c. of this section, no other land-disturbing activities,  
149 except for normal forest management practices, shall be allowed on the entire

150 property upon which the forestry practices were conducted for a period of three  
151 (3) years after completion of such forestry practices;

152 7. Any project carried out under the technical supervision of the Natural  
153 Resources Conservation Service of the United States Department of  
154 Agriculture;

155 8. Any project involving less than one (1) acre of disturbed area; provided,  
156 however, that this exemption shall not apply to any land-disturbing  
157 activity within a larger common plan of development or sale with a  
158 planned disturbance of equal to or greater than one (1) acre or within  
159 two hundred (200) feet of the bank of any state waters, and for purposes  
160 of this paragraph, "state waters" excludes channels and drainageways  
161 which have water in them only during and immediately after rainfall  
162 events and intermittent streams which do not have water in them year-  
163 round; provided, however, that any person responsible for a project  
164 which involves less than one (1) acre, which involves land-disturbing  
165 activity, and which is within two hundred (200) feet of any such excluded  
166 channel or drainageway, must prevent sediment from moving beyond the  
167 boundaries of the property on which such project is located and provided,  
168 further, that nothing contained herein shall prevent City from regulating  
169 any such project which is not specifically exempted by paragraphs (b)(3)a.,  
170 b., c., d., e., f., g., i., or j. of this section;

171 9.. Construction or maintenance projects, or both, undertaken or financed  
172 in whole or in part, or both, by the department of transportation, the  
173 Georgia Highway Authority, or the State Road and Tollway Authority;  
174 or any road construction or maintenance project, or both, undertaken by  
175 any county or municipality; provided, however, that construction or  
176 maintenance projects of department of transportation or State Road and  
177 Tollway Authority which disturb one (1) or more contiguous acres of  
178 land shall be subject to provisions of  
179 O.C.G.A. § 12-7-7.1; except where the department of transportation, the  
180 Georgia Highway Authority, or the State Road and Tollway Authority  
181 is a secondary permittee for a project located within a larger common plan  
182 of development or sale under the state general permit, in which case a  
183 copy of a notice of intent under the state general permit shall be  
184 submitted to the local issuing authority, the local issuing authority shall  
185 enforce compliance with the minimum requirements set forth in  
186 O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall  
187 be subject to the same penalties as violations by permit holders;

188 10.. Any land-disturbing activities conducted by any electric membership  
189 corporation or municipal electrical system or any public utility under  
190 the regulatory jurisdiction of the Public Service Commission, any  
191 utility under the regulatory jurisdiction of the Federal Energy  
192 Regulatory Commission, any cable television system as defined in



193 O.C.G.A. § 36-18-1, or any agency or instrumentality of the United  
194 States engaged in the generation, transmission, or distribution of power;  
195 except where an electric membership corporation or municipal  
196 electrical system or any public utility under the regulatory jurisdiction  
197 of the Public Service Commission , any utility under the regulatory  
198 jurisdiction of the Federal Energy Regulatory Commission , any cable  
199 television system as defined in O.C.G.A. § 36- 18-1, or any agency or  
200 instrumentality of the United States engaged in the generation,  
201 transmission or distribution of power is a secondary permittee for a  
202 project located within a larger common plan of development or sale  
203 under the state general permit, in which case the local issuing authority  
204 shall enforce compliance with the minimum requirements set forth in  
205 section O.C.G.A. § 12-7-6 as if a permit had been issued, and violations  
206 shall be subject to the same penalties as violations by permit holders;  
207 and

208 11.. Any public water system reservoir.

209 ***B. Minimum requirement for erosion, sedimentation and pollution control using best***  
210 ***management practices.***

211 • *General provisions.* Excessive soil erosion and resulting sedimentation  
212 can take place during land-disturbing activities if requirements of this  
213 ordinance and the NPDES General Permit are not met. Therefore, plans  
214 for those land-disturbing activities that are not exempted by this chapter  
215 shall contain provisions for application of soil erosion and  
216 sedimentation control measures and practices. The provisions shall be  
217 incorporated into the erosion, sedimentation and pollution control  
218 plans. Soil erosion, sedimentation and pollution control measures and  
219 practices shall conform to the minimum requirements of subsections  
220 (b)(4)b. and c. of this section and any other applicable provision of this  
221 section. The application of measures and practices shall apply to all  
222 features of the site, including street and utility installations , stormwater  
223 management facilities, drainage facilities and other temporary and  
224 permanent improvements. Measures shall be installed to prevent or  
225 control erosion, sedimentation and pollution during all stages of any  
226 land-disturbing activity in accordance with the requirements of this  
227 ordinance and the NPDES general permit. The development director  
228 may require that land disturbance activity be phased. Soil erosion and  
229 sedimentation control plans shall address appropriate measures to  
230 effectively control soil erosion during successive phases of  
231 construction.

232 • *Minimum requirements.*  
233 • Best management practices as set forth in subsections (b)(4)b.  
234 and c. shall be required for all land-disturbing activities. Proper

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design, installation and maintenance of best management practices shall constitute a complete defense to any action by the director of the environmental protection division (EPD) or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30( f), the "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A.

§ 12-7-6(b).

- A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-3 0(f), the "Georgia Water Quality Control Act", for each day onwhich such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries 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 of the EPD. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan ofdevelopment or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
- Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which suchfailure occurs.
- The director of the EPD may require , in accordance with regulations adopted by the BNR, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.



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- The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. § 12- 7-1 et seq. for the purpose of governing land-disturbing activities shall require , as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent or minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
  - Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
  - Cut-fill operations shall be kept to a minimum;
  - Development plans shall conform to topography and soil type so as to create the lowest practical erosion potential;
  - Whenever feasible, natural vegetation shall be retained protected and supplemented as provided in sections 14-39 and 14-42;
  - The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
  - Disturbed soil shall be stabilized as quickly as practicable;
  - Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
  - Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
  - To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;
  - Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
  - Cuts and fills shall not endanger adjoining property;
  - Fills shall not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
  - Grading equipment shall 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;
  - Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control



318 facilities to retain sediment on-site or preclude sedimentation of  
319 adjacent waters beyond the levels specified in subsection  
320 (b)(4)b.2.;

321 • Except as provided in paragraph 16. of this subsection, there is  
322 established a twenty-five-foot state buffer along the banks of all  
323 state waters, as measured horizontally from the point where  
324 vegetation has been wrested by normal stream flow or wave action,  
325 except where the director of the EPD determines to allow a variance  
326 that is at least as protective of natural resources and the environment  
327 , where otherwise allowed by the director of the EPD pursuant to  
328 O.C.G.A. § 12-2- 8, or where a drainage structure or a roadway  
329 drainage structure must be constructed, provided that adequate  
330 erosion control measures are incorporated in the project plans and  
331 specifications, and are implemented ; or along any ephemeral  
332 stream. As used in this provision , the term "ephemeral stream" means  
333 a stream: that under normal circumstances has water flowing only  
334 during and for a short duration after precipitation events; that has the  
335 channel located above the groundwater table year round; for which  
336 ground water is not a source of water; and for which runoff from  
337 precipitation is the primary source of water flow. Unless exempted  
338 as along an ephemeral stream, the buffers of at least twenty-five  
339 (25) feet established pursuant to part 6 of article 5, chapter 5 of Title  
340 12, the "Georgia Water Quality Control Act", shall remain in force  
341 unless a variance is granted by the director of the EPD as provided  
342 in this paragraph. The following requirements shall apply to any  
343 such buffer:

344 1. No land-disturbing activities shall be conducted within a buffer  
345 and a buffer shall remain in its natural undisturbed state of  
346 vegetation until all land- disturbing activities on the  
347 construction site are completed. Once the final stabilization  
348 of the site is achieved, a buffer may be thinned or trimmed  
349 of vegetation as long as a protective vegetative cover  
350 remains to protect waterquality and aquatic habitat and a  
351 natural canopy is left in sufficient quantityto keep shade on  
352 the stream bed; provided, however, that any person  
353 constructing a single-family residence, when such  
354 residence is constructed by or under contract with the owner  
355 for his or her own occupancy, may thinor trim vegetation in  
356 a buffer at any time as long as protective vegetative cover  
357 remains to protect water quality and aquatic habitat and a  
358 natural canopy is left in sufficient quality to keep shade on  
359 the stream bed; and

360 11. The buffer shall not apply to the following land-disturbing  
361 activities, provided that they occur at an angle, as measured  
362 from the point of crossing , within twenty-five (25) degrees  
363 of perpendicular to the stream; cause a width of disturbance  
364 of not more than fifty (50) feet within the buffer; and  
365 adequate erosion control measures are incorporated into the  
366 project plans and specifications and are implemented : (i)  
367 Stream crossings for water lines ; or (ii) Stream crossings  
368 for sewer lines;

369 • There is established a fifty-foot buffer as measured horizontally  
370 from the point where vegetation has been wrested by normal stream  
371 flow or wave action, along the banks of any state waters classified  
372 as "trout streams" pursuant to article 2 of chapter 5 of title 12, the  
373 "Georgia Water Quality Control Act", except where a roadway  
374 drainage structure must be constructed; provided, however, that  
375 small springs and streams classified as trout streams which  
376 discharge an average annual flow of twenty-five (25) gallons per  
377 minute or less shall have a twenty-five-foot buffer or they may be  
378 piped, at the discretion of the landowner, pursuant to the terms of a  
379 rule providing for a general variance promulgated by the BNR, so  
380 long as any such pipe stops short of the downstream landowner's  
381 property and the landowner complies with the buffer requirement for  
382 any adjacent trout streams. The director of the EPD may grant a  
383 variance from such buffer to allow land-disturbing activity,  
384 provided that adequate erosion control measures are incorporated  
385 in the project plans and specifications and are implemented. The  
386 following requirements shall apply to such buffer:

387 1. No land-disturbing activities shall be conducted within a buffer  
388 and a buffer shall remain in its natural, undisturbed , state of  
389 vegetation until all land- disturbing activities on the  
390 construction site are completed. Once the final stabilization  
391 of the site is achieved, a buffer may be thinned or trimmed  
392 of vegetation as long as a protective vegetative cover  
393 remains to protect waterquality and aquatic habitat and a  
394 natural canopy is left in sufficient quantityto keep shade on  
395 the stream bed: provided, however, that any person  
396 constructing a single-family residence, when such residence  
397 is constructed by or under contract with the owner for his or  
398 her own occupancy, may thinor trim vegetation in a buffer  
399 at any time as long as protective vegetative cover remains  
400 to protect water quality and aquatic habitat and a natural



401 canopy is left in sufficient quantity to keep shade on the  
402 stream bed; and

403 11. The buffer shall not apply to the following land-  
404 disturbing activities,

405 provided that they occur at an angle, as measured from the  
406 point of crossing, within twenty-five (25) degrees of  
407 perpendicular to the stream; cause a width of disturbance of  
408 not more than fifty (50) feet within the buffer; and adequate  
409 erosion control measures are incorporated into the project  
410 plans

411 and specifications and are implemented : (i) Stream  
412 crossings for water lines; or (ii) Stream crossings for  
413 sewer lines.

- 414 • The fact that land-disturbing activity for which a permit has been issued  
415 results in injury to the property of another shall neither constitute proof  
416 of nor create a presumption of a violation of the standards provided for  
417 in this section or the terms of the permit.

418 *C. Application /permit process.*

- 419 • *General.* Before submittal, the property owner, developer and  
420 designated planners and engineers shall design and review the general  
421 development plans. The Local Issuing Authority shall review the tract to  
422 be developed and the area and surrounding it. They shall consult the  
423 zoning ordinance, stormwater management ordinance, subdivision  
424 ordinance, flood damage prevention ordinance, this chapter, and other  
425 ordinances, rules, regulations or permits, which regulate the  
426 development of land within the jurisdictional boundaries of the local  
427 issuing authority. However, the owner and/or operator is the only party  
428 who may obtain a permit.

- 429 • *Application requirements.*

- 430 • No person shall conduct any land-disturbing activity within the  
431 jurisdictional boundaries of City without first obtaining a permit  
432 from the development director to perform such activity, and  
433 providing a copy of the notice of intent submitted to the EPD, if  
434 applicable.
- 435 • The application for a permit shall be submitted to the  
436 development director and must include the applicant's erosion,  
437 sedimentation and pollution control plan with supporting data, as  
438 necessary. Said plans shall include, as a minimum, the data  
439 specified in subsection (b)(5)c. Erosion , sedimentation and  
440 pollution control plans, together with supporting data, must

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demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of subsection (b)(4)b. and c. will be met. Applications for a permit will not be accepted unless accompanied by eight (8) copies of the applicant's soil erosion, sedimentation and pollution plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD rule 391-3-7-.10.

- A permitting fee, as determined by the board of commissioners shall be charged for each acre or fraction thereof in the project area.
- In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed eighty dollars (\$80.00) per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7- 8(a) half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17(9) or (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
- Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within thirty- five (35) days of receipt. Failure of a district to act within thirty-five (35) days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the development director. No permit will be issued unless the plan has been approved by the district, and any variances required by subsection (b)(4)c.15 and 16 have been obtained, all fees have been paid, and bonding if required by subsection (b)(5)b.7. have been obtained. Such review will not



482 be required if City and the district enter into an agreement which  
483 allows City to conduct such review and approval of the plan  
484 without referring the application and plan to the district. The local  
485 issuing authority with plan review authority shall approve or  
486 disapprove a revised plan submittal within thirty-five  
487 (35) days of receipt. Failure of the local issuing authority with plan  
488 review authority to act within thirty-five (35) days shall be  
489 considered an approval of the revised plan submittal.

- 490 • If a permit applicant has had two (2) or more violations of  
491 previous permits, this chapter, or the Erosion and Sedimentation  
492 Act, as amended, within three (3) years prior to the date of filing  
493 of the application under consideration, the development director  
494 may deny the permit application.
- 495 • The Local Issuing Authority may require the permit applicant to  
496 post a bond in the form of government security, cash, irrevocable  
497 letter of credit, or any combination thereof up to, but not  
498 exceeding, three thousand dollars (\$3,000.00) per acre or fraction  
499 thereof of the proposed land-disturbing activity, prior to issuing  
500 the permit. If the applicant does not comply with this section or  
501 with the conditions of the permit after issuance, the Local  
502 Issuing Authority may call the bond or any part thereof to be  
503 forfeited and may use the proceeds to hire a contractor to  
504 stabilize the site of the land-disturbing activity and bring it into  
505 compliance.

506 • *Plan requirements.*

- 507 • Plans must be prepared to meet the minimum requirements as  
508 contained in subsection (b)(4) b. and c., or through the use of  
509 more stringent, alternate design criteria which conform to sound  
510 conservation and engineering practices. The Manual for Erosion  
511 and Sediment Control in Georgia is hereby incorporated by  
512 reference into this chapter. The plan for the land-disturbing  
513 activity shall consider the interrelationship of the soil types,  
514 geological and hydrological characteristics, topography,  
515 watershed, vegetation, proposed permanent structures including  
516 roadways, constructed waterways, sediment control and  
517 stormwater management facilities, local ordinances and state  
518 laws. Maps, drawings and supportive computations shall bear  
519 the signature and seal of the certified design professional.

520 Persons involved in land development design, review, permitting,  
521 construction, monitoring, or inspections or any land disturbing

522 activity shall meet the education and training certification  
523 requirements, dependent on his or her level of involvement with the  
524 process, as developed by the commission and in consultation with  
525 the division and the stakeholder advisory board created pursuant to  
526 O.C.G.A.

527 §12-7-20.

528 • Data required for the Site Plan shall include all the information  
529 required from the appropriate erosion, sedimentation and pollution  
530 control plan review checklist established by the commission as of  
531 January 1 of the year in which the land- disturbing activity was  
532 permitted.

533 • *Permits.*

534 • Permits shall be issued or denied as soon as practicable but in any  
535 event not later than forty-five (45) days after receipt by the  
536 development director of a completed application, provided  
537 variances and bonding are obtained, where necessary and all  
538 applicable fees have been paid prior to permit issuance. The permit  
539 shall include conditions under which the activity may be  
540 undertaken.

541 • No permit shall be issued by the development director unless the  
542 erosion, sedimentation and pollution control plan has been  
543 approved by the district and the development director has  
544 affirmatively determined that the plan is in compliance with this  
545 chapter, any variances required by subsection (b)(4)c.15. and 16.  
546 are obtained, bonding requirements, if necessary, as per subsection  
547 (b)(5)b.7. are met and all ordinances and rules and regulations in  
548 effect within the jurisdictional boundaries of City are met. If the  
549 permit is denied, the reason for denial shall be furnished to the  
550 applicant.

551 • Any land-disturbing activity by the governing authority shall be subject  
552 to the same requirements of this section, and any other ordinances  
553 relating to land development as are applied to private persons, and  
554 the director shall enforce such requirements upon the governing  
555 authority.

556 • If the tract is to be developed in phases, then a separate permit shall  
557 be required for each phase.

558 • The permit may be suspended, revoked, or modified by City, as to  
559 all or any portion of the land affected by the plan, upon finding that  
560 the holder or his successor in the title is not in compliance with the  
561 approved erosion, sedimentation and pollution control plan or that  
562 the holder or his successor in title is in violation of this chapter. A



563 holder of a permit shall notify any successor in title to him as to all  
564 or any portion of the land affected by the approved plan of the  
565 conditions contained in the permit.  
566 • No permit shall be issued until the applicant files documents with  
567 the development director demonstrating compliance with all  
568 applicable local, state and federal requirements.  
569 • The development director may reject a permit application if the  
570 applicant has had two or more convicted violations of the Erosion  
571 and Sedimentation Act permit requirements within three years  
572 prior to the date of the application, in light of  
573 O.C.G.A. § 12-7-7(t)(l).

574 *D. Inspection and enforcement.*

- 575 • The development director will periodically inspect the sites of land-  
576 disturbing activities for which permits have been issued to determine if the  
577 activities are being conducted in accordance with the plan and if the  
578 measures required in the plan are effective in controlling erosion and  
579 sedimentation. Also, City shall regulate primary, secondary and tertiary  
580 permittees as such terms are defined in the state general permit. Primary  
581 permittees shall be responsible for installation and maintenance of best  
582 management practices where the primary permittee is conducting land-  
583 disturbing activities. Secondary permittees shall be responsible for  
584 installation and maintenance of best management practices where the  
585 secondary permittee is conducting land-disturbing activities. Tertiary  
586 permittees shall be responsible for installation and maintenance where the  
587 tertiary permittee is conducting land-disturbance activities. If, through  
588 inspection, it is deemed that a person engaged in land-disturbing activities  
589 as defined herein has failed to comply with the approved plan, with permit  
590 conditions, or with the provisions of this section, a written notice to comply  
591 shall be served upon that person by the development director. The notice  
592 shall set forth the measures necessary to achieve compliance and shall state  
593 the time within which such measures must be completed. If the person  
594 engaged in the land disturbing activity fails to comply within the time  
595 specified, he shall be deemed in violation of this section.
- 596 • The development director shall have the power to conduct such  
597 investigations as may reasonably be necessary to carry out duties as  
598 prescribed in this section, and for this purpose to enter at reasonable times  
599 upon any property, public or private, for the purpose of investigation and  
600 inspecting the sites of land-disturbing activities.
- 601 • No person shall refuse entry or access to any authorized representative or  
602 agent of City, the commission, the district, or the division who requests  
603 entry for the purposes of inspection, and who presents appropriate  
604 credentials, nor shall any person obstruct, hamper or interfere with any  
605 such representative while in the process of carrying out his official duties.

- 606 • The district or the commission or both shall semi-annually review the actions  
607 of the county. The district or the commission or both may provide technical  
608 assistance to City for the purpose of improving the effectiveness of the  
609 county's erosion and sedimentation control program. The district or the  
610 commission shall notify the division and request investigation by the  
611 division if the county's program is found to be deficient or ineffective.
- 612 • The division may periodically review the actions of City which has been  
613 certified as a local issuing authority pursuant to O.C.G.A. § 12-7-8(a).  
614 Such review may include, but shall not be limited to, review of the  
615 administration and enforcement of City of Lithonia's ordinances and  
616 review of conformance with an agreement, if any, between the district and  
617 City. If such review indicates that City has not administered or enforced its  
618 ordinances or has not conducted the program in accordance with any  
619 agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the division shall  
620 notify the City's governing authority in writing. Upon receipt of the  
621 notification, the governing authority shall have ninety (90) days within  
622 which to take the necessary corrective action to retain certification as a  
623 local issuing authority. If City does not take necessary action within  
624 ninety (90) days after notification by the division, the division shall  
625 revoke the certification of City as a local issuing authority.
- 626 • City must amend its ordinances to the extent appropriate within twelve  
627 (12) months of any amendment to the Erosion and Sedimentation Act  
628 of 1975.

629 *E. Penalties and incentives.*

- 630 • *Failure to obtain a permit for land-disturbing activity.* If any person  
631 commences any land- disturbing activity requiring a land-disturbing  
632 permit as prescribed in this chapter without first obtaining said permit,  
633 the person shall be subject to revocation of his business license, work  
634 permit or other authorization for the conduct of a business and  
635 associated work activities within City.
- 636 • *Stop work orders.* Upon notice from the development director or other  
637 county authorized representative, work on any project that is being  
638 done contrary to the provisions of this chapter or in a dangerous or  
639 unsafe manner, shall be immediately stopped. Such notice shall be in  
640 writing and shall be given to the owner of the property, his/her authorized  
641 agent or the person or persons in charge of the activity on the property,  
642 and shall state the conditions under which work may be resumed.  
643 Where an emergency exists, no written notice shall be required.
- 644 • For the first and second violations of the provisions of this  
645 section on a site, the director of the EPD or the development  
646 director shall issue a written notice of violation to the violator.  
647 The violator shall have five (5) days to correct the violation. If



648 the violation is not corrected within five (5) days, the director of  
649 the EPD or the development director shall issue a stop work  
650 order requiring that land-disturbing activities be stopped until  
651 necessary corrective action or mitigation has occurred; provided  
652 that if the violation presents an imminent threat to public health or  
653 waters of the state or if the land-disturbing activities are  
654 conducted without obtaining the necessary permit, the director  
655 of the EPD or development director shall issue an immediate  
656 stop work order in lieu of notice of violation.

- 657 • For a third and each subsequent violation on a site, the  
658 development director shall issue an immediate stop work order,  
659 and;
- 660 • All stop work orders shall be effective immediately upon  
661 issuance and shall be in effect until the necessary corrective  
662 action or mitigation has occurred.
- 663 • When a violation in the form of land disturbance without a  
664 permit, failure to maintain a stream buffer, or significant  
665 amounts of sediment, as determined by the development director,  
666 have been or are being discharged into state waters and where  
667 best management practices have not been properly designed,  
668 installed, and maintained, a stop work order shall be issued by the  
669 development director. All such stop work orders shall be effective  
670 immediately upon issuance and shall be in effect until the  
671 necessary corrective action or mitigation has occurred. Such  
672 stop work orders shall apply to all land-disturbing activity on  
673 the site with the exception of the installation and maintenance  
674 of temporary or permanent erosion and sediment controls.
- 675 • *Bond forfeiture.* If , through inspection, it is determined that a person  
676 engaged in land- disturbing activities has failed to comply with the  
677 approved plan, a written notice to comply shall be served by the  
678 development director upon that person. The notice shall set forth the  
679 measures necessary to achieve compliance with the plan and shall state  
680 the time within which such measures must be completed . If the person  
681 engaged in the land-disturbing activity fails to comply within the time  
682 specified, he shall be deemed in violation of this chapter and, in  
683 addition to other penalties, shall be deemed to have forfeited his  
684 performance bond, if required to post one under the provisions of  
685 subsection (b)(5)b.7. The chief executive officer may call the bond or  
686 any part thereof to be forfeited and may use the proceeds to hire a  
687 contractor to stabilize the site of the land-disturbing activity and bring  
688 it into compliance.
- 689 • *Monetary penalties.* Any person who violates any provisions of this

690 section, or any permit condition or limitation established pursuant to  
691 this section, or who negligently or intentionally fails or refuses to  
692 comply with any final or emergency order of the development director  
693 issued as provided in this section shall be liable for a civil penalty not to  
694 exceed two thousand five hundred dollars (\$2,500.00) per day, or the  
695 maximum amount authorized by Code of City of Lithonia.  
696 Notwithstanding any limitation of law as to penalties which can be  
697 assessed for violations of county ordinances, any magistrate court or  
698 any other court of competent jurisdiction trying cases brought under  
699 county ordinances approved under this section shall be authorized to  
700 impose penalties for such violations not to exceed two thousand five  
701 hundred dollars (\$2,500.00) for each violation; however the maximum  
702 assessment shall not exceed the amount authorized by Code of City of  
703 Lithonia. Each day during which violation or failure or refusal to comply  
704 continues shall be a separate violation.

705 *F. Education and certification.*

- 706 • Persons involved in land development design, review, permitting,  
707 construction, monitoring, or inspection of any land-disturbing activity  
708 shall meet the education and training certification requirements,  
709 dependent on their level of involvement with the process, as developed  
710 by the commission in consultation with the division and the stakeholder  
711 advisory board created pursuant to O.C.G.A. § 12-7-20.
- 712 • For each site on which land-disturbing activity occurs, each entity or  
713 person acting as either a primary, secondary or tertiary permittee, as  
714 defined in the state general permit, shall have as a minimum one (1)  
715 person who is responsible for erosion and sedimentation control  
716 activities on behalf of said entity or person and meets the applicable  
717 education or training certification requirements developed by the  
718 commission, present on site whenever land-disturbing activities are  
719 conducted on that site. A project shall herein be defined as any land-  
720 disturbance site, or multiple sites within a larger common plan of  
721 development or sale, permitted by an owner or operator for compliance  
722 with the state general permit.
- 723 • Persons or entities involved in projects not requiring a state general  
724 permit, but otherwise requiring certified personnel on site, may contract  
725 with certified persons to meet the requirements of this section.
- 726 • If a state general permittee who has operational control of land-  
727 disturbing activities for a site has met the certification requirements of  
728 O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-  
729 disturbing activity at that site and operating in a subcontractor  
730 capacity for such permittee shall meet those educational  
731 requirements specified in O.C.G.A. § 12-7-19(b)(4), but shall not be



732 required to meet any educational requirements that exceed those  
733 specified in said paragraph.

734 *G. Administrative appeal, judicial review.*

735 • *Administrative remedies.* The suspension, revocation, modification or grant  
736 with condition of a permit by City upon finding that the holder is not in  
737 compliance with the approved erosion, sediment and pollution control  
738 plan; or that the holder is in violation of permit conditions; or that the holder  
739 is in violation of any ordinance; shall entitle the person submitting the plan  
740 or holding the permit to an appeal before the zoning board of appeals  
741 pursuant to the procedures and standards set forth in subsection 14-34(d).

742 • *Judicial review.* Any person aggrieved by administrative appeals from a  
743 decision or order of the zoning board of appeals authorized by subsection  
744 (b)(9)a. of this section may appeal as provided for by State law.  
745

746 **Section 2.** The preamble of this Ordinance shall be considered to be and is hereby  
747 incorporated by reference as if fully set out herein.

748 **Section 3.** (a) It is hereby declared to be the intent of the Mayor and Council that all  
749 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their  
750 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

751 (b) It is hereby declared to be the intent of the Mayor and Council that, to the greatest extent  
752 allowed by law, each and every section, paragraph, sentence, clause, or phrase of this Ordinance  
753 is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It  
754 is hereby further declared to be the intent of the Mayor and Council that, to the greatest extent  
755 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually  
756 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

757 (c) In the event that any phrase, clause, sentence, paragraph, or section of this Ordinance  
758 shall, for any reason whatsoever, be declared invalid, unconstitutional, or otherwise unenforceable  
759 by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of  
760 the Mayor and Council that such invalidity, unconstitutionality, or unenforceability shall, to the

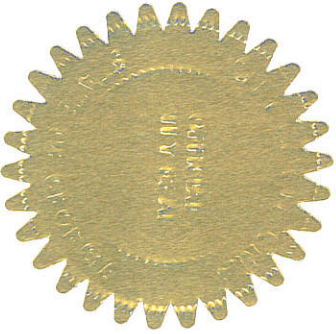
761 greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable  
762 any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinance and that,  
763 to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and  
764 sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and  
765 effect.

766 **Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby expressly  
767 repealed.

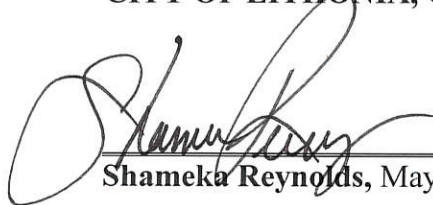
768 **Section 5.** The effective date of this Ordinance shall be the date of adoption unless  
769 otherwise specified herein.

770  
771 SO ORDAINED this 15<sup>th</sup> day of February, 2021.


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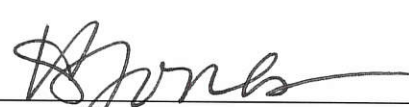
CITY OF LITHONIA, GEORGIA

  
Shameka Reynolds, Mayor

782 ATTEST:

783  
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786  
787 Robinette Blount, City Clerk

788  
789  
790 APPROVED AS TO FORM BY:

791  
792  
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794  
795 City Attorney