



**CITY COUNCIL  
ATLANTA, GEORGIA**

**SUBSTITUTE ORDINANCE BY  
CITY UTILITIES COMMITTEE**

04-0-1206

**AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES CHAPTER 74, ARTICLE II "LAND DISTURBING ACTIVITIES" (SECS. 74-36 THROUGH 74-75) SO AS TO ACHIEVE CONSISTENCY WITH THE EROSION AND SEDIMENTATION ACT OF 1975, AS AMENDED, AS FOUND IN CHAPTER 7 OF TITLE 12 OF THE OFFICIAL CODE OF GEORGIA; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Erosion and Sedimentation Act of 1975, codified as O.C.G.A. § 12-7-1 et seq. provides for the establishment and implementation of a statewide comprehensive soil erosion and sedimentation control program to conserve and protect the land, water, air and other resources of this state; and

**WHEREAS**, House Bill 285 of the 2003 Session of the Georgia General Assembly, amended certain provisions of the Erosion and Sedimentation Act of 1975; and

**WHEREAS**, the City of Atlanta supports the goals of the erosion and sedimentation control program established by the State Environmental Protection Division ("E and S Program"); and

**WHEREAS**, the City is a local issuing authority under the E and S Program; and

**WHEREAS**, the City of Atlanta must comply with the requirements of the Erosion and Sedimentation Act of 1975, as amended and incorporate the said amendments into its Code of Ordinances.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1:** That Article II of Chapter 74 of the Code of Ordinance, comprised of Section 74-36 through Section 74-45 and referred to as the "City of Atlanta Soil and Erosion Control Ordinance," is hereby rescinded in its entirety.

**SECTION 2:** That the existing Article II shall remain in full force and effect until this Ordinance is adopted.

**SECTION 3:** That a new Article II of Chapter 74 of the Code of Ordinances, comprised of Section 74-36 through Section 74-47 entitled "City of Atlanta Soil and Erosion Control Ordinance," is hereby established and be adopted as follows:

**"ARTICLE II. SOIL EROSION AND SEDIMENTATION CONTROL**

**Sec. 74-36. Title, authority and findings.**



*Title.* This article will be known as the "City of Atlanta Soil Erosion and Sedimentation Control Ordinance."

(b) *Authority.* This article is enacted to implement the Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1, et seq., as amended in the 2003 Session of the Georgia General Assembly.

(c) *Findings.* The Council of the City of Atlanta finds that soil erosion and sediment deposition onto lands and into waters within the watersheds of the city are occurring as a result of a need for improvement in the application of proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resources uses. It is therefore declared to be the policy of the city and the intent of this article to strengthen and extend the present erosion and sedimentation control activities and programs of the city and to provide for the establishment and implementation of a city-wide comprehensive soil erosion and sedimentation control program to conserve and protect the land, water, air and other resources of the city. The city further declares its intention through this ordinance to meet or exceed, where permitted, the requirements of State and Federal law regarding the regulation of land-disturbing activities.

#### **Sec. 74-37. Definitions.**

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

*Best management practices (BMP's)* 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" specified in the Official Code of Georgia § 12-7-6(b).

*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.

*City* means the City of Atlanta, which is a local issuing authority as defined herein.

*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 of the department of natural resources.

*District* means the Fulton or DeKalb Soil and Water Conservation District.

*Disturbed Area* means the total area on which land disturbing activities are to take place.

*Division* means the environmental protection division of the department of natural resources.

*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 sedimentation control plan* means a plan for the control of soil erosion and sedimentation resulting from a 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 the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

*Ground elevation* means the original elevation of the ground surface prior to cutting or 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 74-38(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 paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

*Local Issuing Authority* means the City of Atlanta acting through its Department of Watershed Management, which has been certified by the director of the environmental protection division of



The Department of natural resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended, O.C.G.A. § 12-7-1 et. seq. and the rules for erosion and sediment control issued by the division 391-3-7-.09.

*Metropolitan River Protection Act (MRPA)* means a state law referenced as O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

*Natural 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 upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

*Operator* means the party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.

*Land Disturbing Activity Permit (or LDA Permit)* means the authorization necessary to conduct a land-disturbing activity under the provisions of this article.

*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. § 12-7-19.

*Riparian Buffer* means the area required to be maintained as a buffer pursuant to Article VII of this Chapter or State or Federal Law.

*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 water, wind, ice or gravity.

**Soil and water conservation district approved plan** means an erosion and sedimentation control plan approved in writing by the Fulton or DeKalb Soil and Water Conservation District.

**Stabilization** means the process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

**State General Permit** means the National Pollutant Discharge Elimination System general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et. seq., and subsection (f) of Official Code of Georgia § 12-5-30.

**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 or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

**Structural erosion and sedimentation control practices** means practices for the stabilization of erodible or sediment producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices 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, O.C.G.A. §§ 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

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

- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- b. Temporary seeding, producing short-term vegetative cover; or



c. Sodding, covering areas with a turf of perennial sod-forming grass. Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

*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.

#### **Sec. 74-38. Applicability of article; exemptions.**

This article 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 O.C.G.A. § 12-4-70, "Mineral Resources and Caves Act;"
- b. Granite quarrying and land clearing for such quarrying;
- c. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- d. The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in section 74-43 of this article. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of section 74-43 of this article and the buffer zones provided by this section shall be enforced by the city;
- e. Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in



the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;

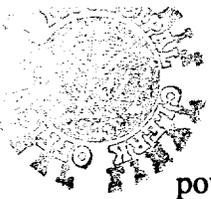
f. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in section 74-43(c)(15) and (16) of this article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;

g. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

h. Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the city 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. § 12-7-7.1 except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the City, and the City shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a LDA 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. 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. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of



power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the City shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if an LDA permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

k. Any public water system reservoir.

### **Sec. 74-39. Application and permit process.**

(a) *General.* The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the city that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this article, and other ordinances which regulate the development of land within the jurisdictional boundaries of the city. ~~However, the operator is the only party who may obtain a permit.~~ Land disturbing activity permits shall be applied for as part of a building permit in compliance with this Article and Part 8 of this Code of Ordinances.

(b) *Application requirements.*

(1) No person required to apply for an LDA permit shall conduct any land-disturbing activity, requiring an approved erosion and sediment control plan, within the jurisdictional boundaries of the city without first obtaining a LDA permit from the city to perform such activity;

(2) The application for a land disturbing activity -permit shall be submitted to the bureau of buildings and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in section 74-40 of this article. Soil erosion and sedimentation control plans shall conform to the provisions of subsection 74-43 of this article. Applications for a land disturbing activity permit will not be accepted unless accompanied by four 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 rules and regulations established by the board.

(3) Immediately upon approval of an application and plan for a LDA permit, the city shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan, if such review and approval or disapproval is required. The District shall approve or disapprove a plan within 35 days of receipt. Failure of a District to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the city. No LDA permit will be issued unless the plan has been approved by the district, and any variances required by subsection 74-43(c)(13), (15) and (16) and bonding, if required as per subsection 74-39(b)(4)b. have been obtained. Such review will not be required if the city and the district have entered into



an agreement which allows the city to conduct such review and approval of the plan without referring the application and plan to the district.

(4) a. If an LDA permit applicant has had two or more violations of previous city issued permits, this article, section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the city may deny the LDA permit application.

b. The LDA permit applicant shall submit a performance bond by a bonding company licensed and registered in Georgia made payable to the city which shall ensure that all disturbed areas and/or affected areas, due to grading operations, will be stabilized through structural and/or vegetative measures to provide effective soil erosion and sediment control. The bond amount shall be \$3,000.00 per acre for areas of disturbance one and one-tenths acres and larger and \$3,000.00 minimum for sites under one and one-tenths acres having cut and/or fill amounts over 500 cubic yards. If the applicant does not comply with this article or with the conditions of the LDA permit after issuance, the city may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the city with respect to alleged LDA permit violations. The term of the bond shall extend through the proposed project until one year following its completion. Failure to renew the performance bond, should it expire prior to completion and acceptance of the work by the city, shall be considered grounds for suspending or revoking the LDA permit.

(c) LDA Permits.

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

(2) No LDA permit shall be issued by the city unless the erosion and sedimentation control plan has been approved by the district and the city has affirmatively determined that the plan is in compliance with this article, any variances required by subsection 74-43(c)(13), (15) and (16) are obtained, bonding requirements, if necessary, as per subsection 74-39(b)(4)b are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the city are met. If the LDA 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 LDA permit shall be required for each phase.

(4) The LDA permit may be suspended, revoked, or modified by the city, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of an LDA -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 LDA permit.

**Sec. 74-40. Plan requirements.**

(a) Plans must be prepared to meet the minimum requirements as contained in subsection 74-43 of this article. Conformance with the minimum requirements may be attained through the use of design criteria in the ~~current issue of the~~ Manual for Erosion and Sediment Control in Georgia, published by the State Soil and Water Conservation Commission as a guide, in effect on the date of application; or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws.

(b) Data required for site plan.

(1) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.

(2) Description of existing land use at project site and description of proposed project.

(3) Name, address, and phone number of the property owner.

(4) Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls.

(5) Total size of site, disturbed area, or phase under construction, in acres.

(6) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."

(7) Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.

(8) Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.

(9) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.



(10) Maintenance statement - "Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."

(c) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. 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 as developed by the Commission pursuant to O.C.G.A. 12-7-19. The certified plans shall contain:

- (1) Graphic scale and north point or arrow indicating magnetic north.
- (2) Vicinity maps showing location of project, existing streets and drainage paths within one mile of the project.
- (3) Boundary line survey.
- (4) Delineation of disturbed areas within project boundary.
- (5) Existing and planned contours, with an interval in accordance with the following:

TABLE INSET:

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

(6) Adjacent areas and features areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

(7) Proposed structures or additions to existing structures and paved areas.

(8) Delineate the state and city horizontal buffers adjacent to state waters required by subsections 74-43(c)(15) and 74-43(d), respectively, and the specified buffer width in MRPA areas.

(9) Delineate the specified horizontal buffer along designated trout streams (the Chattahoochee River within the city) required by subsection 74-43(c)(16).

(10) Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia.



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

**Sec. 74-41. Inspection and enforcement.**

(a) The city will periodically inspect the sites of land-disturbing activities for which LDA 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 City 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 LDA permit conditions, or with the provisions of this article, a written notice to comply or stop work order shall be served upon that person. The notice or stop work order shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he or she shall be deemed in violation of ~~this article~~ the notice or stop work order issued.

(b) The city shall 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 city, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(d) The districts or the commission or both may periodically review the actions of the City. The districts or the commission or both may provide technical assistance to the City for the purpose of improving the effectiveness of the City's erosion and sedimentation control program. The districts or the commission may notify the division and request investigation by the division if any deficient or ineffective local program is found.

(e) The division may periodically review the actions of the City. Such review may include, but shall not be limited to, review of the administration and enforcement of the City's ordinance and review of conformance with an agreement, if any, between the district and the City. If such review indicates that the City has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7 (e), the division shall notify the city in writing. The City shall have 30 days within which to take the necessary corrective action to retain certification as an issuing authority. If the City



Does not take necessary corrective action within 30 days after notification by the division, the division may revoke the certification of the City as an issuing authority.

**Sec. 74-42. Stop work and penalties.**

- (a) *Land-Disturbing Activity Stop-work orders; effect.* When a land-disturbing activity stop-work order is issued by the city, such stop-work order shall be a final order of the city, shall be effective immediately and shall apply to all land-disturbing activity on the site except for necessary corrective action or mitigation and shall be in effect until such corrective action or mitigation has occurred. Performing land-disturbing activities on a site while subject to a land-disturbing activity stop-work order shall be a violation of this Ordinance.
- (b) *Project wide Stop-work orders; effect.* When a project wide stop-work order is issued by the city, such stop-work order shall be a final order of the city, shall be effective immediately and shall apply to all activity on the site, including but not limited to land-disturbing activity, construction, architecture, landscape, electric, plumbing and any other work at the site, except for necessary corrective action or mitigation and shall be in effect until such corrective action or mitigation has occurred. Performing activities on a site while subject to a project wide stop-work order shall be a violation of this Ordinance.
- (c) *First violation of Article; when stop-work.* Except as otherwise provided in this section, for the first violation of the provisions of this article, the city shall issue a written warning to the violator. The violator shall have three days to correct the violation. If the violation is not corrected within three days, the city shall issue a land-disturbing activity stop-work order. If the violation is not corrected within three days from the issuance of the land-disturbing activity stop-work order, the city shall issue a project wide stop-work order.
- (d) *Additional violations of Article; when stop-work.* For a second and each subsequent violation of the provisions of this article, the city ~~shall~~ may issue an immediate land-disturbing activity stop work order. If the violation is not corrected within three days from the issuance of the land-disturbing activity stop-work order, the city ~~shall~~ may issue a project wide stop-work order.
- (e) *Stop-work orders not requiring warning.* A land-disturbing activity stop-work order shall be issued immediately by the city for any of the following violations or conditions:
  - 1. Commencing any land disturbing activity requiring a land-disturbing activity permit without first obtaining a permit; or
  - 2. Commencing any land disturbing activity requiring a land-disturbing activity permit without first conducting a pre-construction meeting with the City pursuant to section 74-43(e); or
  - 3. If the violation presents an imminent threat to public health or waters of the state; or
  - 4. If significant amounts of sediment, as determined by the city have been or are being discharged into state waters; or
  - 5. Commencing any land disturbing activity in either the State or City riparian buffer that requires a buffer variance without first obtaining the required variance; or
  - 6. Best management practices have not been properly designed, installed, and maintained.



(e) *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 subsection 74-39(b)(4)b. The city may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(f) *Monetary penalties.*

(1) Any person who violates any provisions of this article, or any LDA permit condition or limitation established pursuant to this article or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this article, notwithstanding any provisions in any City Charter to the contrary, the City's municipal courts have been authorized by the General Assembly to impose penalty not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(2) For a violation in the form of performing land-disturbing activities in a riparian buffer zone without a buffer variance, the violator shall, in addition to any penalty or stop work order, submit to the City a riparian buffer stabilization and restoration plan and shall implement such a plan for the purpose of returning the buffer zone to the same or similar condition as it was in prior to the land-disturbing activity having occurred.

(3) Any penalty imposed pursuant to sub-sections (1) or (2) of this section shall be in addition to any stop-work order issued by the city or the director under his or her authority.

**Sec. 74-43. Minimum requirements for erosion and sedimentation control using best management practices.**

(a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of subsection 74-43 of this article. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

(b) *Minimum requirements/BMP's.*



(1) Best management practices 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~~ commissioner or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a state general permit for the discharge of stormwater issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". 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 the Official Code of Georgia Section 12-7-6(b).

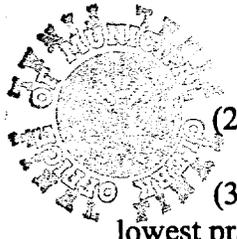
(2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing activity permit issued by the city or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten 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 paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.

(3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land disturbing activity permit issued by the city or any state general permit issued by the division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such 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. Compliance with any state requirements are additional requirements of any LDA permit issued by the City pursuant to this Article.

(c) The City adopts by reference the rules and regulations, ordinances, and resolutions adopted by the board pursuant to the Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1, et seq., as amended, for the purpose of governing land-disturbing activities, which require, as a minimum, best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices 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, or this Article, as well as the following:

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



- (2) Cut-fill operations must be kept to a minimum;
- (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 practices shall be installed as soon as practicable;
- (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping 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 temporary bridges or culverts unless this requirement is waived by the City;
- (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection 74-43(b)(2) of this article;
- (15) State waters buffer required by O.C.G.A. § 12-7-6: Except as provided in paragraph (16) of this subsection, there is established a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the 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. § 12-2-8, or where a drainage structure or a roadway drainage



structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the 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. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

(b) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

- (i) Stream crossings for water lines; or
- (ii) Stream crossings for sewer lines; and

(16) Trout stream buffer required by O.C.G.A. § 12-7-6: There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, 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 following requirements shall apply to such buffer:

(a) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction-site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: Provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed;



(b) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

- (i) Stream crossings for water lines; or
- (ii) Stream crossings for sewer lines; and

(17) The project shall be posted with a sign approved by the commissioner and visible both to the street and site workers to notify the public of the Erosion and Sedimentation Control Ordinance and city's soil erosion hotline telephone number; and

(d) City of Atlanta riparian buffer: See article VII of chapter 74 entitled City of Atlanta Riparian Buffer Ordinance; and

(e) No land-disturbing activity shall commence prior to a pre-construction meeting between the City and the person or persons responsible for the installation and maintenance of the erosion and sedimentation control measures. Such meeting shall be held on the site where the land disturbing activity is to occur.

#### **Sec. 74-44. Validity and liability.**

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

(b) *Liability.*

(1) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the city or district for damage to any person or property.

(2) The fact that a land-disturbing activity for which an LDA permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the LDA permit.

(3) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved there under or pollute any waters of the state as defined thereby.

#### **Sec. 74-45. Administrative appeal and judicial review.**



Administrative remedy. In the event of any suspension, revocation or modification of any LDA permit, the permit holder shall receive written notice of such action and shall be given the opportunity to show cause why such suspension, revocation or modification should be withdrawn by the city. The city acting by and through its commissioner of ~~public-works~~ watershed management shall review the LDA permit application, the reasons submitted by the permit holder for determining such permit holder not be in violation, and shall issue a decision in writing, if such decision to suspend, revoke or modify the LDA permit is affirmed, setting forth the reasons for doing so.

(b) Judicial review. Any person aggrieved by such decision, after exhausting his or her administrative remedies, shall have the right to appeal to the Superior Court of the county wherein which such land disturbing occurred or is proposed to occur, for review of such written decision.

(c) The review process for new LDA permits, as well as that for suspension, modification, and revocation of LDA permits described in this section, will be conducted by the city, unless the district has not reached an agreement with the city which would authorize the city to conduct such review and approval of the plan without referring the application and plan to the district. In the absence of such authorization, review will be conducted by the district.

#### **Sec. 74-46. 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, established pursuant to O.C.G.A. 12-7-19, 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. 12-7-20.

#### **Sec. 74-47. LDA Permit Fees.**

In addition to any fee levied in this Code of Ordinances, there is assessed a fee of \$40 per disturbed acre payable to the City of Atlanta upon application to perform land disturbing activities. This fee is adopted as required by the State of Georgia pursuant to paragraph (5) subsection (a) or O.C.G.A. 12-5-23, and the Rules and Regulations for Water Quality Control of the Georgia Department of Natural Resources. This fee shall be collected as a separate and distinct charge for the purposes of administering the implementation of the State General Permit, which has been delegated to the City as a local issuing authority pursuant to O.C.G.A. 12-7-1 et. seq."

**SECTION 4:** That all Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

A true copy,

*Shonda Daughtry Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
APPROVED by the Mayor

AUG 16, 2004  
AUG 20, 2004



		8-16-4 Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 04-O-1375	41. 04-R-1317	59. 04-R-1336
2. 04-O-1206	42. 04-R-1400	60. 04-R-1337
3. 04-O-1209	43. 04-R-1320	61. 04-R-1338
4. 04-O-1354	44. 04-R-1321	62. 04-R-1340
5. 04-O-1357	45. 04-R-1322	63. 04-R-1341
6. 04-O-1366	46. 04-R-1323	64. 04-R-1342
7. 04-O-0437	47. 04-R-1324	65. 04-R-1343
8. 04-O-1350	48. 04-R-1325	66. 04-R-1344
9. 04-O-1351	49. 04-R-1326	67. 04-R-1345
10. 04-O-1368	50. 04-R-1327	68. 04-R-1346
11. 04-O-1247	51. 04-R-1328	69. 04-R-1347
12. 04-O-1221	52. 04-R-1329	70. 04-R-1348
13. 04-R-1372	53. 04-R-1330	
14. 04-R-1273	54. 04-R-1331	
15. 04-R-1388	55. 04-R-1332	
16. 04-R-1402	56. 04-R-1333	
17. 04-R-1403	57. 04-R-1334	
18. 04-R-1404	58. 04-R-1335	
19. 04-R-1304		
20. 04-R-1392		
21. 04-R-1393		
22. 04-R-1394		
23. 04-R-1395		
24. 04-R-1396		
25. 04-R-1397		
26. 04-R-1398		
27. 04-R-1355		
28. 04-R-1356		
29. 04-R-1373		
30. 04-R-1308		
31. 04-R-1309		
32. 04-R-1310		
33. 04-R-1311		
34. 04-R-1349		
35. 04-R-1367		
36. 04-R-1370		
37. 04-R-1312		
38. 04-R-1313		
39. 04-R-1315		
40. 04-R-1316		

04-D-1206

(Do Not Write Above This Line)

AN ORDINANCE BY  
CITY UTILITIES COMMITTEE

AN ORDINANCE TO AMEND  
THE CITY OF ATLANTA CODE  
OF ORDINANCES CHAPTER 74,  
ARTICLE II "LAND  
DISTURBING ACTIVITIES"  
(SECS. 74-36 THROUGH 74-75) SO  
AS TO ACHIEVE CONSISTENCY  
WITH THE EROSION AND  
SEDIMENTATION ACT OF 1975,  
AS AMENDED, AS FOUND IN  
CHAPTER 7 OF TITLE 12 OF  
THE OFFICIAL CODE OF  
GEORGIA; AND FOR OTHER  
PURPOSES.

ADOPTED BY

AUG 1 6 2004

SUBSTITUTE COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 7/26/04  
 Referred To: City Utilities  
 Date Referred \_\_\_\_\_  
 Referred To: \_\_\_\_\_  
 Date Referred \_\_\_\_\_  
 Referred To: \_\_\_\_\_

First Reading  
 Committee City Utilities  
 Date July 23, 2004  
 Chair [Signature]  
 Referred To [Signature]

Committee City Utilities  
 Date July 23, 2004  
 Chair \_\_\_\_\_

Action  
 Fav, Adv, Hold (see rev. side)  
 Other \_\_\_\_\_

Members  
[Signature]

7/27/04  
[Signature]

Refer To

Committee

Date

Chair

Action  
 Fav, Adv, Hold (see rev. side)  
 Other \_\_\_\_\_

Members

Refer To

Committee

Date

Chair

Action  
 Fav, Adv, Hold (see rev. side)  
 Other \_\_\_\_\_

Members

Refer To

Refer To

- FINAL COUNCIL ACTION
- 2nd
  - 1st & 2nd
  - 3rd
  - Consent
  - V Vote
  - RC Vote

CERTIFIED

CERTIFIED  
 AUG 1 6 2004  
[Signature]  
 COUNCIL PRESIDENT

CERTIFIED  
 AUG 1 6 2004  
[Signature]  
 MUNICIPAL CLERK

MAYOR'S ACTION

MAYOR

[Signature]  
 AUG 6 2004