

## Chapter 38 - ENVIRONMENT<sup>[1]</sup>

Footnotes:

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**Cross reference**— Buildings and building regulations, ch. 18; businesses, ch. 22; floods, ch. 46; health and sanitation, ch. 50; natural resources, ch. 62; solid waste, ch. 82; subdivisions, ch. 86; design standards for greenspace lands, § 86-141 et seq.; zoning, ch. 102.

### ARTICLE I. - IN GENERAL

Secs. 38-1—38-5. - Reserved.

### ARTICLE II. - SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL<sup>[2]</sup>

Footnotes:

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**Editor's note**— Ord. of 5-2-2017(1) repealed and replaced art. II, §§ 38-6—38-15, in its entirety. Former art. II pertained to "Soil Erosion and Sedimentation Control," and was derived from Res./Ord. of 2-2-10, § 1.

**Cross reference**— Erosion Control requirements for roads and bridges, § 74-34.

Sec. 38-6. - Title.

The ordinance from which this article is derived will be known as "Carroll County Soil Erosion, Sedimentation and Pollution Control Ordinance."

(Ord. of 5-2-2017(1))

Sec. 38-7. - Definitions.

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

*Best management practices (BMPs)*: These include 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 commission as of January 1 of the year in which the land-disturbing activity was permitted.

*Board*: The board of natural resources.

*Buffer*: 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.

*Certified personnel*: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

*Coastal marshlands*: Shall have the same meaning as in O.C.G.A. 12-5-282.

*Commission*: The Georgia Soil and Water Conservation Commission (GSWCC).

*CPESC:* Certified professional in erosion and sediment control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.

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

*Department:* The Georgia Department of Natural Resources (DNR).

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

*Director:* The director of the environmental protection division or an authorized representative.

*District:* The West Georgia Soil and Water Conservation District.

*Division:* The environmental protection division (EPD) of the department of natural resources.

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

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

*Erosion, sedimentation and pollution control plan:* A plan required by the Erosion and Sedimentation Act, O.C.G.A. Ch. 12-7, that includes, as a minimum protection at least as stringent as the state general permit, best management practices, and requirements in section IV.C. [38-9(c)].

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

*Final stabilization:* All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or landscaped according to the plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

*Finished grade:* The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

*Grading:* 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:* The original elevation of the ground surface prior to cutting or filling.

*Land-disturbing activity:* Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in section III, paragraph 5 [38-8(5)].

*Larger common plan of development or sale:* 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:* The governing authority of any county or municipality which is certified pursuant to O.C.G.A. 12-7-8(a).

*Metropolitan River Protection Act (MRPA):* 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:* The ground surface in its original state before any grading, excavation or filling.

*Nephelometric turbidity units (NTU):* Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.

*NOI:* A notice of intent form provided by EPD for coverage under the state general permit.

*NOT:* A notice of termination form provided by EPD to terminate coverage under the state general permit.

*Operator:* 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 an erosion, sedimentation and pollution control 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 erosion, sedimentation and pollution control plan or to comply with other permit conditions.

*Outfall:* The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

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

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

*Phase or phased:* Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

*Properly designed:* Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the manual as approved by the commission up until the date of NOI submittal.

*Roadway drainage structure:* 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 roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

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

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

*Soil and water conservation district approved plan:* An erosion, sedimentation and pollution control plan approved in writing by the West Georgia Soil and Water Conservation District.

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

*State general permit:* The National Pollution Discharge Elimination System (NPDES) 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. Section 1251, et seq., and O.C.G.A. 12-5-30(f).

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

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

*Trout streams:* All streams or portions of streams within the watershed as designated by the Wildlife Resources 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, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at [www.epd.georgia.gov](http://www.epd.georgia.gov). 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:* Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) 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:* Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

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

(Ord. of 5-2-2017(1))

Sec. 38-8. - Exemptions.

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

- (1) Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968."
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- (4) 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 subsection; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this subsection. 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-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 O.C.G.A. 12-7-6(b) and the buffer zones provided by this subsection shall be enforced by the local issuing authority;
- (5) 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;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section IV.C. [38-9(c)(15), (16)], no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
- (8) 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 subsection, "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 local issuing authority from regulating any such project which is not specifically exempted by subsections (1), (2), (3), (4), (5), (6), (7), (9) or (100);

- (9) 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 road and tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the department of transportation or the state road and 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 local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
- (10) 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 local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- (11) Any public water system reservoir.

(Ord. of 5-2-2017(1))

Sec. 38-9. - Minimum requirements for erosion, sedimentation and pollution control using best management practices.

- (a) General provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this article shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Section IV B. and C. [38-9(b), (c)]. 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, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this article and the NPDES general permit.
- (b) Minimum requirements/BMPs.
  - (1) Best management practices as set forth in Section IV B. and C. [38-9(b), (c)] 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) or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to O.C.G.A. 12-5-30(f), the "Georgia Water Quality Control Act." As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications

contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6(b).

- (2) A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. 12-5-30(f), 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 subsection 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 permit issued by a local issuing authority or of any state general permit issued by the division pursuant to Section 12-5-30(f), 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.
  - (5) The LIA may set more stringent buffer requirements than stated in subsection (c)(15), (16) and (17), in light of O.C.G.A. § 12-7-6(c).
- (c) The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent 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, as well as the following:
- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
  - (2) Cut-fill operations must be kept to a minimum;
  - (3) Development plans must conform to topography and soil type so as to create the lowest practicable 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 subsection, 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 bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in section IV.B.2. [38-9(b)(2)];
- (15) Except as provided in subsections (c)(16) and (17), 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, 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; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this provision, the term "ephemeral stream" means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, unless exempted as along an ephemeral stream, 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 subsection. The following requirements shall apply to any such buffer:
  - a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
  - 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:
    1. Stream crossings for water lines; or
    2. Stream crossings for sewer lines; and
- (16) 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; 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:
    1. Stream crossings for water lines; or
    2. Stream crossings for sewer lines; and
- (17) There is established a 25-foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this Code, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, 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, where an alteration within the buffer area has been authorized pursuant to O.C.G.A. 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this subsection maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

- 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; 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
  - b. The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
  - c. The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25-foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
  - d. Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the division at least 14 days prior to the commencement of land disturbing activities.
- (d) Nothing contained in O.C.G.A. 12-7-1 et seq. shall prevent any local issuing authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in section IV.B. and C. [38-9(b), (c)].
- (e) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

(Ord. of 5-2-2017(1))

Sec. 38-10. - Application/permit process.

- (a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this article, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.
- (b) *Application requirements.*

- (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the county without first obtaining a permit from the department of community development to perform such activity and providing a copy of notice of intent submitted to EPD if applicable.
  - (2) The application for a permit shall be submitted to the department of community development and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in section V.C. [subsection (c)]. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of section IV.B. and C. [38-9(b), (c)] will be met. Applications for a permit will not be accepted unless accompanied by six copies of the applicant's erosion, sedimentation and pollution 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 in accordance with EPD Rule 391-3-7-.10.
  - (3) In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. 12-5-23(a)(5), provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. 12-7-8(a) half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. 12-7-17(9), (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
  - (4) Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within 35 days of receipt. Failure of the 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 local issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by section IV.C. 15, 16 and 17 [38-9(c)(15), (16), (17)] have been obtained, all fees have been paid, and bonding, if required as per section V.B.6. [subsection (b)(6)], have been obtained. Such review will not be required if the local issuing authority and the district have entered into an agreement which allows the local issuing authority to conduct such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.
  - (5) If a permit applicant has had two or more violations of previous permits, this section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the local issuing authority may deny the permit application.
  - (6) The local issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the local 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. 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 local issuing authority with respect to alleged permit violations.
- (c) *Plan requirements.*
- (1) Plans must be prepared to meet the minimum requirements as contained in section IV.B. and C. [38-9(b), (c)], 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 article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

- (2) Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

(d) *Permits.*

- (1) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the local issuing authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- (2) No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the district and the local issuing authority has affirmatively determined that the plan is in compliance with this article, any variances required by section IV.C. 15, 16 and 17 [38-9(c)(15), (16), (17)] are obtained, bonding requirements, if necessary, as per section V.B.6. [subsection (b)(6)] are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the local issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this article, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
- (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (5) The permit may be suspended, revoked, or modified by the local issuing authority, 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 a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- (6) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7(f)(1).

(Ord. of 5-2-2017(1))

Sec. 38-11. - Inspection and enforcement.

- (a) The department of community development 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 primary, secondary and tertiary

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. Tertiary permittees shall be responsible for installation and maintenance where the tertiary 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 article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article.

- (b) The local issuing authority must amend its ordinances to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.
- (c) The department of community development 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.
- (d) No person shall refuse entry or access to any authorized representative or agent of the local issuing authority, 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.
- (e) The district or the commission or both shall semi-annually review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. 12-7-8(a). The district or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.
- (f) The division may periodically review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7(e), the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority.

(Ord. of 5-2-2017(1))

Sec. 38-12. - 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 article 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 local issuing authority.
- (b) *Stop-work orders.*

- (1) For the first and second violations of the provisions of this article, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the local 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 director or the local issuing authority shall issue an immediate stop-work order in lieu of a warning;
  - (2) For a third and each subsequent violation, the director or the local issuing authority shall issue an immediate stop-work order; and;
  - (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
  - (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his or her 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 or her 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 V.B.6. [38-10(b)(6)]. The local 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) Any person who violates any provisions of this article, or any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this article 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, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this article under county ordinances approved under this article shall be authorized to impose penalties for such violations 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.

(Ord. of 5-2-2017(1))

Sec. 38-13. - Education and certification.

- (a) 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. 12-7-20.

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

(Ord. of 5-2-2017(1))

Sec. 38-14. - Administrative appeal judicial review.

- (a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the local issuing authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution 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 magistrate court within 20 days after receipt by the local issuing authority of written notice of appeal.
- (b) *Judicial review.* Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the superior court of the county.

(Ord. of 5-2-2017(1))

Sec. 38-15. - Effectivity, validity and liability.

- (a) *Effectivity.* The ordinance from which this article is derived shall become effective on the 2<sup>nd</sup> day of May, 2017.
- (b) *Validity.* If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this article.
- (c) *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 local issuing authority or district for damage to any person or property.
  - (2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

- (3) No provision of this article shall permit 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 thereunder or pollute any waters of the state as defined thereby.

(Ord. of 5-2-2017(1))

Secs. 38-16—38-45. - Reserved.

### ARTICLE III. - TIMBER AND PULPWOOD HARVESTING<sup>[3]</sup>

Footnotes:

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**Editor's note**— An ordinance of December 3, 2002, amended the Code by, in effect, repealing former art. III, §§ 38-46—38-48, and adding a new art. IV to read as herein set out. Former art. III pertained to similar subject matter, and carried no history notes.

**Cross reference**— Timber tax, § 90-1.

**State Law reference**— Assessment of standing timber, O.C.G.A. § 48-5-7.5.

Sec. 38-46. - Notice of timber harvesting operations required.

All persons or firms harvesting standing timber in any unincorporated area of the county for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state shall provide notice of such harvesting operations to the county prior to entering onto the property if possible, but in no event later than 24 hours after entering onto the property. Further, such persons shall give notice of cessation of cutting within 24 hours after the job is completed.

(Ord. of 12-3-02, § 2; Ord. of 8-11-15(1))

Sec. 38-47. - Content of such notice and related procedures.

- (a) Any person or firm harvesting timber for each separate tract to be harvested, shall be in such form as prescribed by the standard form promulgated by the director of the state forestry commission.
- (b) Notice may be submitted in person, by transmission via electronic mail, or such other means as approved by the governing authority, or by mail.

(Ord. of 12-3-02, § 2; Ord. of 8-11-15(1))

Sec. 38-48. - Bonds or letters of credit required.

- (a) All persons or firms subject providing notice shall deliver a bond or letter of credit as provided by this section. Notice shall not be or remain effective for such harvesting operations unless and until the person or firm providing such notice has delivered to the director of the department of community development (hereinafter referred to as "director"), a valid surety bond for the year in which the harvesting operations are conducted, executed by a surety corporation authorized to transact business in this state, protecting the county, against any damage caused by such person or firm in an amount specified by the county in the amount of \$5,000.00 upon a form approved by the county attorney. In the alternative, the person or firm harvesting timber may submit a valid irrevocable letter



of credit for one year issued by a bank or savings and loan association, as defined in O.C.G.A. § 7-1-4, in the amount of and in lieu of such bond. For purposes of this section, any such surety bond or letter of credit shall be valid only for the calendar year in which delivered. No more than one bond is required from each person or firm harvesting timber regardless of the number of tracts harvested in unincorporated Carroll County by each such person or firm so long as the bond remains in effect. Otherwise, a valid replacement bond must be obtained and delivered to the county or its designated agent no later than the close of business on the fifth business day following the day that the county filed a claim to recover damages against the then-existing bond. Upon filing such claim, the county shall immediately provide notice thereof, including the date such claim was filed, to the person or firm causing the damage. Such notice may be given in person, by transmission of an electronic record via telefacsimile, or by e-mail.

- (b) Such surety bond or irrevocable letter of credit shall protect the county against damage, including but not to be limited by, the costs of removal of any obstruction or encroachment upon a public road, the costs of repairs to the public road directly incurred by the county, including any costs associated with traffic management such as flagging, signing, or provision of detours that are directly caused by the obstruction, encroachment, or injury to the county road system.
- (c) Notice shall be effective for such harvesting operation on such tract within the unincorporated area of the county upon receipt of the same by the director and, if applicable, compliance with the requirement of subsection (a), and until such time as the person or firm giving such notice has completed the harvesting operation for such tract; provided, however, that any subsequent change in the facts required to be provided for purposes of notice shall be reported to the director within three business days after such change.
- (d) Notice requirements shall be applicable to any such timber harvested on or after the effective date of this article.

(Ord. of 12-3-02, § 2; Ord. of 8-11-15(1))

Sec. 38-49. - Penalties for violations.

- (a) It shall be unlawful for any person to obstruct, encroach upon, solicit the sale of any merchandise on, or injure materially any part of any public road. For purposes of this section, the term "obstruct" shall include without limitation the causing of any buildup of rock, gravel, mud, dirt, chemicals, or other materials by continued ingress or egress of vehicles or of any natural waters dammed or redirected by diversion to an extent which presents a hazard to the traveling public.
- (b) Any person who unlawfully obstructs, encroaches upon, or injures said public road shall be responsible for reimbursing the county which is part of a county road system for the costs of removal of any obstruction or encroachment and the costs of repairs to the public road incurred by the county, including any costs associated with traffic management; provided, however, that such costs shall be limited to those costs which are directly incurred from such damages. Costs incurred for traffic management may include, but not be limited to, costs incurred for flagging, signing, or provision of detours, provided that these activities are directly caused by the obstruction, encroachment, or injury to the county road system.
- (c) Violation of the notice requirements of this article shall be punishable by a fine not exceeding \$500.00.

(Ord. of 12-3-02, § 2)

Secs. 38-50—38-60. - Reserved.

ARTICLE IV. - POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT IN MS4 PERMITTED AREAS

Sec. 38-61. - Introduction.

It is hereby determined that:

- (1) Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition;
- (2) Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters;
- (3) The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;
- (4) These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural facilities as well as nonstructural measures, such as the conservation of open space and greenspace areas. The preservation and protection of natural area, groundwater recharge area and greenspace for stormwater management benefits is encouraged through the use of incentives or "credits";
- (5) Localities in the state are required to comply with a number of both state and federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and nonpoint source pollution.

Therefore, the county has established this set of stormwater management policies to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. Pursuant to GaNOI GAG6100000, it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.

(Ord. of 1-6-15)

Sec. 38-62. - General provisions.

- (a) *Purpose and intent.* The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. This article seeks to meet that purpose through the following objectives:
  - (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
  - (2) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
  - (3) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

- (4) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
  - (5) Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable. Coordinate site design plans, which include greenspace, with the county's greenspace protection plan;
  - (6) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and,
  - (7) Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.
- (b) *Applicability.*
- (1) This article shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to subsection (2) below throughout the MS4 permitted area of the county. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:
    - a. New development that involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of one acre or more;
    - b. Redevelopment that includes the creation, addition or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of one acre or more;
    - c. Any new development or redevelopment, regardless of size, that is defined by corridor development overlay; or,
    - d. Land development activities that are smaller than the minimum applicability criteria set forth in items a and b above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.
  - (2) The following activities are exempt from this article:
    - a. Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;
    - b. Additions or modifications to existing single-family or duplex residential structures;
    - c. Agricultural or silvicultural land management activities within areas zoned for these activities; and,
    - d. Repairs to any stormwater management facility or practice deemed necessary by the county.
- (c) *Designation of ordinance administrator.* The county department of public works and/or the county department of community development is hereby appointed to administer and implement the provisions of this article.
- (d) *Compatibility with other regulations.* This article is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

- (e) *Severability*. If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article.
- (f) *Stormwater design manual*. The county will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the Georgia Stormwater Management Manual and any relevant local addenda for the proper implementation of the requirements of this article. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

(Ord. of 1-6-15)

Sec. 38-63. - Definitions.

*Applicant* means a person submitting a post-development stormwater management application and plan for approval.

*Aquifer* means any stream (rock layer) or zone of rock beneath the surface of the earth capable of containing or producing water from a well. (Note: This is the same definition used in the Groundwater Use Act).

*Channel* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*Conservation easement* means an agreement between a land owner and the county or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

*Detention* means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

*Detention facility* means a detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

*Developer* means a person who undertakes land development activities.

*Development* means a land development or land development project.

*Drainage easement* means an easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.

*Environmental health manager*. This position refers to the current department head holding the title "environmental health county manager."

*Erosion sedimentation and pollution control plan* means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.

*Extended detention* means the detention of stormwater runoff for an extended period, typically 24 hours or greater.

*Extreme flood protection* means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

*Flooding* means a volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.

*Greenspace* or *open space* means permanently protected areas of the site that are preserved in a natural state.

*Groundwater recharge area.* Synonymous with "aquifer recharge area." An area of the earth's surface where water infiltrates the ground, thereby replenishing the groundwater supplies within an aquifer.

*Hotspot* means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

*Hydrologic soil group (HSG)* means a natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

*Impervious cover* means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.

*Industrial stormwater permit* means a National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

*Infiltration* means the process of percolating stormwater runoff into the subsoil.

*Jurisdictional wetland* means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

*Land-disturbing activity* means any activity that 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 exempt practices as described in subsection 38-62(b)(2).

*Land development* means any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

*Land development activities* means those actions or activities which comprise, facilitate or result in land development.

*Land development project* means a discrete land development undertaking.

*Inspection and maintenance agreement* means a written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

*New development* means a land development activity on a previously undeveloped site.

*Nonpoint source pollution* means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

*Nonstructural stormwater management practice* or *nonstructural practice* means any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

*Off-site facility* means a stormwater management facility located outside the boundaries of the site.

*On-site facility* means a stormwater management facility located within the boundaries of the site.

*Outfall* means the location where stormwater in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

*Overbank flood protection* means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the two-year through 25-year frequency storm events.

*Owner* means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

*Permit* means the permit issued by the county to the applicant which is required for undertaking any land development activity.

*Person* means, except to the extent exempted from this article, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.

*Pollution susceptibility* means the relative vulnerability of groundwater to pollution from chemical spills, leaching of pollutants from dump sites, animal waste from agricultural operations or pollution generated by other human activities.

*Pollution susceptibility map(s)* means maps prepared by the state department of natural resources (DNR) that show the relative susceptibility of groundwater to pollution. Pollution susceptibility maps categorize the land areas of the state into areas of high, medium and low groundwater pollution potential.

*Post-development* refers to the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

*Pre-development* refers to the time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

*Project* means a land development project.

*Redevelopment* means a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

*Regional stormwater management facility* or *regional facility* means stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.

*Runoff* means stormwater runoff.

*Significant groundwater recharge areas* are areas mapped by DNR in Hydrologic Atlas 18 (1989 Edition). Mapping of recharge areas is based on outcrop area, lithology (chemical nature and form of the rock), soil type and thickness, slope, density of lithologic contacts, geologic structure, presence of "karst" topography (sinkholes, caves, and fissures associated with limestone and other carbonate rocks), and potentiometric surfaces.

*Site* means the parcel of land being developed, or the portion thereof on which the land development project is located.

*Stormwater better site design* means nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management.

Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

*Stormwater management* means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

*Stormwater management facility* means any infrastructure that controls or conveys stormwater runoff.

*Stormwater management measure* means any stormwater management facility or nonstructural stormwater practice.

*Stormwater management plan* means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this article.

*Stormwater management system* means the entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

*Stormwater retrofit* means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

*Stormwater runoff* means the flow of surface water resulting from precipitation.

*Structural stormwater control* means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

*Subdivision* means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

(Ord. of 1-6-15)

Sec. 38-64. - Groundwater recharge area protection.

- (a) *Introduction.* In order to provide for the health, safety and welfare of the public and a healthy economic climate within the county and surrounding communities, it is essential that the quality of the county's water resources be ensured for public use. For this reason, it is necessary to protect the subsurface water resources of the county.
- (b) *Establishment of a groundwater recharge area district.* A groundwater recharge area district is hereby established that shall correspond to all lands within the jurisdiction of the county that are mapped as significant groundwater recharge areas by the state department of natural resources in Hydrologic Atlas 18, 1989 Edition.
- (c) *Determination of pollution susceptibility.* Groundwater recharge areas in the county are located in low pollution susceptibility areas, based on the Georgia Pollution Susceptibility Map prepared by the state department of natural resources in Hydrologic Atlas 20, 1992 Edition.
- (d) *Submittal requirements.* With the exception of activities identified in (3) below that are exempt from this article, any land-disturbing activity in a groundwater recharge area district shall identify the groundwater recharge area district on any submittals to the county including, but not limited to a site plan, preliminary plat, or a final plat, depending on the nature of the development.

The following information, in addition to any other requirements for site plans, preliminary plats, or final plats per the county development regulations, is required for all development within groundwater recharge areas:

- (1) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
  - (2) All development activities or site work conducted after site plan, preliminary plat, or final plat approval shall conform to specifications of said site plan, preliminary plat, or final plat. Significant changes to the site plan, preliminary plat, or final plat that alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in an increase in the amount of excavation, fill or removal of vegetation during construction or otherwise result in an alteration of the overall appearance of the development as proposed, can be amended only with the approval by Carroll County.
  - (3) The following activities are exempt from the requirements of this article:
    - a. Repairs to a facility that is part of a previously approved and permitted development.
    - b. Construction of minor structures, such as sheds or additions to single-family residences.
- (e) *Groundwater protection standards.*
- (1) New waste disposal facilities must have synthetic lines and leachate collection systems.
  - (2) A SCS approved liner must be provided for new agricultural waste impoundments exceeding 50 acre-feet. As a minimum, the liner shall be constructed of compacted clay having a thickness of one foot and a vertical hydraulic conductivity of less than  $5 \times 10^{-7}$  cm/sec or other criteria established by the natural resources conservation service.
  - (3) No land disposal of hazardous waste shall be permitted within any significant groundwater recharge area.
  - (4) For all significant groundwater recharge areas, the handling, storage and disposal of hazardous materials shall take place on an impermeable surface having spill and leak protection approved by the state department of natural resources, environmental protection division (EPD). New facilities that handle hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in the amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and local fire code requirements.
  - (5) For all significant groundwater recharge areas, new above ground chemical or petroleum storage tanks larger than 660 gallons must have secondary containment of 110 percent of tank volume or 110 percent of the largest tanks in a cluster of tanks.
  - (6) No construction may proceed on a building or mobile home to be served by a septic tank unless the county health department first approves the proposed septic tank installations as meeting the requirements of the Georgia Department of Human Resources Manual for On-Site Sewage Management Systems (hereinafter referred to as DHR manual) and this article.
  - (7) Minimum lot size for new homes served by an individual septic tank/drain field system will be based on table MT-1 of the DHR manual and the criteria for protection of groundwater recharge areas, A through D. Minimum lot or space size for mobile homes served by an individual septic tank/drain field system will be based on table MT-2 of the DHR manual and the criteria for protection of groundwater recharge areas, A through D. Section M, lot sizing of the DHR manual states in the criteria for protection of groundwater area, that if a local government requires a larger lot size than that required by (2A) of the DHR manual for homes or (2B) of the DHR manual for mobile homes, the larger lot size shall be used. Section M, lot sizing of the DHR manual is included as an addendum to this article.



(Ord. of 1-6-15)

Sec. 38-65. - Permit procedures and requirements.

- (a) *Permit application requirements.* No owner or developer shall perform any land development activities without first meeting the requirements of this article prior to commencing the proposed activity.

Unless specifically exempted by this article, any owner or developer proposing a land development activity shall submit to the county a permit application on a form provided by the county for that purpose.

Unless otherwise exempted by this article, a permit application shall be accompanied by the following items in order to be considered:

- (1) Stormwater concept plan and consultation meeting certification in accordance with subsection 38-64(b);
  - (2) Stormwater management plan in accordance with subsection 38-64(c);
  - (3) Inspection and maintenance agreement in accordance with subsection 38-64(d), if applicable;
  - (4) Performance bond in accordance with subsection 38-64(e), if applicable; and,
  - (5) Permit application and plan review fees in accordance with section 38-64(f).
- (b) *Stormwater concept plan and consultation meeting.* Before any stormwater management permit application is submitted, it is recommended that the land owner or developer shall meet with the county community development for a preliminary construction meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This preliminary construction meeting shall take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-development stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential ideas for stormwater management designs before the formal site design engineering is commenced.

To accomplish this goal the following information shall be included in the concept plan which shall be submitted in advance of the meeting:

- (1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
- (2) *Natural resources inventory.* A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- (3) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

The county's subdivision regulations, watershed overlay, greenspace overlay (if applicable), and other applicable ordinances shall apply in addition to this article.

- (c) *Stormwater management plan requirements.* The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this article, including the performance criteria set forth in section 38-66.

This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a professional engineer (PE) licensed in the State of Georgia, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the stormwater design manual.

The stormwater management plan must ensure that the requirements and criteria in this article are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the stormwater management site plan checklist found in the stormwater design manual. This includes:

- (1) Common address and legal description of site;
- (2) Vicinity map;
- (3) Existing conditions hydrologic analysis. In addition to the requirements of this article, the requirements set forth in chapter 86, article X of the Carroll County Code of Ordinances must be met.

The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each subbasin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, predevelopment conditions shall be modeled using the established guidelines for the portion of the site undergoing land development activities.

- (4) Post-development hydrologic analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each subbasin affected by the project; calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in section 38-66; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50 percent of the site area for the entire site, then the performance criteria in section 38-66 must be met for the stormwater runoff from the entire site.
- (5) *Stormwater management system.* The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater

controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in section 38-66; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.

- (6) Post-development downstream analysis. A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is ten percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the stormwater design manual.
- (7) Construction-phase erosion sedimentation and pollution control plan. An erosion sedimentation and pollution control plan in accordance with Code chapter 38, article II and NPDES permit for construction activities. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.
- (8) *Landscaping and green space plan.* Applicants shall incorporate the county's corridor development plan, art. IV and county zoning 5.17. A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (9) *Operations and maintenance plan.* A operations and maintenance plan setting forth a detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved must be submitted. These plans will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (10) *Maintenance access easements.* The applicant must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that

such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property.

- (11) *Inspection and maintenance agreements.* Unless an on-site stormwater management facility or practice is dedicated to and accepted by the county as provided in subsection (d) below, the applicant must execute an easement and an inspection and maintenance agreement, exhibit A attached to an ordinance of January 6, 2015, binding on all subsequent owners of land served by an on-site stormwater management facility or practice in accordance subsection (d).
  - (12) *Evidence of acquisition of applicable local and non-local permits.* The applicant shall certify and provide documentation to the county that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.
- (d) *Stormwater management inspection, maintenance agreements or maintenance in-lieu of agreement.* Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder and for which the county requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the county, execute an inspection and maintenance agreement, exhibit A attached to an ordinance of January 6, 2015, that shall be binding on all subsequent owners of the site and shall run with the land.

The inspection and maintenance agreement, if applicable, must be approved by the county prior to plan approval, and recorded in the deed records upon final plat approval.

The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance. Responsibility for the operation and maintenance of the stormwater management facility or practice, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof.

In addition to enforcing the terms of the inspection and maintenance agreement, the county may also enforce all of the provisions for ongoing inspection and maintenance in section 38-67 of this article.

The county, in lieu of an inspection and maintenance agreement, may accept dedication of existing or future stormwater management facilities which services county right-of-way to include storm sewer piping to stormwater detention facility for maintenance, provided such facility meets all the requirements of this and other ordinances deemed necessary to include adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(e) *Application procedure.*

- (1) Applications for land development permits shall be filed with the county.
- (2) Permit applications shall include the items set forth in subsection 38-64(a) above (two copies of the stormwater management plan and the inspection maintenance agreement, if applicable, shall be included).
- (3) The county shall inform the applicant whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved.
- (4) If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, the county shall notify the applicant of such fact in writing. The

applicant may then revise any item not meeting the requirements hereof and resubmit the same, in which event subsection (3) above and this subparagraph shall apply to such resubmittal.

- (5) Upon a finding by the county that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this article, the county may issue a permit for the land development project, provided all other legal requirements for the issuance of such permit have been met.
- (6) Notwithstanding the issuance of the permit, in conducting the land development project, the applicant or other responsible person shall be subject to the following requirements:
  - a. The applicant shall comply with all applicable requirements of the approved plan and this article and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
  - b. The land development project shall be conducted only within the area specified in the approved plan;
  - c. The county shall be allowed to conduct periodic inspections of the project;
  - d. No changes may be made to an approved plan without review and written approval by the county; and,
  - e. Upon completion of the project, the applicant or other responsible person shall submit the engineer's report and certificate and as-built plans required by section 38-66(2).
- (f) *Modifications for off-site facilities.* The stormwater management plan for each land development project shall provide for stormwater management measures located on the site of the project, unless provisions are made to manage stormwater by an off-site or regional facility. The off-site or regional facility must be located on property legally dedicated for the purpose, must be designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by on-site practices and there must be a legally-obligated entity responsible for long-term operation and maintenance of the off-site or regional stormwater facility. In addition, on-site measures shall be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the off-site facility.

A stormwater management plan must be submitted to the county which shows the adequacy of the off-site or regional facility.

To be eligible for a modification, the applicant must demonstrate to the satisfaction of the county that the use of an off-site or regional facility will not result in the following impacts to upstream or downstream areas:

- (1) Increased threat of flood damage to public health, life, and property;
- (2) Deterioration of existing culverts, bridges, dams, and other structures;
- (3) Accelerated streambank or streambed erosion or siltation;
- (4) Degradation of in-stream biological functions or habitat; or
- (5) Water quality impairment in violation of state water quality standards, and/or violation of any state or federal regulations.

(Ord. of 1-6-15)

Sec. 38-66. - Post-development stormwater management performance criteria.

In addition to the requirements set forth in chapter 86, art. X (where applicable), the following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this article:

- (1) *Water quality.* All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:
  - a. It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;
  - b. Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and,
  - c. Runoff from hotspot land uses and activities identified by the county are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.
- (2) *Stream channel protection.* Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:
  - a. Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
  - b. 24-hour extended detention storage of the one-year, 24-hour return frequency storm event;
  - c. Erosion prevention measures such as energy dissipation and velocity control.
- (3) *Overbank flooding protection.* Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the one-year, 24-hour storm under subsection 38-65(b) is exempted, then peak discharge rate attenuation of the two-year through the 25-year return frequency storm event must be provided.
- (4) *Extreme flooding protection.* Extreme flood and public safety protection shall be provided by controlling and safely conveying the 100-year, 24-hour return frequency storm event such that flooding is not exacerbated.
- (5) *Structural stormwater controls.* All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the county before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the county may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.

Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

- (6) *Stormwater credits for nonstructural measures.* The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under subsection 38-65(a). The applicant may, if approved by the county, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the

conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

- (7) *Drainage system guidelines.* Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:
  - a. Methods to calculate stormwater flows shall be in accordance with the stormwater design manual;
  - b. All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the stormwater design manual; and,
  - c. Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the stormwater design manual.
- (8) *Dam design guidelines.* Any land-disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

(Ord. of 1-6-15)

Sec. 38-67. - Construction inspections of post-development stormwater management system.

- (a) *Inspections to ensure plan compliance during construction.* Periodic inspections of the stormwater management system construction shall be conducted by the staff of the county or conducted and certified by the applicant's design professional of the plan approved by the county. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.

All inspections shall be documented with written reports that contain the following information:

- (1) The date and location of the inspection;
- (2) Whether construction is in compliance with the approved stormwater management plan;
- (3) Variations from the approved construction specifications; and,
- (4) Any other variations or violations of the conditions of the approved stormwater management plan.

If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.

- (b) *Final inspection and as-built plans.* Upon completion of a project, and before a certificate of occupancy shall be granted or final plat approval, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual "as-built" plans for any stormwater management facilities or practices including all infrastructure dedicated to the county per Carroll Code section 86-26 after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a professional engineer. A final inspection by the county is required before the release of any performance securities can occur.

(Ord. of 1-6-15)

Sec. 38-68. - Ongoing inspection and maintenance of stormwater facilities and practices.

- (a) *Long-term maintenance inspection of stormwater facilities and practices.* Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this article.

A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the county shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the County may correct the violation as provided in subsection (b).

Inspection programs by the county may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

- (b) *Right-of-entry for inspection.* The terms of the inspection and maintenance agreement shall provide for the county to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this article is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this article.
- (c) *Records of maintenance activities.* Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the county. If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the county, after 30 days' written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The county may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

(Ord. of 1-6-15)

Sec. 38-69. - Violations, enforcement and penalties.

Any action or inaction which violates the provisions of this article or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

- (1) *Notice of violation.* If the county determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this article, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this article without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.



The notice of violation shall contain:

- a. The name and address of the owner or the applicant or the responsible person;
  - b. The address or other description of the site upon which the violation is occurring;
  - c. A statement specifying the nature of the violation;
  - d. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this article and the date for the completion of such remedial action;
  - e. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
  - f. A statement that the determination of violation may be appealed to the county by filing a written notice of appeal within 30 days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient).
- (2) *Penalties.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the county shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the county may take any one or more of the following actions or impose any one or more of the following penalties.
- a. *Stop work order.* The county may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
  - b. *Withhold certificate of occupancy.* The county may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
  - c. *Suspension, revocation or modification of permit.* The county may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the county may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
  - d. *Civil penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the county shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the county has taken one or more of the actions described above, the county may impose a penalty not to exceed \$1,000.00 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

- e. *Criminal penalties.* For intentional and flagrant violations of this article, the county may issue a citation to the applicant or other responsible person, requiring such person to appear in magistrate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. of 1-6-15)