

AN ORDINANCE

AN ORDINANCE AMENDING THE CODE OF GRIFFIN, GEORGIA AT CHAPTER 42, ENVIRONMENT, ARTICLE III, SOIL EROSION AND SEDIMENTATION CONTROL, BY DELETING THE PRESENT ARTICLE IN ITS ENTIRETY AND ENACTING IN LIEU THEREOF A REVISED ARTICLE INCORPORATING THEREIN NEW PROVISIONS OF LAW, CODIFIED AT O.C.G.A. TITLE 12, CHAPTER 7, FROM THE 2016 GENERAL SESSION OF THE GEORGIA GENERAL ASSEMBLY; REPEALING CONFLICTING ORDINANCES AND PROVISIONS OF SAID CODE IN CONFLICT; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; TO RESTATE AND REAFFIRM THE CODE OF GRIFFIN, GEORGIA, AS MODIFIED HEREBY; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:

Section 1. The Code of Griffin, Georgia is hereby amended at Chapter 42, ENVIRONMENT, Article III, SOIL EROSION AND SEDIMENTATION CONTROL, by deleting the present article in its entirety and adopting in lieu thereof the following:

“ARTICLE III

SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

Sec. 42-61. Title.

This article will be known as the City of Griffin Soil Erosion and Sediment Control Ordinance.

Sec. 42-62. Definitions.

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

Best Management Practices (BMP's) means 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 means the Board of Natural Resources.

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

Certified Personnel means a person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Coastal Marshlands means the same as defined in O.C.G.A. §12-5-282.

Commission means the Georgia Soil and Water Conservation Commission (GSWCC).

CPESC means a Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.

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

Department means the Georgia Department of Natural Resources ("DNR").

Design Professional means 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 current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.

Director means the Director of the Environmental Protection Division or an authorized representative.

District means the Towaliga Soil and Water Conservation District.

Division means the Environmental Protection Division of the Department of Natural Resources (EPD).

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

Ephemeral stream means a stream that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has its 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.

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

Erosion, Sediment and Pollution Control Plan means a plan required by the Erosion and Sedimentation Act, O.C.G.A. Title 12, Chapter 7, that includes, as a minimum, protections at least as stringent as the State General Permit, best management practices, and requirements in Sec. 42-63(c) of this Article.

Fill means 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 means 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 equivalent permanent stabilization measures (such as use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of planted trees, shrubs, perennial vines; or a crop of perennial vegetation appropriate for the region. Final stabilization applies to each phase of construction.

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

Grading means altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

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

Land-disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state water 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 paragraph (5) of O.C.G.A. 12-7-17.

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

Local Issuing Authority means the City of Griffin, Georgia, which is certified pursuant to subsection (a) of O.C.G.A. 12-7-8.

Maintenance means 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 time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design.

Major Buffer Impact means any impact that does not meet the definition of a “minor buffer impact.”

Minor Buffer Impact means an impact that upon completion yields no additional above ground, man-made materials or structures within the buffer, maintains the original grade, and results in less than 5,000 square feet of buffer impacts per stream crossing and/or less than 5,000 square feet of buffer impacts per individual area of encroachment for each project.

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

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

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

Notice of Intent (NOI) means a notice of intent form provided by EPD for coverage under the State General Permit.

Notice of Termination (NOT) means a notice of termination form provided by EPD to terminate coverage under the State General Permit.

Operator means the party or parties that have:

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

Outfall means 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 means the authorization necessary to conduct a land-disturbing activity under the provisions of this Article.

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

Phase or Phased means subparts or segments of construction projects where the subpart or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

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

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

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

Soil and water conservation district approved plan means an erosion and sediment control plan approved in writing by Towaliga Soil and Water Conservation District.

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

State General Permit means the National Pollution Discharge Elimination System general permit or permits for storm-water runoff from construction activities as is now in

effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of O.C.G.A. 12-5-30.

State waters includes 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.

Stream bank means the confining cut of a stream channel and is usually identified as the point where the normal stream flow has wrested the vegetation. For nontrout waters, the normal stream flow is any stream flow that consists solely of base flow or consists of both base flow and direct runoff during any period of the year. Base flow results from groundwater that enters the stream channel through the soil. This includes spring flows into streams. Direct runoff is the water entering stream channels promptly after rainfalls or snow melts.

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

Trout streams means 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, et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Vegetative measures mean 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 means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continually 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.

Water quality means the chemical, physical, and biological characteristics of the State's water resources.

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

Sec. 42-63. Minimum requirements for erosion, sedimentation and pollution control.

- (a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of this Article and the State General Permit are not met. Therefore, plans for those land-disturbing activities ***which are not exempted by this Article under section 42-64*** shall be prepared and approved before the land-disturbing activity takes place. The minimum requirements of section 42-65(c) and the State General Permit shall be incorporated into the erosion, sedimentation and pollution control plan. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of subsections (b) and (c) of this section. 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 State General Permit.

(b) *Minimum Requirements/Best management practices:*

- (1) Best management practices shall be required for all projects involving land-disturbing activities, including those exempt from permitting and/or requiring an approved plan under section 42-64. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or Local Issuing Authority or to any other allegation of noncompliance with this Article, paragraph (2) of O.C.G.A. 12-7-5, or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of O.C.G.A. 12-5-30. 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."

(2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and/or maintained shall constitute a separate violation of this Article, any land-disturbing permit issued by the Local Issuing Authority, or any State General Permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout streams. 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 (5) acres.

(3) Failure to properly design, install, and/or maintain best management practices shall constitute a violation of this Article, any land-disturbing permit issued by the Local Issuing Authority or any State General Permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30 for each day on which such failure occurs; provided, however, the fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall not, without corroborating evidence, constitute proof of or create a presumption of a violation of the standards provided for in this Article or the terms of a permit issued hereunder. For purposes of this paragraph, maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to its 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.

(4) The Director or Local Issuing Authority may require reasonable and prudent monitoring and reporting of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

(5) Neither the approval of any permit under the provisions of this Article nor failure of the Local Issuing Authority, Division, or Director to enforce compliance with the provisions of this Article or any permit issued hereunder shall relieve any person from legal liability for damages to others caused by such person's land-disturbing activity, nor create any right of action against or impose any liability upon the Local Issuing Authority, Division or Director for damages to any persons or property.

(6) No provision of this Article shall authorize any person to violate Article 2 of Chapter 5 of O.C.G.A. Chapter 12, the "Georgia Water Quality Control Act", or to pollute any waters of the State of Georgia as defined herein.

(c) *Minimum requirements.* For the purpose of regulating land-disturbing activities, every person shall be required, at a minimum, to follow 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," 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 practical erosion potential.
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
- (6) Disturbed soil shall be stabilized as quickly as practicable.
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
- (8) Permanent vegetation and structural erosion control measures shall be installed as soon as practicable.
- (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of this section.
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.
- (11) Cuts and fills may not endanger adjoining property.
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.
- (14) Erosion, sedimentation and pollution control plans shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on site and preclude sedimentation of adjacent properties and waters beyond the levels specified in section 42-63(b).

(d) *Establishment of buffer; exceptions; variance of buffer width; land-disturbing activities within buffers.* Buffers on state waters are valuable in protecting and conserving land and water resources; therefore, minimum mandatory buffers should be established and protected. In accordance with O.C.G.A. § 12-7-6(b)(15), there is hereby established a minimum 25-foot natural, undisturbed buffer along the banks of all state waters within the jurisdiction of the City of Griffin, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action; provided, however, that where it is not readily evident that vegetation has been wrested from the stream bank, the buffer shall be measured horizontally from the stream bank as

defined in this Article. Excepted from this minimum buffer requirement are state waters meeting those conditions: (i) as provided by paragraphs 16 and 17 of subsection (b) of O.C.G.A. § 23-7-6; (ii) where the Director determines to allow a variance that is at least as protective of natural resources and the environment in accordance with Rules and Regulations of the Department §391-3-7-.05; (iii) where otherwise allowed by the Director pursuant to O.C.G.A. § 12-2-8; (iv) where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated into the project plans and specifications and are implemented; (v) along any ephemeral stream, or (vi) where shoreline or streambank stabilization structures are installed to prevent erosion under a plan or pursuant to a permit issued by the City. Unless exempted as along an ephemeral stream, following completion of construction and stabilization of the land-disturbing-activity site, a buffer of at least twenty-five (25) feet shall remain in place, subject to the uses and limitations imposed thereon by law, unless the Director issues a variance, pursuant to O.C.G.A. §12-7-6(b)(15)(A)(ii). ***The City as local issuing authority has no power to waive the requirements of this section or issue any variance therefrom.***

The following requirements shall apply to any such buffer:

(1) No land-disturbing activities shall be conducted within any buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed, except as otherwise provided by this section. Once the final stabilization of the site is achieved, a property owner may apply to the City for a permit to thin or trim vegetation within the buffer as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural tree canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, 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

(2) Permitted land uses or activities within the buffer are as follows:

- (a) A project involving the construction or repair of an existing infrastructure project or a structure that, by its nature, must be located within the buffer. Such structures include, but are not limited to, dams, public water supply intake structures, detention/retention ponds, wastewater discharges, docks including access ways, boat launches including access ways, and stabilization of areas of public access to water;
- (b) A project that will result in the restoration of or an enhancement to improve water quality and/or aquatic habitat;
- (c) Buffer intrusion necessary to provide reasonable access to a property or properties;

- (d) Buffer intrusion for water and sewer lines that cannot reasonably be placed outside the buffer, under generally accepted engineering practices, provided that stream crossings and vegetative disturbance are minimized;
- (e) Crossings for utility lines, including but not limited to gas, liquid, power, telephone, and other pipelines, provided that the number of crossings and the amount of vegetative disturbance are minimized;
- (f) Recreational foot trails and viewing areas, provided that impacts to the buffer are minimal;
- (g) Projects where the proposed land-disturbing activity within the buffer has been permitted by the U.S. Army Corps of Engineer under Sec. 404 of the Federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. §1344, and the Corps of Engineers has approved a mitigation plan to be implemented as a condition of such permit; or
- (h) Projects and activities for which a plan has been approved by the Division that shows that, even with the proposed land-disturbing activity within the buffer, the completed project will result in maintained or improved water quality downstream of the project;

(3) Where the use or land-disturbing activity within the buffer has been otherwise permitted or exempted through rules and regulations of the Board of the Department of Natural Resources.

Sec. 42-64. Exemptions from permitting requirements of this Article.

The permit required by this Article shall apply to any land-disturbing activity undertaken by any person on any land within the City of Griffin, except for the following:

- (1) *Surface mining*: 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*: Granite quarrying and land clearing for such quarrying;
- (3) *Minor land-disturbing activities*: 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, provided the result of such activity is not to materially alter any finished grade incorporated into an approved erosion, sedimentation and pollution control plan, drainage plan, grading plan, or approved development or construction plan for a project which has been implemented, or otherwise alters, obstructs, impedes or renders ineffective any drainage structure from performing as designed;
- (4) *Single-family residences*: The construction of single-family residences, when such construction disturbs less than one (1.0) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in section 42-63 and this paragraph, and shall not materially alter any finished grade incorporated into any approved development or construction plan which has been implemented, or otherwise alter, obstruct, impede or render ineffective any drainage structure from

performing as designed. For single-family residence construction exempted by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters of at least 25 horizontal feet, in which no land-disturbing activities shall take place nor shall any permanent structures be erected or impervious surface constructed, and no variance to a smaller buffer shall be granted.

(5) *Agricultural operations*: Agricultural operations as defined in O.C.G.A. 1-3-3 to include those practices involving the establishment, cultivation, or harvesting of products of the field or orchard; the preparation and planting of pasture land; farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings.

(6) *Forestry land management practices, including timber harvesting*: All tree harvesting and forestry management activities performed in accordance with generally accepted forestry land management practices; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established by O.C.G.A. 12-7-6(b)(15) and section 42-63(d) of this Article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after the completion of such forestry practices.

(7) *Natural resource conservation service projects*: Any project carried out under the technical supervision of the Natural Resource Conservation Service (NRCS) of the United States Department of Agriculture;

(8) *Projects involving less than one acre*: 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 an overall planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves any land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway must prevent sediment from moving beyond the boundaries of the property on which such project is located;

(9) *Public works projects*: 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 the provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the State General Permit, in which case a copy of the notice of intent shall be submitted to the Local Issuing Authority, and the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if the permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

(10) *Electrical system projects*: 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 reservoirs*.

Nothing contained in this Section shall prevent the Local Issuing Authority from regulating development, including land disturbing activities, of a project not specifically exempted from permitting under this Article within the foregoing categories.

Furthermore, the exemptions of this Section shall apply only to permitting requirements imposed by this Article and shall not exempt a project under other regulations imposed by the City.

Sec. 42-65. Application/permit process.

(a) *Generally*. No land-disturbing activity shall be conducted within the City of Griffin, except those land-disturbing activities exempted from permitting in accordance with section 42-64, without the operator first securing a permit from the Local Issuing Authority and/or providing notice of intent to the Division, with a copy submitted to the Local Issuing Authority. Before undertaking any land-disturbing activity, the property owner, developer and designated planners and engineers shall review the general development plans, ordinances and requirements of the Local Issuing Authority that affect the tract to be developed and the areas surrounding it. They shall review the Unified Development Code, stormwater management regulations and permitting requirements, flood damage prevention regulations, this Article, and any other codes and ordinances which regulate the development of land within the jurisdictional boundaries of the City of Griffin.

(b) *Application requirements*:

- (1) The application for a permit shall be made only in the name of the owner and/or operator; provided, however, if the operator is not the owner holding record legal title to the property on which the land-disturbing activity is to occur, the name, mailing address and telephone number of the owner shall be stated in the

application. Every operator, who is not the owner, shall provide written designation of his authority. Applications shall be submitted to the Director of Planning and Development, in proper form, and must include five copies of the applicant's proposed erosion, sediment and pollution control plan, with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this section. Erosion, Sediment and Pollution control plans shall conform to the provisions of section 42-63(c). All applications shall contain a certification stating 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. Incomplete applications and plans, which on their face fail to conform to this section, shall be promptly returned to the applicant.

- (2) A local permitting fee, in the amount of \$20.00 shall be charged for each acre, or fraction thereof, in the project area, regardless of actual size of land-disturbing activity on the project site; provided, however, for any project of 500 acres or more, the fee shall be \$10.00 per acre or fraction thereof. No application shall be deemed complete unless the requisite fees are paid to the local issuing authority at time of filing. This fee shall be retained by the Local Issuing Authority and shall cover the cost of plan review and permit issuance.
- (3) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5)(a) of O.C.G.A. 12-5-23, provided 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 of each phase of development. All applicable fees shall be paid prior to issuance of the land-disturbance permit. One-half of the fees levied under this subsection shall be remitted by the primary permittee directly to the division; the other half shall be submitted to the Local Issuing Authority to cover the costs of inspections and enforcement.
- (4) Upon receipt of a complete application and plan in proper form, and payment of all required fees, the Director of Stormwater Management shall immediately refer the application and plans to the District for its review and approval, or disapproval, concerning the adequacy of the erosion and sedimentation control plan. The District shall approve or disapprove a plan within thirty-five (35) days of receipt. Failure of the District to act within thirty-five (35) days shall be considered an approval of the pending plan. The results of the District review shall be promptly forwarded, in writing, to the Local Issuing Authority. No permit shall be issued unless the plan has been approved by the District, and any variances required by section 42-63(c), if required, and bonding have been obtained. District review will not be required if the Local Issuing Authority and the District have entered into a written 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. A local issuing authority with plan review authority shall approve or disapprove a Plan submittal within thirty-five (35)

days of receipt. Failure of the Local Issuing Authority with plan review authority to act within thirty-five (35) days shall be considered an approval of the plan submittal.

- (5) If a permit applicant has had two or more violations of previous permits (either in this or any other jurisdiction), of this Article, or the Georgia Erosion and Sedimentation Control Act, as amended, within three years prior to the date of filing of the application under consideration, the Local Issuing Authority may deny the permit application, or condition its approval on the posting of a performance bond.
- (6) The Local Issuing Authority shall require the permit applicant to post a performance bond, in the form of a surety bond issued by a company licensed in the State of Georgia and returnable to the City of Griffin, government security, cash, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, as a condition for issuing the permit. If the applicant does not comply with this Article 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.
- (7) Where the Local Issuing Authority intends to revoke or suspend a permit and call the bond (or a portion thereof) to be forfeited, notice of such action shall be given in writing to the permit holder. The aggrieved party is entitled to request, in writing, within five business days of receipt of notice, a hearing before the City Manager, or his designated hearing officer. Such hearing shall be informally conducted, but held in such manner as to afford the applicant fundamental due process. A hearing record shall be prepared by the City. Any person aggrieved by a final determination of the City Manager or his designee shall be entitled to file a petition for writ of certiorari to the Superior Court of Spalding County, Georgia, within 30 days of written notice of such final action.

(c) *Plan requirements:*

- (1) Plans must be prepared to meet the minimum requirements as contained in Sec. 42-63(c) of this Article and the State General Permit. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia, published by the State Soil and Water Conservation Commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this Article, and may be referenced over the Internet at "www.gaswcc.org". The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation,

proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws.

- (2) Data required for the site plan shall include all information requested on the appropriate Erosion, Sediment 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 and payment of all applicable fees, provided bonding and variances, where necessary, are obtained. Failure to act within 45 days of receipt of a completed application shall be considered an approval of the permit. The permit shall expressly state all conditions or restrictions under which the activity may be undertaken.
- (2) No permit shall be issued by the Local Issuing Authority unless the Erosion, Sediment and Pollution Control Plan has been approved by the District or the Local Issuing Authority, and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this article, any variances required by section 42-63(c) are obtained, bonding requirements are met and all codes, ordinances and other applicable rules and regulations in effect within the jurisdictional boundaries of the local issuing authority have been satisfied. If the permit is denied, the reason(s) for denial shall be stated, in writing, setting forth specifically wherein the application or plan is deficient, and served by regular U.S. mail upon the applicant, with notice of the right to appeal.
- (3) If the project is to be developed in phases, a phased development schedule may be agreed to, in writing, with the director of stormwater management. In most cases the entire project site shall be required to permit and install erosion and sediment control measures for the entire site prior to any land-disturbing activities. Where phasing is permitted, a separate permit shall be required for each phase.
- (4) 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 title is not in compliance with the approved Erosion, Sediment and Pollution 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 purchaser of any portion of the land affected by the approved plan of the conditions contained in the permit, and all current and future maintenance obligations imposed thereon, whether under this Article or related ordinances.

- (5) A permit issued under this Article shall not be valid for work commencing more than six months after its issuance date. Where work is not timely commenced, or work on the project is suspended for more than three months after commencement, the Local Issuing Authority shall automatically suspend the permit, until the applicant provides an affidavit from a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control, certifying that, based upon diligent investigation, including an on-site inspection, no material changes have occurred since the erosion and sediment control plan was originally approved.
- (6) Any change or amendment of design and construction plans for the project which may materially impact or negate the permit based on original approval of an Erosion, Sediment, and Pollution control plan shall require a permit amendment. All amendments shall be applied for in writing and follow the same procedure as original applications for a permit.
- (7) Any land-disturbing activities by the City of Griffin shall be subject to the same requirements of this Article, and any other laws and ordinances relating to land development, as are applied to private persons and the Division shall enforce such requirements upon the City. Erosion, Sediment and Pollution Control Plans for the Local Issuing Authority shall be submitted to the District for review and approval or disapproval.

Sec. 42-66. Inspections and citations.

(a) *Inspections.* Inspections and compliance monitoring, pursuant to this Article, shall be conducted by the stormwater management department, and their designated inspectors. The inspector shall periodically inspect the site 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 a land-disturbing activity as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this Article or O.C.G.A. 12-7-1, et seq., a written notice to comply shall be served immediately 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. Except as provided in section 42-67, the inspector may require that all land-disturbing activities be stopped until necessary corrective action and mitigation have been taken. 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) *Inspection authority:* The Local Issuing Authority shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

(c) *Right of entry for inspection:* 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.

Sec. 42-67. Penalties and enforcement.

(a) *Mandatory stop-work orders; injunctive relief.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this Article without first obtaining a required permit, fails to maintain a required buffer of state waters, or significant amounts of sediment (as determined through inspection by the Local Issuing Authority, the Commission, the District or the Division) 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. Such stop-work order shall be effective immediately upon issuance and shall remain in effect until the necessary corrective action or mitigation has occurred. Such stop-work order shall apply to all work being performed or undertaken on the site, including non-land-disturbing activities, with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls necessary to bring the project into compliance. If the person to whom such order is directed fails to comply, the person shall be subject to injunction of the project, work or activity from the superior court of the county where such person resides, or in the case of a non-resident of this state, from the Superior Court of Spalding County; provided, however, where exigent circumstances exist, the local issuing authority may apply to the Superior Court of Spalding County for a temporary restraining order without the necessity of showing an adequate remedy at law exists.

(b) *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 setting forth the measures necessary to achieve compliance with the plan and stating the time within which such measures must be completed has been given, and the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed to have forfeited his performance bond, posted under the provisions of section 42-65. 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 with the plan and this Article.

(c) *Monetary penalties.* In addition, and cumulative of the above, any person who violates the Georgia Erosion and Sedimentation Control Law, O.C.G.A. Title 12, Chapter 7, or the rules and regulations promulgated thereunder, any provision 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 stop-work order of the Local Issuing Authority shall be subject to appear, upon citation, before the Municipal Court of the City of Griffin. Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation. The general limitations of law on the jurisdiction of municipal courts notwithstanding, any person found liable in the Municipal Court for violating any provision of law or this Article, or who violates any permit condition or limitation, or negligently or intentionally fails or refuse to comply with any stop-work order issued by the Local Issuing Authority, shall be liable for a civil penalty not to exceed \$2,500.00 per day for each violation, together with forfeiture or revocation of any regulatory 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's jurisdiction.

Sec. 42-68. 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 upon 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 a minimum of 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 paragraph (1) of subsection (b) of O.C.G.A. §12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet the educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. §12-7-

19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

Sec. 42-69. Administrative Appeal and Judicial Review.

(a) *Administrative remedies.* The suspension, revocation, modification or grant with conditions 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 no violation of permit conditions, or that the holder is in violation of any related environmental ordinance or development requirement, shall entitle the person holding the permit to a hearing before the City Manager, within five (5) business days after receipt by the Local Issuing Authority of a written notice requesting to be heard. The decision of the City Manager shall be final.

(b) *Judicial Review.* Any person aggrieved by a final decision or order of the Local Issuing Authority, after exhaustion of his administrative remedies, shall have the right to petition the Superior Court of Spalding County, Georgia, for a writ of certiorari.

Secs. 42-70--42-90. Reserved.”

Section 2. All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

Section 3. Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

Section 4. Except as modified herein, The Code of Griffin, Georgia, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter.

Section 5. This ordinance shall become effective immediately upon adoption on second and final reading.

First Reading: August 9, 2016

Second Reading: August 23, 2016