

## **Chapter 15.36 SOIL EROSION AND SEDIMENT CONTROL**

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### **15.36.010 Title and purpose.**

A. Title. This chapter will be known as the city of Covington soil erosion and sedimentation control ordinance.

B. Purpose. The purpose of this chapter is to control soil erosion and the resulting sedimentation on developing areas.

(Prior code § 6-41)

### **15.36.020 Definitions.**

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

"Best management practices (BMPs)" means a collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term, "properly designed," means designed in accordance with the hydraulic design specifications contained in the Manual for Erosion and Sediment Control in Georgia published by the State Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity is permitted.

"Board" means the board of natural resources.

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

"Conservation commission" means the State Soil and Water Conservation Commission.

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

"Department" means the department of natural resources.

"Director" means the director of the environmental protection division.

"District" means the Upper Ocmulgee soil and water conservation district.

"Division" means the environmental protection division.

"Drainage structure" means a device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management drainage control, or flood control purposes.

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

"Erosion and sediment control plan" means a plan for the control of soil erosion and sediment resulting from land-disturbing activity. Also known as the "plan."

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

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

"Grading" means altering ground surfaces to specified elevations, dimensions and/or slopes; this includes stripping, cutting, filling, stockpiling and shaping, or any combination thereof, and shall include the land in its cut or filled condition.

"Ground elevation" means the original elevation of the ground surface prior to cutting and filling.

"Land-disturbing activity" means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural practices as described in Section 15.36.030(E).

"Larger common plan of development or sale" means a contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this section, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

"Local issuing authority" means the city, which is certified pursuant to O.C.G.A. 12-7-8(a).

"Metropolitan River Protection Act (MRPA)" means a state law referenced as Official Code of Georgia Annotated, Section 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basin.

"Natural ground surface" means the ground surface in its original state before any grading, excavation or filling.

"Nephelometric turbidity units (NTU)" means numerical units of measure based on photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

"One hundred (100) year floodplain" means land in the floodplain subject to a one percent or greater statistical occurrence probability of flooding in any given year.

"Operator" means the party or parties that have:

1. Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
2. Day-to-day operational control of those activities that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or to comply with other permit conditions.

"Permit" means the authorization necessary to conduct a land-disturbing activity under the provisions of this chapter.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this state, any interstate body or any other legal entity.

"Project" means the entire proposed development project regardless of the size of the area of land to be disturbed.

"Qualified personnel" means any person who meets or exceeds the education and training requirements of O.C.G.A. Section 12-7-19.

"Roadway drainage structure" means a device, such as a bridge, culvert or ditch composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

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

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

"Soil and water conservation district approved plan" means an erosion and sedimentation control plan approved in writing by the Upper Ocmulgee soil and water conservation district.

"Stabilization" means the process of establishing an enduring soil cover of vegetation and/or mulch or other ground cover and/or in combination with installing temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

"State general permit" means the National Pollution Discharge Elimination System general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and O.C.G.A. Section 15-5-30(f).

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

"Structural erosion and sediment control practices" means measures for the stabilization of erosive or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversion, grade stabilization structures, sediment traps, land grading, etc. Such matters can be found in the publication, Manual for Erosion and Sediment Control in Georgia.

"Trout streams" means all streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, Official Code of Georgia Annotated, Section 15-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

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

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

"Watercourse" means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(Ord. dated 4/6/04 §§ 1, 2; Ord. dated 10/1/01 § 1; prior code § 6-42)

### **15.36.030 Exemptions.**

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

- A. Surface mining, as the same is defined in Official Code of Georgia Annotated, Section 12-4-72;
- B. Granite quarrying and land clearing for such quarrying;
- C. Such minor land-disturbing activities as home gardens and individual home fencing, landscaping, repairs, maintenance work and other related activities which result in minor soil erosion;
- D. The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger plan of development or sale with a planned disturbance equal to or greater than one acre and not otherwise exempted under this section; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Section 15.36.040 of this chapter and this section. For single-family residence construction covered by the provisions of this subsection there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control act. In any such buffer zone, no land-distributing activity shall be constructed between the residence and the point where the vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout water, the buffer zone shall be at least fifty (50) horizontal feet, but the director may grant variances to no less than twenty-five (25) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least twenty-five (25) horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Section 15.36.040 of this chapter and the buffer zones provided by this section shall be enforced by the issuing authority.
- E. Agricultural operations as defined in O.C.G.A. 1-3-3 to include raising, harvesting or storing of products of the field or orchard; feeding; breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including, but not limited to, chicken, hens, turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; forestry land management practices, including harvesting and farm buildings and farm ponds.
- F. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities prohibited in a buffer as hereinafter set forth in Section 15.36.040(C)(15) and (16) of this chapter, no other land disturbing activities, except for normal forest management practices, shall be allowed in the entire property upon which such exempt forestry practices were conducted for a period of three years after completion of such exempt forestry practices;
- G. Any project carried out under the technical supervision of the Soil Conservation Service of the United States Department of Agriculture;
- H. 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 two hundred (200) feet of the bank of any state waters, and for purposes of this subsection, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within two hundred (200) feet of

any such secluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by subsections A, B, C, D, E, F, G, I or J of this section;

I. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the Georgia Highway Authority, or the State 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 department of transportation or State Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. Section 12-7-7.1; except where the department of transportation, the State Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. Section 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 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. Section 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. Section 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. Section 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders.

K. Any public water system reservoir.

(Ord. dated 4/6/04 §§ 3--7; Ord. dated 10/1/01 §§ 2, 3; prior code § 6-43)

#### **15.36.040 Minimum requirements for erosion and sedimentation control.**

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 and sediment control measures. The provisions shall be incorporated into the erosion and sediment control plans. Soil erosion and sediment control measures shall conform to the requirements of this chapter. The application of measures shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sediment pollution during all stages of any land-disturbing activity.

B. Minimum requirements, BMPs.

1. Best management practices as set forth in this section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director, or to any other allegation of noncompliance with subsection (B)(2) of this section, or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to Section 15.36.070(D).

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 Sediment and Erosion Control in Georgia published by the State Water and Soil Conservation Commission as of January 1 of the year in which the land disturbing activity is permitted.

2. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or by the division or of any general permit for construction activities issued by the division pursuant to Section 15.36.070(D) for each day on which such discharge results in 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. This subsection shall not apply to any land disturbance associated with the construction of single-family homes which are not a part of a common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.

3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or by the division, or of any general permit for construction activities issued by the division pursuant to Section 15.36.070(D) for each day on which such failure occurs.

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

C. Requirements. The rules and regulations, ordinances, 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 best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the "Manual for Erosion and Sediment Control in Georgia" published by the Georgia Soil and Water Conservation Commission as January 1, of the year in which the land-disturbing activity was permitted, as well as the following:

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

2. Cut-fill operation 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.

4. Whenever feasible, natural vegetation shall be retained, protected and supplemented.

5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.

6. Disturbed soil shall be stabilized as quickly as practicable.

7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.

8. Permanent vegetation and structural erosion control measures shall be installed as soon as practicable.

9. To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought into a condition of continuous compliance with the requirements of this chapter.

10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.

11. Cuts and fills may not endanger adjoining property.

12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.

13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible and provided, in any such case, that such crossings are kept to a minimum.

14. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for control or treatment of any source of sediments and adequate sedimentation control facilities to retain sediments on site or preclude sedimentation of adjacent streams beyond the levels specified in subsection (B)(2) of this section.

15. Except as provided in subsection (C)(16) of this section, there is established a twenty-five (25) foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. Section 12-2-8 or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least twenty-five (25) feet established pursuant to O.C.G.A. Section 12-5-453(a)(1) shall remain in force unless a variance is granted by the director as provided in this paragraph. The following requirements shall apply to any such buffer:

a. No land disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land disturbing activities on the construction site are completed.

b. Once land-disturbing activity is initiated and continuing until final stabilization of the site is achieved, the boundary of the buffer shall be designated by four foot orange safety fencing.

c. 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 own occupancy may thin or trim 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.

d. 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 twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (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. There is established a fifty (50) foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any trout streams, as defined in Section 15.36.020 of this chapter, except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of twenty-five (25) gallons per minute or less shall have a twenty-five (25) foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land disturbing activity provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented. The requirements set forth in subsection (C)(15) shall also apply to such buffer.

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 twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

D. Right to Exceed Minimum Requirements. Nothing contained in this chapter shall prevent the local issuing authority from adopting rules, regulations, ordinances or resolutions which contain stream buffer requirements that exceed the minimum requirements set forth in subsections B and C of this section.

E. No Presumption of Violation. The fact that land-disturbing activity for which a permit has been issued results in injury to property of another shall neither constitute proof nor create a presumption of violation of the standards provided for in this section or the terms of the permit. (Ord. dated 4/6/04 §§ 8--13; Ord. dated 2/17/03 § 1; Ord. dated 10/1/01 § 4; prior code § 6-44)

### **15.36.050 Application/permit process.**

A. Generally. The landowner, developer and designated planners and engineer shall review the general development plans and detailed plans of the issuing authority (if any have been previously submitted and approved) that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, flood damage prevention ordinance, subdivision ordinance, this article, and other ordinances which regulate the development of land within the boundaries of the issuing authority. However, the property owner is the only party that can obtain a permit.

B. Application Requirements.

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

2. The application for a permit shall be submitted by the property owner to the issuing authority (through the engineering department) and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection C of this section. Soil erosion and sedimentation control plans shall conform to the provisions of Section 15.36.040 of this chapter. Applications for a permit will not be accepted unless accompanied by three copies of the applicant's soil erosion and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with the rules and regulations established by the board.

3. A fee, in an amount set by the city council, shall be charged for each acre and/or fraction of an acre in the project area.

4. In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. Section 112-5-23(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. 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. Section 12-7-17 shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.

5. Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the Upper Ocmulgee Soil and Water Conservation for its review and approval or disapproval concerning the adequacy of the erosion and sediment control plan. The district shall approve or disapprove a plan within thirty-five (35) days of receipt. Failure of the 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 issuing authority. No permit will be issued unless the plan has been approved by the district and any variances required by Section 15.36.040(C)(16) and (17) and bonding, if required as per subsection (B)(6) of this section have been obtained. Such review will not be required if the issuing authority and the district have entered into an agreement which allows the issuing authority to conduct such review and approval of the plan without referring the application and plan to the district.

6. If a permit applicant has had two or more violations of previous permits, this article, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the issuing authority may deny the permit application.

7. The city may require the permit applicant to furnish security for satisfactory completion of any land disturbing activity in the form of a performance bond issued by a surety approved by the city, an escrow deposit in an FDIC insured bank or savings and loan association with offices in Newton County or an irrevocable letter of credit issued by a financial institution approved by the city, or any combination thereof, in the minimum amount of three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land disturbing activity, prior to issuing the permit. Such security will not be released until a notice of termination has been submitted to the Georgia Environmental Protection Division and/or a certificate of occupancy for the project has been issued by the city. Simultaneously with submission of a notice of intent or notice of termination to the Georgia Environmental Protection Division a copy of same shall be filed in the engineering department office of the city. If the applicant does not comply with the provisions of this chapter or with the conditions of the permit, the city may make appropriate demand on the security and may use the proceeds of such security to hire a contractor to stabilize the site of such activity, including removal of any silt fence remaining on said site, and bring the site into compliance with the provisions of this chapter and any applicable state or federal regulations. For developments requiring the filing of a notice of intent for compliance with a Georgia National Pollutant Discharge Elimination System (NPDES) permit, the city may require the sampling of additional 0.5-inch and greater rain events and the filing of the results of such sampling in the engineering department office of the city. All land disturbing permits issued under the provisions of this chapter shall expire on the first anniversary of the date of issuance, and must be renewed on or before each anniversary date thereafter to remain effective. Land disturbing permits issued for developments in which land disturbing activity has been dormant for six months or longer will thereupon become null, void and of no effect.

#### C. Plan Requirements.

1. Plans must be prepared to meet the minimum requirements contained in Section 15.36.040. Conformance with the minimum requirements may be attained through the use of design criteria in the Manual for Erosion and Sediment Control in Georgia, revised in 1989, published by the State Soil and Water Conservation Commission as a guide or through the use of alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is 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 stormwater management facilities; local ordinances and state laws.

#### 2. Data Required for Site Plan.

a. Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.

b. Description of existing land use at project site and description of proposed project.

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

d. Name and phone number of twenty-four (24) hour local contact who is responsible for erosion and sediment controls. Such contact person must have completed a Soil Erosion and

Sedimentation Course accepted and sanctioned by the Georgia Soil and Water Conservation Commission. Qualifying courses include, but are not limited to the following offered by:

- i. Soil and Water Conservation, Athens, Georgia,
- ii. Rockdale County, Georgia,
- iii. Roswell/Alpharetta, Georgia,
- iv. Newton County/City of Covington, Georgia.

Qualifying course completion must be evidenced by a certification card from an approved course. Any person performing land disturbance activities in the city must be currently certified as having successfully completed a qualified course.

- e. Size of project, or phase under construction, in acres.
- f. Activity schedule, showing anticipated starting and completion dates for project. Include the statement in bold letters that "the installation of erosion control measures and practices shall occur prior to or concurrent with land disturbing activities."
- g. Stormwater and sediment management systems. Storage capacity, hydrologic study and calculations, including off-site drainage area.
- h. Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates and seeding, fertilizer, lime and mulching rates. Vegetative plan should show options for year-round seeding.
- i. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
- j. Maintenance Statement. "Erosion control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."

3. Supportive Data. Maps, drawings and supportive computations shall bear the signature/seal of a Georgia-registered or certified professional in engineering, architecture, landscape architecture, land surveying or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring or inspection or any land disturbing activity shall meet the education and certification requirements as developed by the conservation commission pursuant to the provisions of O.C.G.A. Section 12-7-20. The certified plans shall contain:

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

TABLE INSET:

Map Scale	Ground Slope	Contour Interval (ft.)
1 inch = 100 feet or larger scale	Flat, 1--2%	0.5 or 1
	Rolling, 2%--8%	1 or 2
	Steep 8%+	2.5 or 10

- f. Adjacent areas and features areas such as streams, lakes, residential areas, etc., which might be affected should be indicated on the plan.
- g. Proposed structures or additions to existing structures and paved areas.

h. Delineate the twenty-five (25) foot horizontal buffer adjacent to state waters and the specified width in MRPA areas.

i. Delineate the specified horizontal buffer along designated trout streams, where applicable.

j. Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6. k. Location of erosion and sediment control practices, preferably using uniform coding symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6. Practices may include, but are not limited to:

i. Construction exit;

ii. Sediment barrier;

iii. Sediment basin;

iv. Grassed waterway (open swale); and

v. Storm drain outlet protection.

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

D. Permits.

1. Permits shall be issued or denied as soon as practicable, but in any event not later than forty-five (45) days after receipt by the issuing authority of a completed application, providing variances and bonding are obtained, where necessary.

2. No permit shall be issued by the issuing authority unless the erosion and sedimentation control plan has been approved by the district and the issuing authority has affirmatively determined that the plan is in compliance with this chapter, any variances required by Section 15.36.040(B)(16) of this chapter are obtained, bonding requirements, if necessary, as per subsection (B)(6) of this section are met and all ordinances, rules and regulations in effect within the jurisdictional boundaries of the issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.

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

4. The permit may be suspended, revoked or modified by the issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in title is not in compliance with the approved erosion and sedimentation control plan or is in violation of this chapter. 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.

(Ord. dated 8/5/08 § 1; Ord. dated 4/6/04 §§ 14--20; Ord. dated 2/17/03 §§ 2, 3; prior code § 6-45)

#### **15.36.060 Inspection and enforcement.**

A. The city's engineering department technician, the building and zoning department and the environmental protection division will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate both primary and secondary permittees, as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land disturbing activities. 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 timely comply with the terms of such notice, he shall be deemed to be in violation of this chapter.

B. The city's engineering department, engineering technician and the building and zoning department shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

C. No person shall refuse entry or access to any authorized representative or agent of the issuing authority, the conservation commission, the district or division who requests entry for the purposes of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(Ord. dated 4/6/04 § 21; prior code § 6-46)

### **15.36.070 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 conduct of a business and associated work activities within the jurisdictional boundaries of the issuing authority.

B. Work Orders. The following procedures shall apply to the issuance of stop work orders:

1. For the first violation of the provisions of this chapter, the issuing authority shall issue a written warning to the violator. The violator shall have three consecutive calendar days to correct the violation. If the violation is not corrected within three consecutive calendar days, the issuing authority shall issue a stop-work order requiring that land disturbing activities be stopped 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 issuing authority shall issue an immediate stop-work order in lieu of a warning.

2. For each subsequent violation, the director or the city shall issue an immediate stop work order; and

3. All stop work orders shall be effective immediately upon issuance and shall remain in effect until the necessary corrective action or mitigation has occurred.

4. If, through inspection, it is determined that a person engaged in land-disturbing activities is not in compliance with BMP's, the deposit of any silt or sediment into state waters is an automatic violation subject to a stop-work order and citation.

5. 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 local issuing authority or by the director or his designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the director or his designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

C. Bond Forfeiture. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall

be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 15.36.050(B)(6). The issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

**D. Monetary Penalties.**

1. For the purpose of enforcing the provisions of this chapter, pursuant to the provisions of O.C.G.A. Section 12-7-15, the municipal court shall be authorized to impose a penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which a violation or failure or refusal to comply continues shall be a separate violation.

2. Any person who violates any provisions of the ordinance codified in 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 two thousand five hundred dollars (\$2,500.00) per day. For the purpose of enforcing the provisions of this chapter, notwithstanding any provisions in the city charter or this code to the contrary, the municipal court of the city shall be authorized to impose a penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(Ord. dated 4/6/04 §§ 22, 23; Ord. dated 2/17/03 § 4; Ord. dated 10/1/01 § 4; prior code § 6-47)

**15.36.080 Education and certification.**

After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. Section 12-7-20.

(Ord. dated 4/6/04 § 24)

**15.36.090 Administrative appeal, judicial review.**

A. Administrative Remedies. The suspension, revocation, modification or grant with condition of a permit by the issuing authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan, or that the holder is in violation of permit conditions, or that the holder is in violation of any ordinance shall entitle the person submitting the plan or holding the permit to a hearing before the floodplain board of appeals established under Chapter 15.48 of this code within thirty (30) days after receipt by the issuing authority of written notice of appeal.

B. Judicial Review. Any person aggrieved by a decision or order of the issuing authority, after his administrative remedies, shall have the right to appeal de novo to the Superior Court of Newton County, Georgia.

(Ord. dated 4/6/04 § 24; prior code § 6-48)

**15.36.100 Validity and liability.**

A. Validity. 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 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.  
(Ord. dated 4/6/04 § 24; Ord. dated 10/1/01 § 5; prior code § 6-49)