

2023 CODE AMENDMENTS

Official Code of Cobb County Part I. – Chapter 50

Package I

Version I - distributed on September 7, 2023

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Board of Commissioners Work Session
September 26, 2023 – 1:30 pm

Board of Commissioners Public Hearing Dates
October 10, 2023 – 9:00 am
October 24, 2023 – 7:00 pm

Cobb County Community Development
P.O. Box 649
Marietta, GA 30061
www.cobbcounty.org



Cobb County...Expect the Best!

Chapter 50 – ENVIRONMENT

Article III. – Land disturbing activities

Section 50-71 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-71. - Definitions.

This ordinance will be known as “Cobb County Soil Erosion, Sedimentation, and Pollution Control Ordinance”

The following words, terms and phrases, when used in this article and other articles of this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person submitting a land ~~development~~ disturbing application for approval.

Best management practices (BMPs) means ~~both structural devices to store or treat stormwater runoff and non-structural programs and practices which are designed to prevent or reduce the pollution of the water of the State of Georgia which are consistent with the requirements of the Manual for Erosion and Sediment Control in Georgia, specified in O.C.G.A. § 12-7-6(b), as amended, and the Georgia Stormwater Management Manual. 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.~~

BMP landscaping plan means a design for vegetation and landscaping that is critical to the performance and function of the BMP including how the BMP will be stabilized and established with vegetation. It shall include a layout of plants and plant names (local and scientific).

Board means the Board of the Georgia State Department of Natural Resources.

Buffer means ~~an area along the course of any streams as defined on the current county stream buffer map to be maintained in an undisturbed and natural condition to facilitate the protection of water quality and aquatic habitat and may include a restrictive covenant in favor of the county for conservation uses. 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.

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

~~*CIP period* means a capital improvement program year as determined by the board of commissioners.~~

Coastal Marshlands shall have the same meaning as in O.C.G.A. 12-5-282.

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

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.

CPESC means a certified professional in erosion and sediment control with current certification by Certified Profession in Erosion and Sediment Control, EnviroCert Inc., a corporation registered in North Carolina, 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 Cobb County Water System, or CCWS,~~ 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 a current certification ~~by the Georgia Soil and Water Conservation Commission~~ by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.

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

Detention facility means a structure designed for the storage and gradual release of stormwater runoff at controlled rates.

Development or land development means, to the extent permitted by law, any of the following actions undertaken by a public or private individual or entity: ~~The division of a lot, tract or parcel of land into two or more parcels or other divisions by plat or deed, or the combination or recombination of two or more lots, tracts or parcels of land into a lesser number of lots, plots, sites, tracts, parcels or other combinations by plat or deed. The term "development" shall also mean any land change, including, without limitation, clearing, grubbing, stripping, dredging, grading, excavating, transporting and filling of land.~~

Development agreement means a private, voluntary agreement between the county and the applicant as authorized by the Georgia Development Impact Fee Act (O.C.G.A. § 36-71-1 et seq.).

DNR means the State Department of Natural Resources.

Director means the director of the Cobb County Community Development Agency or an authorized representative.

District means the ~~county soil and water conservation district.~~ Cobb County Soil and Water Conservation District.

Division means the Environmental Protection Division of the State Department of Natural Resources.

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.

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, or a structure for the retention or detention of stormwater runoff for stormwater management, drainage control or flood control purposes.

Easement means a grant or reservation by the owner of land for the use of such land by others for a specific purpose, and which must be included in the conveyance of land affected by such easement.

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 groundwater table year-round; for which groundwater 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, sedimentation and pollution control plan means a plan required by the Erosion and Sedimentation Act, O.C.G.A. ~~ch. 12-7-1~~ et seq., that includes, at a minimum, protections at least as stringent as the ~~state general permit~~ State General Permit, best management practices, and requirements as stated in Sec 50-75(c) of this chapter.

Extended detention means the storage of stormwater runoff for an extended period of time.

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.

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

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 as defined in the Manual (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or excluding a crop of annual vegetation and a seeding of target crop perennials 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.

Flooding means a volume of surface water that exceeds the banks or walls of a BMP, or channel, escapes its normal confines and overflows onto adjacent lands.

Georgia Stormwater Management Manual (GSMM) means the latest edition of the Georgia Stormwater Management Manual, Volume 2: Technical Handbook, and its appendices.

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.

Greenspace or "*open space*" means permanently protected areas of the site that are preserved in a natural state, except for necessary utility crossings.

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

Hotspot means a land use or activity on a site that has the potential to produce higher than normally found levels of pollutants in stormwater runoff. As defined by the administrator, hotspot land use may include gasoline stations, vehicle service and maintenance areas, industrial facilities (both permitted under the industrial stormwater general permit and others), material storage sites, garbage transfer facilities, and commercial parking lots with high-intensity use.

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

Industrial stormwater general permit means the National Pollutant Discharge Elimination System (NPDES) permit issued by Georgia Environmental Protection Division to an industry or group of industries for stormwater discharges associated with industrial activity. The permit regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies based on Standard Industrial Classification (SIC) Code.

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

Inspection and maintenance agreement means a written agreement providing for the long-term inspection, operation, and maintenance of stormwater management systems and its components 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.

Issuing authority means the Cobb County Community Development Agency or its assigned or designated representative, which shall be responsible for administering this article and has been certified by the

director of the Environmental Protection Division of the Department of Natural Resources as the issuing authority, pursuant to O.C.G.A. § 12-7-8(a).

Lake means a body of water one acre or more in surface area, created either by a manmade or natural dam or other means of water impoundment.

Land development application means the application for a land development permit on a form provided by the county along with supporting documentation as required.

Land ~~development~~ disturbance permit means the authorization necessary to begin construction related land disturbing activity.

Land disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land. Land disturbing activity does not include agricultural practices as described O.C.G.A. 12-7-17(5) or silvicultural land management activities as described in O.C.G.A 12-7-17(6) within areas zoned for these activities.

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

Linear feasibility program means a feasibility program developed by Cobb County and submitted to the Georgia Environmental Protection Division, which sets reasonable criteria for determining when implementation of stormwater management standards for linear transportation projects being constructed by Cobb County is infeasible.

Linear transportation projects means construction projects on traveled ways including but not limited to roads, sidewalks, multi-use paths and trails, and airport runways and taxiways.

Local issuing authority means the governing authority of any county or municipality which is certified pursuant to subsection (a) of O.C.G.A. § 12-7-8, here Cobb County Community Development Agency,

~~Local planning commission~~ means the ~~Cobb County Planning Commission~~.

Maintenance means any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this article and to prevent structural failure of such facilities.

Manager is the director of the Cobb County Water System or his/her designee.

Metropolitan North Georgia Water Planning District or MNGWPD means the organization created by the Georgia General Assembly in 2001 to develop comprehensive regional management plans for water, wastewater and watershed protection and to oversee the implementation of such plans.

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.

MS4 permit means the NPDES permit issued by Georgia Environmental Protection Division for discharges from the Cobb County municipal separate storm sewer system.

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.

New development means land development activities, structural development (construction, installation or expansion of a building or structure), and/or creation of impervious surfaces on a previously undeveloped site.

NOI means a ~~notice of intent~~ Notice of Intent form provided by EPD for coverage under the state general permit.

Nonpoint source pollution means a form of water pollution that does not originate from a discrete point such as a wastewater treatment facility 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.

NOT means a ~~notice of termination~~ Notice of Termination form provided by EPD to terminate coverage under the state general permit.

~~*Off-site stormwater management facility* means any facility outside the project boundary that is or will be used for transporting and management of stormwater runoff, including, but not limited to, culverts, detention ponds, storm drains, flumes and headwater pools. Easements for the purpose of transporting and management of stormwater runoff shall be obtained for any off-site facility with prior approval obtained from the director of the Cobb County Water System.~~

~~*On-site stormwater management* means the design and construction of a facility necessary to control stormwater runoff within and for a single development.~~

~~*On-site stormwater management facility* means any facility within the project boundary used for the purpose of transporting or managing stormwater runoff, including, but not limited to, culverts, detention ponds, storm drains, flumes and headwater pools.~~

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/ erosion and sedimentation 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 stormwater pollution prevention plan/ erosion and sedimentation control plan or to comply with other permit conditions.

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.

Permanently protected means be protected from development in perpetuity (per O.C.G.A. § 44-5-60(c)) by the mandatory covenants or conservation easements in favor of the county for conservation uses.

Permit means the permit issued by the ~~community development agency~~ Community Development Agency to the applicant which is required for undertaking any land development activity.

Person means 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.

Phase or phased means 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.

Pond means a body of standing water less than one acre in surface area, created either by a natural dam, or other means of water impoundment.

Post-construction stormwater management means stormwater best management practices that are used on a permanent basis to control and treat runoff once construction has been completed in accordance with a stormwater management plan.

Post-development means the conditions anticipated to exist on site immediately, after completion of the proposed development.

Practicability policy means the latest edition of the Metropolitan North Georgia Water Planning District's Policy on Practicability Analysis for Runoff Reduction.

Pre-development means the conditions that exist on a site immediately before the implementation of the proposed development. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time before the first item being approved or permitted shall establish pre-development conditions.

Pre-development hydrology means (a) for new development, the runoff curve number determined using natural conditions hydrologic analysis based on the natural, undisturbed condition of the site immediately before implementation of the proposed development, and (b) for redevelopment, the runoff curve number shall be determined by natural conditions for all disturbed areas and the existing conditions for those portions of the site that remain undisturbed, unless the existing development causes a negative impact on downstream property and/or county infrastructure.

Previously developed site means a site that has been altered by paving, construction, and/or land disturbing activity.

Preexisting stormwater management facility means any stormwater facility which may or may not have been physically installed but was required by this article or any prior ordinance.

~~*Preliminary plat* means the preliminary plat of subdivision submitted pursuant to the county's current subdivision regulations and such other development standards and as may be amended from time to time.~~
~~*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.

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

Quality Control Act, O.C.G.A. § 12-5-20 et seq, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at 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 which are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Roadway drainage structure means a bridge, culvert or flume composed of 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.

Record survey means a final field survey which locates the visible surface features of a constructed stormwater facility on the ground but without locating nonvisible or subsurface features such as the actual route and elevation of buried pipe. Such nonvisible or subsurface features which are known to exist shall be located on the record survey in their reasonable respective locations.

Redevelopment means structural development (construction, installation, or expansion of a building or other structure), creation or addition of impervious surfaces, replacement of impervious surfaces not as part of routine maintenance, and land disturbing activities associated with structural or impervious development on a previously developed site. Redevelopment does not include such activities as exterior remodeling.

Regional stormwater management means the design and construction of a facility necessary to control stormwater runoff within or without a development and for one or more developments.

~~*Retention structure* means a permanent structure that provides for the temporary storage of runoff and is designed to maintain a permanent pool of water.~~

Routine maintenance means activities to keep an impervious surface as near as possible to its constructed condition. This includes ordinary maintenance activities, resurfacing paved areas, and exterior building changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

Runoff means stormwater runoff.

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.

Site means an area of land where development is planned, which may include all or portions of one or more parcels of land. For subdivisions and other common plans of development, the site includes all areas of land covered under an applicable land development permit.

Slope means a degree of vertical deviation of surface from the horizontal, usually expressed in percent or degree.

~~*Soil and water conservation district*~~ *Water Conservation District approved plan* means an erosion and sedimentation control plan approved in writing by the county soil and water conservation district.

Stabilization means the process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent vegetative 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 (NPDES) general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 USC § 1251 et seq., and O.C.G.A. § 12-5-30(f).

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

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 concept plan means an initial plan for post-construction stormwater management at the site that provides the groundwork for the stormwater management plan including the natural resources inventory, site layout concept, initial runoff characterization, and first round stormwater management system design.

Stormwater management plan means the set of drawings and other documents that comprise all of the information and specifications for the systems, structures, concepts and techniques that will be used to control stormwater as required by the Georgia Stormwater Management Manual and the Cobb County Development Standards and Specifications and as part of the land development application.

Stormwater management means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to prevent accelerated channel erosion, increased flood damage and/or degradation of water quality, and in a manner to enhance and ensure the public health, safety and general welfare.

Stormwater management assessment districts means any districts established by the board of commissioners where there are special assessments of property owners for the purpose of management and maintenance of stormwater.

Stormwater management facilities means those structures and facilities that are designed and constructed for the conveyance, collection, storage, transport, storage, treatment and disposal of stormwater runoff into and through the stormwater management system.

Stormwater management standards means those standards set forth in [section 50-106](#).

Stormwater management system means the entire set of non-structural site design features and structural BMPs for collection, conveyance, storage, infiltration, treatment, and disposal of stormwater runoff in a manner designed 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 runoff means flow on the surface of the ground, resulting from precipitation.

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.

Stream means any stream, beginning at:

- (1.) The location of a spring, seep, or groundwater outflow that sustains streamflow: or
- (2.) A point in the stream channel with a drainage area of 25 acres or more; or
- (3.) Where evidence indicated the presence of a stream in a drainage area of other than 25 acres, the county may require field studies to verify the existence or non-existence of a stream.

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.

Structural erosion and sedimentation control practices means practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss, including but not limited to riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication "Manual for Erosion and Sediment Control in Georgia."

~~*Subdivider* means a person providing or developing land so as to constitute subdivision.~~

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy or building development, and includes all division of land involving a new street or a change in existing streets, and includes re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided. Provided, however, that the following are not included within this definition:

- (1.) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the county.
- (2.) Any subdivision of land for agricultural purposes, provided that no lots thereby produced contain less than ten acres each and have average widths of 400 feet or more. Also, where no new streets, roads or other rights-of-way are involved and where no residential, commercial or industrial development will follow.
- (3.) A division or sale of land by judicial decree.
- (4.) The sale or exchange of a parcel of land between owners of adjoining properties, provided that additional lots are not thereby created.
- (5.) In those instances where the board of appeals grants a variance for a subdivision of property lacking the minimum public road frontage and an easement is necessary for ingress and egress to the property, there shall be a maximum of three lots permitted, a minimum of 80,000 square feet per lot, a minimum of 25 feet width easement, and the easement and the subdivided lots shall be platted and required to be recorded as restrictive covenants running with the land in the clerk's office, county superior court. The board of appeals shall not be authorized to grant a variance to this subsection.

Trout streams means all streams or portions of streams within the watershed as designated by the game and fish division of the state 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 which are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Undeveloped condition refers to the characteristics of the land surface prior to any development.

~~Vegetative erosion and sedimentation control measures~~ Erosion and Sedimentation Control Measures means 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;
- (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."

Violation means any breach of the provisions of this article, including failure to obtain a land disturbance permit when required, failure to follow best management practices and violating NTU levels when BMPs were not followed.

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

Wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, as determined by a qualified wetlands consultant or the U.S. Army Corps of Engineers. Wetlands generally include swamps, marshes, bogs, and similar areas.

Other terms ~~means terms~~ used but not defined in this article shall be interpreted based on how terms are defined and used in the Georgia Stormwater Management Manual (GSMM), ~~and the county MS4 permit-~~ and Manual for Erosion and Sediment Control in Georgia.

(Ord. of 3-27-90; Code 1977, § 3-6-108; Ord. of 11-14-95; Ord. of 1-23-01; Ord. of 7-10-01; Ord. of 4-13-04; Amd. of 2-23-10; Amd. of 2-9-21)

Cross reference— Definitions generally, § 1-2.

Section 50-72 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-72. - Purpose and intent.

~~The purpose of this article is to control erosion and sedimentation by requiring proper provisions for stormwater runoff and the protection of soil surfaces during and after any land disturbing activity so as to promote the safety, public health and general welfare of the people of the county. It is found that soil~~

erosion and sediment deposition onto lands and into waters within the watersheds of this state are occurring as a result of widespread failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses. It is therefore declared to be the policy of this state and the intent of this chapter to strengthen and extend the present erosion and sediment control activities and programs of this state and to provide for the establishment and implementation of a state-wide comprehensive soil erosion and sediment control program to conserve and protect the land, water, air, and other resources of this state.

(Ord. of 3-27-90; Code 1977, § 3-6-107; Ord. of 11-14-95)

...

Section 50-74 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-74. - 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 same is defined in O.C.G.A. § 12-4-72.
- (2.) Granite and other quarrying in areas that do not generate runoff (i.e. the quarry pit area).
- (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 (1) acre that involve the creation of less than 5,000 square feet of impervious area, when such are 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 [section 50-75](#) and this paragraph. 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 (O.C.G.A. § 12-5-20 et seq.). 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 of EPD may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of [section 50-75](#) and the buffer zones provided by this section shall be enforced by the issuing authority Cobb County.
- (5.) ~~Agricultural operations as defined in O.C.G.A. § 1-3-3, to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl or animals; the production of aquacultural, horticultural, dairy, livestock, poultry, eggs and apiarian products~~ 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 50-75](#), 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 of the United States Department of Agriculture.
- (8.) Any project involving ~~the creation of less than 5,000 square feet of impervious ground cover less than one (1) 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 drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves, less than one acre, which involves land disturbing activity and which is within 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 and provided, further, that nothing contained in this subsection shall prevent ~~the issuing authority~~ Cobb County from regulating any such project which is not specifically exempted by subsections (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section.
- (9.) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the state highway authority or the state tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of Department of Transportation or state tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1; and 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 Cobb County, the local issuing authority Cobb County 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 violation 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~~ Cobb County 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 violation by permit holders;

(11.) Any public water system reservoir.

(Ord. of 3-27-90; Code 1977, § 3-6-109; Ord. of 11-14-95; Ord. of 1-23-01; Ord. of 7-8-03; Ord. of 4-13-04; Amd. of 2-9-21)

State Law reference— Exemptions, O.C.G.A. § 12-7-17.

Section 50-75 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-75. - Minimum requirements for erosion and sedimentation control using best management practices.

(a). *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land disturbing activities if requirements of this ~~article section~~ and the NPDES general permit are not met. Therefore, plans for those land disturbing activities which are not excluded exempted by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of 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 and sedimentation pollution during all stages of any land disturbing activity and the NPDES general permit. Land disturbing activities that are exempted from obtaining a permit and preparing a plan (as listed in section 50-74) shall institute minimum soil erosion and sedimentation control measures.

With respect to development on properties with stream buffers (refer to subsections 50-75(b)15. and 16., below), any permit applications shall be required to include the following information:

- 1) A site plan showing:
 - a. The location of all streams on the property;
 - b. Limits of required stream buffers and setbacks on the property;
 - c. Buffer zone topography with contour lines at no greater than five-foot contour intervals;
 - d. Delineation of forested and open areas in the buffer zone; and,
 - e. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;
- 2) A description of all proposed land development within the buffer and setback; and
- 3) Any other documentation that the Cobb County Community Development Agency may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process.

(b). *Minimum requirements/BMPs.*

- 1) Best management practices as set forth in this article shall be required for all land disturbing activities. Proper design, installation and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other

allegation of noncompliance with subsection (b)(2) of this section or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to 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 stormwater runoff from disturbed areas where best management practices have not been properly designed, installed and maintained shall constitute a separate violation of any land disturbing permit issued by ~~a local issuing authority or of any state general permit issued by the division~~ Cobb County 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 of EPD. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan 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~~ Cobb County 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 failure occurs.
 - 4) The ~~director~~ Director of EPD 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 to verify that the minimum requirements in subsection (b)(2) are being met.
 - 5) ~~Cobb County may set more stringent buffer requirements than stated in C.15, 16 and 17, in light of~~ pursuant to O.C.G.A. § 12-7-6 (c).
- (c). ~~General design principles. The application of this section gives due consideration to the differences regarding requirements for development of commercial properties as opposed to those requirements for residential properties. The permittee and exempt persons who are required to comply with this article shall be required to provide~~ 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 follow as a minimum best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resulting 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 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. Development/construction shall be so scheduled and performed to allow for the required installation of temporary silt fence, construction of sediment basins, and other type best management practices prior to grading operations. Grading operations and best management practices must follow immediately thereafter.
- 6) Disturbed soil shall be stabilized as quickly as practicable, ~~according to criteria set forth in the county development standards and specifications.~~
- 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, ~~according to criteria set forth in the county development standards and specifications.~~
- 9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought 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 surface of fills.
- 11) Cuts and fills may not adversely impact adjoining property.
- 12) Fills shall not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners and in accordance with [chapter 58](#) of this code.
- 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, and sedimentation control, 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 this article.
- 15) Land disturbing activities in unincorporated Cobb County shall not be conducted within:
 - a. ~~Twenty-five feet of the banks of any state waters not defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. Ephemeral streams do not require any type of undisturbed buffer. Except as provided in paragraphs (b)-(f) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director of EPD determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director of EPD 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 of EPD as provided in this paragraph. The following requirements shall apply to any such buffer:

- i. 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
 - ii. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
- b. Fifty feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area) intercepted is less than or equal to five square miles; except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 50-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 50-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections [134-34](#) and [134-94](#). An additional impervious setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffers, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback. Ephemeral streams do not require any type of undisturbed buffer.

- c. Seventy-five feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area) intercepted is equal to five square miles and less than or equal to ten square miles; except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 75-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 75-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections [134-34](#) and [134-94](#). Ephemeral streams do not require any type of undisturbed buffer.
- d. One hundred feet of the banks of any stream in the county, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action where total watershed area (on site and off site area) intercepted is greater than ten square miles; except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 100-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 100-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections [134-34](#) and [134-94](#). Ephemeral streams do not require any type of undisturbed buffer.
- e. Two hundred feet of the banks of Nickajack Creek, as defined on the current county stream buffer map, and as measured from the point where vegetation has been wrested by normal stream flow or wave action, from Church Road downstream to its confluence with Mill Creek No. 2 (Cross-Section AA according to effective Cobb County Flood Insurance Study dated August 18, 1992) and from Buckner Road downstream to its confluence with the Chattahoochee River except where the director determines to allow a variance that is at least as protective of natural resources and the environment. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the county-mandated 200-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the county-mandated 200-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections [134-34](#) and [134-94](#). Ephemeral streams do not require any type of undisturbed buffer.
- f. Per DNR Rule 391-3-16.01:
 - i. For perennial streams tributary to Lake Allatoona and within a 7-mile radius of the Lake Allatoona reservoir boundary:
 - 1. A buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
 - 2. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.
 - 3. Septic tanks and septic tank drain fields are prohibited in the setback area of 2, above.

- ii. For perennial streams tributary to the Chattahoochee River (including the Chattahoochee River upstream of the water supply intake at Johnson Ferry Road, or tributaries which enter the Chattahoochee River upstream of the water supply intake at Johnson Ferry Road) and which are within a seven-mile radius of the water supply intake at Johnson Ferry Road:
 - 1. A buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
 - 2. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.
 - 3. Septic tanks and septic tank drain fields are prohibited in the setback area of 2, above.
- g. Once established, a permanent natural undisturbed buffer, shall be recorded on all plats and revisions and/or property deeds which encumbers this property as undisturbed buffer area to all future property owners. Said buffer will also contain a restrictive covenant in favor of the county for conservation uses. The buffer shall be subject to exceptions set forth below and the county retains the right on a per case basis to grant variances.
- h. Exceptions to these buffers are as follows:
 - i. Where a sewerline easement exists or must be constructed to serve the general public (this exception is not applicable to the state-mandated 25-foot buffer).
 - ii. Where the 100-year floodplain constricts within the buffer and "buffer averaging" is permitted such that the net buffer area is not reduced or the average buffer width conforms to the widths as outlined above (this exception is not applicable to the state-mandated 25-foot buffer).
 - iii. Where a roadway crossing occurs and the buffer must be constricted to allow construction of a bridge or a culvert. The state-mandated 25-foot buffer will apply in these areas for a distance of 50 feet upstream and downstream of the face of the bridge or culvert headwall.
 - iv. Where the director of Cobb County Community Development, or his assign(s) determine to allow a variance to the requirements greater than the state-mandated 25-foot buffer that is at least protective of natural resources and the environment, or where otherwise allowed pursuant to O.C.G.A. § 12-2-8. For the purposes of this section, at least as protective shall mean that there is no net decrease in the square footage of the required buffer that is greater than the state-mandated 25-foot buffer. Any request to allow a variance that would result in a net decrease in the square footage of the required buffer that is greater than the state-mandated 25-foot buffer must be approved by the Cobb County Board of Zoning Appeals in accordance with sections [134-34](#) and [134-94](#).
 - v. 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 specification and are implemented; provided that buffers established pursuant to part 6 of article 5 of chapter 5 of the Metropolitan River Protection Act (O.C.G.A. § 12-5-440 et seq.) shall remain in force.
 - vi. The state-mandated 25-foot 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.
- i. The developer or property owner shall maintain ownership of the buffer areas. In instances of conflict between the buffers mandated by the Metropolitan River Protection Act and the buffers required by this article, the wider of the two required buffers shall apply.
 - j. The donation (or dedication) of land for stream buffers, outside any floodplain area, may be compensated for by allocating the density of the donated (or dedicated) land to the owner's remaining property, if so requested by the owner. The owner shall make the request to the director of Cobb County Community Development and the request shall be processed in accordance with [section 134-35](#).
 - k. Unless a larger buffer is specified on the current county stream buffer map, 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 of natural resources, 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 of EPD 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. No land disturbing activities shall be conducted within a buffer described in this paragraph (15) ~~or (16)~~ 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 beyond the first 50 feet 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 beyond the first 50 feet 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; trimming and thinning of vegetation within the first 50 feet of a stream buffer is allowed with the approval of the director or the director's designee; this 50-foot buffer shall not apply to the following land disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:
 - i. Stream crossings for water lines; or
 - ii. Stream crossings for sewer lines.

- ~~(17.) When a pond, either new or existing, is incorporated into a development, the developer shall note on his plans if the pond is to be used for sediment control and/or retention during construction. If the pond is to be used for sediment control, the developer or current title holder will be required to dredge, clean and grass the pond upon completion of construction of the project and prior to acceptance by the county. Further, sediment control devices shall be required to protect downstream property during construction. Reserved.~~
- (18.) Lakes, either new or existing, incorporated into a development shall not be used for sediment control and will be classified and used as adjacent property; hence, and therefore, siltation thereof will be treated as a violation of this article.
- (19.) Hazardous conditions at sediment basins and floodwater retention structures shall be fenced and posted to avoid danger to life or property.
- (20.) All erosion and sedimentation control measures, whether temporary or permanent, shall be maintained by the permittee or exempt person until the areas affected by such measures are permanently stabilized.

(Ord. of 3-27-90; Code 1977, § 3-6-110; Ord. of 11-14-95; Ord. of 7-27-99 (eff. 10-1-99); Ord. of 1-25-00; Ord. of 1-23-01; Ord. of 7-10-01; Ord. of 4-13-04; Ord. of 2-27-07; Amd. of 2-23-10; Ord. of 7-24-12; Amd. of 2-9-21)

State Law reference— Minimum standards, O.C.G.A. § 12-7-17.

Section 50-76 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-76. - Application; plan requirements; permit process.

- (a). *General.* ~~The landowner, developer and designated planner, architects and engineers shall review the general development plans and detailed plans of the unincorporated areas of the county that affect the tract to be developed and the area surrounding it. They shall review and comply with the zoning regulations set forth in [chapter 134](#), the subdivision regulations set forth in [chapter 110](#), the flood damage prevention regulations set forth in [chapter 58](#), the stormwater management concept and design requirements set forth in article IV (stormwater management) of this chapter, the inspection and maintenance agreement requirements set forth in [section 50-161](#), division 3 of article IV (stormwater management) of this chapter, and other county ordinances which regulate the development of land within the boundaries of the unincorporated areas of the county. All design related to stormwater management under this article and all subsequent articles set forth in [chapter 50](#) shall conform with the technical guidelines and requirements set forth in the latest edition of the Georgia Stormwater Management Manual (Volumes 1, 2 and 3) and any relevant local addenda. The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. Cobb County 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 Cobb County. 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 confines of the unincorporated areas of ~~the county~~ Cobb County without first obtaining a permit, where required, from ~~the issuing authority of the unincorporated areas of the county~~ the Cobb

County Community Development Agency to perform such activity and providing a copy of the notice of intent submitted to the Georgia EPD, if applicable. A land disturbance permit for clearing and grading projects may only be obtained if such projects are part of a complete site/project plan review and approval (allowing for clearing and grading only phases, including a time table for final completion). Any clearing and grading activities permitted under this section shall comply with the provisions found in article III ~~¶~~ Sec. 50-75 of this chapter. In no event shall any portion of this article section be interpreted in any manner to reduce or diminish the use or density of any project where the county board of commissioners has approved such use or density.

- (2.) ~~The application for a permit shall be submitted to the local issuing authority. Applications for permits will not be accepted unless accompanied by nine copies of the applicant's soil erosion and sedimentation and pollution control plan. These plans shall include, as a minimum, the data specified in subsection (c) of this section. Soil erosion and sedimentation and pollution control plans shall conform to the provisions of section 50-75. 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 or that such a visit was not required in accordance with rules and regulations established by the board. The application for a Land Disturbance Permit shall be submitted to the Cobb County Community Development Agency 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 C of this section. 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 50-75 of this article will be met. Applications for a permit will not be accepted unless accompanied by a copy of the applicant's erosion, sedimentation and pollution control plans and by such supportive data as will affirmatively demonstrate that the land-disturbing activity proposed will be carried out in such a manner that the minimum requirements shall be met. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. 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 paragraph (5) subsection (a) of O.C.G.A. 12-5-23, 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. Per subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
- (4.) If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, Cobb County may deny the permit application.

(5). Cobb County 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, Cobb County 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.

(c). *Plan requirement.*

(1.) *Standards and specifications.* Plans for land disturbing activities shall contain soil erosion and sedimentation control measures and practices which conform to the publication entitled Manual for Erosion Control in Georgia or equivalent publication which is on file in the office of the issuing authority. The publication is hereby incorporated by reference in 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 stormwater management facilities, local ordinances, and state laws.

(2.) ~~*Data required.* The applicant's erosion and sedimentation control plan shall include, as a minimum, the following information for the entire tract of land to be disturbed, whether or not the tract will be developed in stages:~~

- ~~a. Name, address, fax number, and phone number of applicants.~~
- ~~b. Name, phone number, and fax number of the 24-hour project manager and an alternate, who can be served with notice.~~
- ~~c. Name, phone number, and fax number of 24-hour erosion sediment control company or individual.~~
- ~~d. Certification number of company or individual responsible for design, installation, and maintenance of erosion sediment control devices. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land disturbing activity shall meet the education and training certification requirements as developed by the commission pursuant to O.C.G.A. § 12-7-20.~~
- ~~e. Certification must be renewed and an approved course taken every two years.~~
- ~~f. A narrative description of the overall project. This narrative shall include:
 - ~~1. Description of existing land use of project site and description of proposed project, including size of project, or phase under construction, in acres. An anticipated starting and completion date of each sequence and stage of land disturbing activities and the expected date the final stabilization will be completed.~~
 - ~~2. A description of the sediment control program and sediment control practices.~~
 - ~~3. An adequate description of the general topographic and soils conditions of the tract as available from the district conservationist or the county soil and water conservationist of the county soil and water conservation district.~~
 - ~~4. Activity schedule showing anticipated starting and completion dates for the project, including a statement in bold letters that "the installation of~~~~

~~erosion and sedimentation control measures and practices shall occur prior to or concurrent with land disturbing activities."~~

- ~~5. A description of the maintenance program for sedimentation control facilities, including inspection programs, vegetative establishment of exposed soils, etc.~~
- ~~6. Engineer's erosion control certification in a form as prescribed by the director of Cobb County Community Development.~~
- ~~7. All information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbance permit was issued.~~

~~(3.) *Visual materials and computations.* Maps, drawings and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land disturbing activity shall meet the education and training certification requirements, as developed by the commission pursuant to O.C.G.A. § 12-7-20, showing the following:~~

- ~~a. A site location drawing of the proposed project, indicating the location of the proposed project in relation to roadways, residential areas, jurisdictional boundaries, streams and rivers, limits of stream buffers and property setbacks, detailed plans of all proposed land development in the stream buffer, limits and square footage areas of all proposed impervious cover within the setback, description of all proposed land development within the stream buffer and setback, 100-year floodplains and designated trout streams, any other documentation that Cobb County Community Development may reasonably deem necessary for review of the application and to insure that the stream buffer ordinance is addressed in the approval process.~~
- ~~b. A boundary line survey of the site on which the work is to be performed including graphic scale and north point or arrow indicating magnetic north.~~
- ~~c. A topographic map containing contours at an interval and scale that will depict the existing and finished grades (in accordance with a one-foot contour interval for tracts with a zero to two percent ground slope, 1:100 or larger scale; a one-foot or two-foot contour interval for tracts with a two to eight percent ground slope, 1:100 or larger scale; a two-foot, five-foot, or ten-foot contour interval for tracts with an eight percent or greater ground slope, 1:100 or larger scale), existing and proposed watercourses, location and delineation of all buffers and proposed features of the development.~~
- ~~d. Vegetative plans for all temporary and permanent vegetative measures, including species, planting date, seeding, fertilizer and mulching rates. The vegetative plan should show options for year-round seeding.~~
- ~~e. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.~~
- ~~f. Stormwater management plan prepared in accordance with [section 50-130\(d\)](#); a certification that the development will be performed in accordance with the stormwater management plan once approved; a preliminary determination of infeasibility, as applicable, prepared in accordance with the practicability policy,~~

~~and an acknowledgement that the applicant has reviewed Cobb County's form of inspection and maintenance agreement and that the applicant agrees to sign and record such inspection and maintenance agreement prior to the final inspection or issuance of a certificate of occupancy.~~

- ~~g. Major topographic features, streams, existing soil types and vegetation.~~
- ~~h. Delineation of disturbed areas within project boundary.~~
- ~~i. Location identified by appropriate coding symbols as shown in the Manual for Erosion and Sedimentation Control in Georgia or other appropriate publication.~~
- ~~j. Details should describe installation procedures.~~
- ~~k. Computations, timing schedules and other supportive data required for review of applicant's plan.~~
- ~~l. Sediment and stormwater, where applicable, management systems including storage capacity, hydrologic study and calculations, including off-site drainage areas.~~
- ~~m. Proposed structures or additions to existing structures and paved areas.~~
- ~~n. Any application for a land disturbance permit involving a development expected to generate more than 3,000 vehicle trips during a single day and/or more than 250 vehicle trips during a single hour shall be required to submit a traffic impact study (prepared in accordance with industry accepted standards, including at a minimum, level of service impacts for adjacent roadways and intersections), the scope of which shall be determined by the Director of the Cobb County Department of Transportation or his/her designee and shall at a minimum address conditions and impacts resulting from the project. A trip means a single one-way journey between two points by a specified travel mode and for a defined purpose. A trip is the standard unit of measure for trip generation used in traffic studies. Said applicant shall also be required to coordinate and fund any recommended mitigation measures limited to project related improvements with applicable federal, state and local agencies including the Georgia Regional Transportation Authority and the Atlanta Regional Commission. The applicant shall prepare an assumptions technical memorandum for approval by the county department of transportation before proceeding with the traffic study.~~
- ~~o. All plans must 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 or that such a visit was not required in accordance with rules and regulations established by the board.~~

(3). Maintenance.

- p. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the owner. It shall be the responsibility of the owner or his/her designee to post a maintenance log on site at all times. Said log will be posted on site with the land disturbance permit from the issuing authority. Said log must also be initialed on a weekly basis by the owner or his/her designee to indicate compliance with best management practices and the approved maintenance schedule.
- q. All plans must contain the following maintenance statement: "Erosion control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional

erosion and sedimentation control measures will be installed if deemed necessary by on-site inspection. On-site inspectors may add items to plans as necessary. On-site inspectors may delete items from plans subject to approval by the director of Cobb County Community Development or his/her designee."

(4.) *Permits.*

- a. *Permits issuance or denial.* A permit is issued after ~~the issuing authority Cobb County~~ has determined that the plan for erosion and sedimentation control complies with the requirements of [section 50-75](#), ~~the stormwater management plan complies with article IV~~ and after ~~the issuing authority Cobb County~~ has affirmatively determined that the plan complies with all other development ordinances, rules and regulations in effect within the unincorporated areas of the county. Permits will be issued or denied as soon as practical after the permit is filed with the issuing authority Cobb County, but in any event not later than forty-five (45) days after receipt by Cobb County 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. If the permit is denied, the reasons for the denial shall be furnished to the applicant.
- b. No permit shall be issued unless Cobb County has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section 50-75 (C) 15, 16 and 17 are obtained, bonding requirements, if necessary, as per 50-76 (b) 6 are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of Cobb County are met.
- c. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, 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.
- d. *Staged developments.* If the tract is to be developed in stages, then a separate permit shall be required for each phase.
- e. ~~*Suspensions, revocation or modification of permit.* The permit may be suspended, revoked or modified by the issuing authority Cobb County, as to all or any portion of the land affected by the plan, upon a finding that the holder or his successor in 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 or any ordinance, resolution, rule or regulation adopted or promulgated pursuant to this article. The 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.~~
- f. *Responsibility.* Neither the issuance of the permit nor compliance with the conditions thereof, nor with the provisions of this article, shall relieve any person of any responsibility otherwise imposed by law for damage of persons or property; nor shall the issuance of any permit pursuant to this article serve to impose any liability upon the county, its officers, board members or employees, for injury or damage to persons or property. The permit issued pursuant to this article does not relieve the applicant of the responsibility of complying with any other county ordinance or state law.

- g. *Special conditions.* A permit issued by ~~the issuing authority~~ Cobb County shall specify any special conditions under which the land disturbing permit may be undertaken.
- h. ~~*Fees.* 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 OCGA § 12-7-8(a), 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) and (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.~~

(Ord. of 3-27-90; Code 1977, § 3-6-111; Ord. of 11-14-95; Ord. of 7-27-99 (eff. 10-1-99); Ord. of 1-25-00; Ord. of 1-23-01; Ord. of 4-13-04; Ord. of 2-27-07; Amd. of 2-23-10; Amd. of 2-9-21; Amd. of 2-8-22)

State Law reference— Permits for land disturbing activities, O.C.G.A. §§ 12-7-7, 12-7-9.

Section 50-77 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-77. - Inspections.

- (a). ~~The local issuing authority~~ Cobb County 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~~ Cobb County shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land disturbing activities. 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/she shall be deemed in violation of this article.
- (b). Cobb County must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- (c). ~~The local issuing authority~~ Cobb County 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 a reasonable time 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~~ Cobb County, the conservation commission, the district or division who

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

- (e). The District or the Commission or both shall semi-annually review the actions of Cobb County which has been certified as Local Issuing Authority pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to Cobb County for the purpose of improving the effectiveness of the county'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 Cobb County which has been certified as Local Issuing Authority pursuant to Code Section 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 Cobb County 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 Cobb County in writing. The governing authority of Cobb County so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If Cobb County does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of Cobb County as a Local Issuing Authority.

(Ord. of 3-27-90; Code 1977, § 3-6-112; Ord. of 11-14-95; Ord. of 1-23-01; Ord. of 4-13-04)

Section 50-78 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-78. - 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 the 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~~ Cobb County.
- (b). *Stop work orders.* For the first and second violations of the provisions of this article, ~~the director or the local issuing authority~~ Cobb County Community Development Agency Director or his/her designee 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~~ Cobb County Community Development Agency Director or his/her designee 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, ~~director or the local issuing authority~~ Cobb County Community Development Agency Director or his/her designee shall issue an immediate stop work order in lieu of a warning; for a third and each subsequent violation, ~~the director or the local issuing authority~~ Cobb County Community Development Agency Director or his/her designee shall issue an immediate stop work order; and all stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. 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/her designee~~ director or the local issuing authority Cobb County Community Development Agency Director or his/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/her designee~~ Cobb County Community Development Agency Director or his/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 activities on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

- (c). *Notice of noncompliance/bond forfeiture.* If, through inspection, it is determined that the person engaged in land disturbing activities has failed to comply with the approved plan or failed to comply with the applicable general design principles of subsection [50-75\(c\)](#), a written notice to comply shall be served upon that person. The notice shall set forth the measures 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 deemed to have forfeited any required performance security if required to post one under the provisions of [section 50-75](#). ~~The issuing authority Cobb County~~ Cobb County may call the performance security 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). *Withhold certificate of occupancy.* The Cobb County Community Development Agency may refuse to issue a certificate of occupancy for the ~~build[ing]~~ 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 noncompliance or has otherwise cured the aspects of noncompliance described therein.
- (e). *Suspension, revocation or modification of permit.* The Cobb County Community Development Agency may suspend, revoke or modify the permit authorizing the land development project upon a finding that the holder is not in compliance with the approve erosion and sediment control plan. 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 noncompliance or has otherwise cured the aspects of noncompliance described therein, provided such permit may be reinstated (upon such conditions as the Cobb County Community Development Agency may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such aspects of noncompliance.
- (f). *Civil monetary penalties.* ~~Any person violating any provision of this article, permitting conditions or stop work order shall be liable for a civil penalty or fine not to exceed \$2,500.00 per day. Any person who violates any provisions of this article, the rules and regulations adopted pursuant hereto, 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 shall be liable for a civil penalty not to exceed \$2,500.00 per day. but in no event less than \$300.00. There shall be a minimum penalty of \$300.00 per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and there shall be a minimum penalty of \$1,000.00 per day for each day for each violation involving land disturbing activities other than as provided above. Each day the violation continues shall constitute a separate offense. Any civil penalties imposed pursuant to this article shall be payable to the county, shall commence on the date of issuance of any stop work order or~~

other notice of noncompliance and shall not be affected by the filing of any appeal.; however, an appellant may, upon filing an appeal, post an appeal bond with the issuing authority in an amount equal to double the cost of any and all corrective work to be determined by the issuing authority Cobb County; further, any civil penalty imposed pursuant to this article may, at the discretion of the issuing authority Cobb County, be waived or reduced if, in the discretion of the issuing authority, the violator has taken sufficient and timely curative and corrective action. No inspections, certificate of occupancies, building permits or soil erosion permits will be granted to any person who has an outstanding fine for violating this article. Any person who violates any provisions of this article, the rules and regulations adopted pursuant hereto, 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.

- (g). ~~Criminal penalties.~~ For intentional and flagrant violations of this article, the Cobb County Community Development Agency may issue a citation or accusation returnable to the magistrate court of the county. Notwithstanding any limitation of law as to penalties, which can be assessed for violations of county ordinances, the magistrate court of the county shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation or imprisonment for up to 60 days or both. Each day the violation continues shall constitute a separate offense.

(Ord. of 3-27-90; Code 1977, § 3-6-113; Ord. of 11-14-95; Ord. of 7-27-99 (eff. 10-1-99); Ord. of 1-23-01; Ord. of 4-13-04; Ord. of 2-27-07; Amd. of 2-9-21)

Section 50-79 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-79. - Appeal of administrative decision; judicial review.

- (a). After having complied with the application requirements of the issuing authority Cobb County Community Development Agency, should the applicant dispute a decision of the issuing authority Cobb County Community Development Agency, the applicant may appeal to the board of commissioners by filing a notice of appeal with the issuing authority Cobb County Community Development Agency.
- (b). The notice of appeal shall address the reasons why the applicant's request, if granted, would not impair the quality, vitality or stability of the area affected by the application and would not destroy more than minimum amount of natural ground surface, vegetation or cover within such area.
- (c). ~~The issuing authority~~ Cobb County Community Development Agency shall review the notice of appeal and transmit to the board of commissioners a written report of its findings and recommendations, which shall become a part of the official record.
- (d). The board of commissioners, having received the report of ~~the issuing authority~~ Cobb County Community Development Agency, making it a part of the official record, ~~and having considered the written and oral statements of the applicant, and any other evidence,~~ is authorized to hear and shall hear and decide appeals where it is alleged there is any error in any order, requirement, decision or determination made by the ~~authority~~ Cobb County Community Development Agency in the administration or enforcement of this article, the decision of the board of commissioners shall not result in a violation or circumvention of any applicable condition of zoning, provision of the county zoning laws, subdivision regulations or any other regulation or ordinance.
- (e). A written copy of the findings and decision of the board of commissioners, after hearing and having considered the written and oral statements of the applicant and any other evidence, shall

be transmitted to the applicant, and to the ~~director of the issuing authority~~ Cobb County Community Development Agency Director.

- (f). An applicant aggrieved by a decision of the board of commissioners pursuant to this article shall have the right of appeals de novo to the ~~superior court of the county~~ Superior Court of Cobb County. ~~by writ of certiorari.~~

(Ord. of 3-27-90; Code 1977, § 3-6-114; Ord. of 11-14-95)

State Law reference— Stop work orders, O.C.G.A. § 12-7-14.

Section 50-80 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-80. - Effective date, validity and liability.

- (a). *Effective date.* This article, as amended, shall become effective on January 23, 2001.
- (b). *Validity.* If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not ~~ea~~ffect 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 issuing authority or district of Cobb County~~ 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 11-14-95; Ord. of 1-23-01)

Section 50-81 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 50-81. - Education and certification.

- (a). ~~After December 31, 2006, all~~ All persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land disturbing activity shall meet the education and training certification requirements in state law, 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 ordinance.
- (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 paragraph.

(Ord. of 4-13-04; Amd. of 2-23-10)

ARTICLE VII. – NOISE

Section 50-256 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 50-256. – Definitions.

For purposes of this article, certain phrases and words are defined below. Words or phrases not defined in this article but defined in applicable state law or the Official Code of Cobb County, Georgia, shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them below except where the text clearly indicates a different meaning:

"A" weighted sound level means the sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

ANSI means the American National Standards Institute.

Sound level meter (SLM) is an instrument used to measure sound pressure levels conforming to type 1 or type 2 standards as specified in ANSI Standard S1.4-198 or the latest version thereof.

Sound pressure level (SPL) is 20 multiplied by the logarithm, to the base ten, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Section 50-257 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 50-257. - Violations and penalty.

(a) It shall be unlawful and punishable as provided in section 1-10 for any person within the unincorporated areas of the county to violate any of the provisions of this article.

(b) Except as otherwise provided herein, it shall be unlawful for any person to make, continue or cause to be made or continued any loud noise which either disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the unincorporated areas of the county which is plainly audible 100 feet from the sound's point of origination, except as otherwise provided herein.

(1) From 7:00 am until 10:59 pm, exceeds 70 dBA measured from the complainant location;

(2) From 11:00 pm until 6:59 am, exceeds 65 dBA measured from the complainant location.

(c) dBA means the sound level measured in decibels using the "A" weighting network on a sound meter. dBA levels closely match the perception of loudness by the human ear.

(Ord. of 10-12-82, § 2(a); Code 1977, § 3-18.5-2; Ord. of 7-27-04; Amd. of 2-23-10)

Section 50-258 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 50-2578. - Enumeration of prohibited noises.

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this article; but this enumeration shall not be deemed to be exclusive:

(1) *Horns, signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle ~~on any street or public place~~ in the unincorporated areas of the county, except as a danger warning; the creation of any unreasonably loud or harsh sound by means of any signaling device and the sounding of any device for an unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

(2) *Radios, phonographs, musical instruments.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants ~~or at any time with a volume louder than the convenient hearing of a person, not hearing impaired, who is within 40 feet of the device if outdoors, or in the room, vehicle or chamber in which the machine or device is operated, and who is a voluntary listener thereto. The operation of any set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at a distance of 50 feet from the device if outdoors, or 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this article.~~

(3) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

(4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, ~~particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place,~~ so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.

(5) *Animals, birds.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity. This section shall not apply to horses, livestock, poultry or other farm animals, provided they are maintained in accordance with county zoning regulations or ordinances.

(6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, internal-combustion engine or motorboat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud grating, grinding, rattling or other noise.

(8) *Construction or repair of buildings.* The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, electric saws, drills or any other equipment attended by loud noise, other than between the hours of 7:00 a.m. and ~~9:00~~ 8:59 p.m., Monday through Saturday and between 9:00 am and 6:59 pm on Sunday.

(9) *Streets adjacent to schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which interferes with the normal operation of that institution, or which disturbs patients in the hospitals, provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.

(10) *Hawkers, peddlers, vendors.* The shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

(11) *Noises to attract attention.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(12) *Landscaping equipment.* The operation of any noise-creating equipment including but not limited to lawnmowers, weed eaters, chainsaws, and blowers either gas powered or electric which causes noise that would annoy or disturb the peace, quiet and comfort of the neighboring inhabitants shall not be used in residentially-zoned parcels between the hours of 9:00 p.m. and ~~7:00~~ 6:59 a.m. on any day of the week.

(13) *Sound trucks.* The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles during hours and in places and with such volume as would constitute this use as a public nuisance; provided, that the provisions of this section shall not apply to or be enforced against:

- a. Any vehicle in the unincorporated areas of the county while engaged in necessary public business.
- b. Excavations or repairs of streets by or on behalf of the city, county or state at night when public welfare and convenience renders it impossible to perform such work during the day.
- c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

(14) *Motorcycles, go-carts and other motor vehicles.* The operation of a motorcycle, motorized scooter, go-cart or other motorized vehicle in a manner which creates excessive noise, including the continuous riding of any such vehicle past, around or near an inhabited dwelling place so as to disturb its inhabitants.

(15) *Consumer fireworks.* ~~The use or exploding of consumer fireworks between the hours of 9:00 p.m. and 10:00 a.m., except on the dates, and at the times, explicitly specified in Covered under chapter 10 of title 25, of the O.C.G.A. (O.C.G.A. § 25-10-1 et seq.)~~ 2, prohibited fireworks activities; application of noise ordinance.

(Ord. of 10-12-82, § 2(b); Code 1977, § 3-18.5-3; Ord. of 9-10-02; Ord. of 7-27-04; Amd. of 2-23-10; Amd. of 2-27-18; Amd. of 2-9-21)

State Law reference— Limits on volume of mechanical sound making devices located within motor vehicles, O.C.G.A. § 40-6-14; motor vehicle mufflers, O.C.G.A. § 40-8-71; boat mufflers, O.C.G.A. § 52-7-10; fireworks activities, O.C.G.A. § 25-10-2.

The Official Code of Cobb County, Georgia is amended by adding a section numbered 50-259 to read as follows:

Sec. 50-258~~9~~. - Exceptions to article.

(a) Any person whose operations or business within the unincorporated areas of the county is currently licensed under an existing county ordinance which prohibits the creation of disturbances or creation of nuisances on or emanating from the premises shall be exempt from the provisions of this article so long as the license under the existing ordinance remains valid.

(b) This article shall not apply to projects funded in whole or in part by Cobb County or to activities conducted upon county property with the prior permission of the county or by a licensee of the county for the use of county facilities so long as the license to use the property remains valid.

(c) This article shall not apply to school-sponsored activities conducted upon school grounds. "School" for the purpose of this section means a private, parochial or public kindergarten, elementary, middle, junior high or high school or college which teaches subjects commonly taught in the public schools and colleges of this state.

(d) This article shall not apply to any activity otherwise permitted by state or federal law.

(Ord. of 10-12-82, § 3; Code 1977, § 3-18.5-4; Amd. of 2-24-15; Amd. of 7-28-15)

~~Secs. 50-233—50-255. —Reserved.~~

The Official Code of Cobb County, Georgia is amended by adding a section numbered 50-260 to read as follows:

Sec. 50-260. – Procedures for the determination of sound levels.

(a) Insofar as practicable, the sound will be measured by certified sound level meters while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions including but not limited to, design, maximum, and fluctuating rates. All sound measurements shall be made at or within the property line of the affected property and heard for a minimum of 3 consecutive seconds. For the purposes of this ordinance, sound measurements are measured on the A-weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by the American National Standards Institute (ANSI).

- (b) The sound level meter and calibrator will be certified by the National Institute of Standards and Technology (NIST). A field check of meter calibration must be conducted before and after each set of measurements.
- (c) Total and neighborhood residual sound level measurements shall be taken in accordance with established procedures. Calculation of sound levels shall conform with accepted practices established by ANSI.

ARTICLE VII. – NOISE

Section 50-256 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 50-256. – Definitions.

For purposes of this article, certain phrases and words are defined below. Words or phrases not defined in this article but defined in applicable state law or the Official Code of Cobb County, Georgia, shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them below except where the text clearly indicates a different meaning:

"A" weighted sound level means the sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

ANSI means the American National Standards Institute.

Sound level meter (SLM) is an instrument used to measure sound pressure levels conforming to type 1 or type 2 standards as specified in ANSI Standard S1.4-198 or the latest version thereof.

Sound pressure level (SPL) is 20 multiplied by the logarithm, to the base ten, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Section 50-257 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 50-256~~7~~. - Violations and penalty.

(a) It shall be unlawful and punishable as provided in section 1-10 for any person within the unincorporated areas of the county to violate any of the provisions of this article.

(b) Except as otherwise provided herein, ~~it shall be unlawful for any person to make, continue or cause to be made or continued any loud noise which either disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the unincorporated areas of the county which is plainly audible 100 feet from the sound's point of origination, except as otherwise provided herein.~~

(3) From 7:00 am until 10:59 pm, exceeds 70 dBA measured from the complainant location;

(4) From 11:00 pm until 6:59 am, exceeds 65 dBA measured from the complainant location.

(c) dBA means the sound level measured in decibels using the "A" weighting network on a sound meter. dBA levels closely match the perception of loudness by the human ear.

(Ord. of 10-12-82, § 2(a); Code 1977, § 3-18.5-2; Ord. of 7-27-04; Amd. of 2-23-10)

Section 50-258 of the Official Code of Cobb County, Georgia is amended to read as follows:

Sec. 50-2578. - Enumeration of prohibited noises.

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this article; but this enumeration shall not be deemed to be exclusive:

(1) *Horns, signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle ~~on any street or public place~~ in the unincorporated areas of the county, except as a danger warning; the creation of any unreasonably loud or harsh sound by means of any signaling device and the sounding of any device for an unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

(2) *Radios, phonographs, musical instruments.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants ~~or at any time with a volume louder than the convenient hearing of a person, not hearing impaired, who is within 40 feet of the device if outdoors, or in the room, vehicle or chamber in which the machine or device is operated, and who is a voluntary listener thereto. The operation of any set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at a distance of 50 feet from the device if outdoors, or 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this article.~~

(3) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

(4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, ~~particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place,~~ so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.

(5) *Animals, birds.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity. This section shall not apply to horses, livestock, poultry or other farm animals, provided they are maintained in accordance with county zoning regulations or ordinances.

(6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, internal-combustion engine or motorboat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. This shall include internal-combustion generators except those specifically utilized in medical emergencies, during power outages, or those being tested or maintained for ongoing general upkeep.

(7) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud grating, grinding, rattling or other noise.

(8) *Construction or repair of buildings.* The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, electric saws, drills or any other equipment attended by loud noise, other than between the hours of 7:00 a.m. and ~~9:00~~ 8:59 p.m., Monday through Saturday and for general maintenance and projects of dwellings and/or accessories on residentially-zoned parcels which are not otherwise prohibited between 9:00 am and 6:59 pm on Sunday.

(9) *Streets adjacent to schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which interferes with the normal operation of that institution, or which disturbs patients in the hospitals, provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.

(10) *Hawkers, peddlers, vendors.* The shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

(11) *Noises to attract attention.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(12) *Landscaping equipment.* The operation of any noise-creating equipment including but not limited to lawnmowers, weed eaters, chainsaws, pressure washers, and blowers either gas powered or electric which causes noise that would annoy or disturb the peace, quiet and comfort of the neighboring inhabitants shall not be used in residentially-zoned parcels between the hours of 9:00 p.m. and ~~7:00~~ 6:59 a.m. on any day of the week.

(13) *Sound trucks.* The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles during hours and in places and with such volume as would constitute this use as a public nuisance; provided, that the provisions of this section shall not apply to or be enforced against:

- b. Any vehicle in the unincorporated areas of the county while engaged in necessary public business.
- b. Excavations or repairs of streets by or on behalf of the city, county or state at night when public welfare and convenience renders it impossible to perform such work during the day.
- c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

(14) *Motorcycles, go-carts and other motor vehicles.* The operation of a motorcycle, motorized scooter, go-cart or other motorized vehicle in a manner which creates excessive noise, including the continuous riding of any such vehicle past, around or near an inhabited dwelling place so as to disturb its inhabitants.

(15) *Consumer fireworks.* ~~The use or exploding of consumer fireworks between the hours of 9:00 p.m. and 10:00 a.m., except on the dates, and at the times, explicitly specified in~~ Covered under chapter 10 of title 25, of the O.C.G.A. (O.C.G.A. § 25-10-1 et seq.) 2, prohibited fireworks activities; application of noise ordinance.

(16) *Generators.* The unnecessary running or operation of generators, excluding portable and those except those specifically utilized in medical emergencies, during power outages, or those being tested or maintained for ongoing general upkeep, and those not in conflict with paragraph (6) of this section.

(Ord. of 10-12-82, § 2(b); Code 1977, § 3-18.5-3; Ord. of 9-10-02; Ord. of 7-27-04; Amd. of 2-23-10; Amd. of 2-27-18; Amd. of 2-9-21)

State Law reference— Limits on volume of mechanical sound making devices located within motor vehicles, O.C.G.A. § 40-6-14; motor vehicle mufflers, O.C.G.A. § 40-8-71; boat mufflers, O.C.G.A. § 52-7-10; fireworks activities, O.C.G.A. § 25-10-2.

The Official Code of Cobb County, Georgia is amended by adding a section numbered 50-259 to read as follows:

Sec. 50-2589. - Exceptions to article.

(a) Any person whose operations or business within the unincorporated areas of the county is currently licensed under an existing county ordinance which prohibits the creation of disturbances or creation of nuisances on or emanating from the premises shall be exempt from the provisions of this article so long as the license under the existing ordinance remains valid.

(b) This article shall not apply to projects funded in whole or in part by Cobb County or to activities conducted upon county property with the prior permission of the county or by a licensee of the county for the use of county facilities so long as the license to use the property remains valid.

(c) This article shall not apply to school-sponsored activities conducted upon school grounds. "School" for the purpose of this section means a private, parochial or public kindergarten, elementary, middle, junior high or high school or college which teaches subjects commonly taught in the public schools and colleges of this state.

(d) This article shall not apply to any activity otherwise permitted by state or federal law.

(Ord. of 10-12-82, § 3; Code 1977, § 3-18.5-4; Amd. of 2-24-15; Amd. of 7-28-15)

~~Secs. 50-233—50-255. —Reserved.~~

The Official Code of Cobb County, Georgia is amended by adding a section numbered 50-260 to read as follows:

Sec. 50-260. – Procedures for the determination of sound levels.

- (d) Insofar as practicable, the sound will be measured by certified sound level meters while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions including but not limited to, design, maximum, and fluctuating rates. All sound measurements shall be made at or within the property line of the affected property and heard for a minimum of 3 consecutive seconds. For the purposes of this ordinance, sound measurements are measured on the A-weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by the American National Standards Institute (ANSI).
- (e) The sound level meter and calibrator will be certified by the National Institute of Standards and Technology (NIST). A field check of meter calibration must be conducted before and after each set of measurements.
- (f) Total and neighborhood residual sound level measurements shall be taken in accordance with established procedures. Calculation of sound levels shall conform with accepted practices established by ANSI.