

EMERSON SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE

NOW, THEREFORE, BE IT ORDAINED, BY THE Mayor and Council of the City of Emerson, Georgia.

701. Title

This ordinance will be known as the Emerson Soil Erosion and Sedimentation Control Ordinance and may be used herein as this ordinance.

702. Definitions

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

1. Best Management Practices (BMP's): A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" { as specified in O.C.G.A. 12-7-6, subsection (b).
2. Board: The Board of Natural Resources of the State of Georgia.
3. Buffer or Buffer Zone: 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.
4. City: The City of Emerson, a political subdivision of the State of Georgia certified as the local issuing authority pursuant to O.C.G.A. 12-7-8.
5. City Engineer: The City employee or consultant who is a Professional Engineer registered by the State of Georgia and designated by the Mayor and Council to hold the position of City Engineer.
6. City Manager: The employee of the City designated by the Mayor and Council to hold the position of City Manager.

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7. Commission: The State Soil & Water Conservation Commission.
8. Cut: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as an excavation.
9. Department: The Georgia Department of Natural Resources.
10. Director: The Director of the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources.
11. District: The Coosa River Soil and Water Conservation District.
12. Division: The Environmental Protection Division of the Georgia Department of Natural Resources.
13. Drainage Structure: A device composed of a virtually non-erodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm-water management, drainage control, or flood control purposes.
14. Erosion: The process by which land surface is worn away by the action of wind, water, ice or gravity.
15. Erosion and Sedimentation Control Plan or Plan: A set of drawings and supporting documents describing existing conditions and proposed measures for the control of soil erosion and sedimentation resulting from a land-disturbing activity.
16. Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground.
17. Finished Grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
18. Grading: The act of altering the shape of ground surfaces to a predetermined condition; including stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

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19. Ground Elevation: The original elevation of the ground surface prior to cutting, filling or grading.
20. Initial Erosion and Sediment Control Measures: Those initial structural measures and vegetative practices shown on the approved Plan and intended to be completed prior to commencement mass grading, utility installation, and site development, including but not limited to, perimeter silt fencing, diversion ditching, sediment basins, and protective fencing.
21. Land-Disturbing Activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into State Waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural practices as described in O.C.G.A. 12-7-17-(5).
22. Land Disturbing Activity Permit: A permit issued by the City of Emerson allowing clearing, grubbing, grading, including required erosion and sediment control measures and practices, referred to as the LDA Permit.
23. Larger Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
24. Local Issuing Authority: The City of Emerson, as certified pursuant to subsection (a) O.C.G.A. 12-7-8.
25. Manual for Erosion and Sediment Control in Georgia or Manual: The publication of the Georgia Soil and Water Conservation Commission entitled ”Manual for Erosion and Sediment Control in Georgia,” issued as of January 1 of the year in which the land-disturbing activity was permitted, referred to as the “Manual” in this ordinance.

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26. Metropolitan River Protection Act (MRPA): A state law referenced as O.C.G.A. 12-5-440 et.seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
27. Natural Ground Surface: The ground surface in its original state before any grading, excavation or filling.
28. Nephelometric Turbidity Units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.
29. Operator: The party or parties having day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions or a person authorized to cause modifications to be made to project drawings and specifications for the purpose of permit compliance.
30. Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
31. Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.
32. Plat: A property boundary map prepared by a licensed land surveyor for the tract of land containing the proposed project.
33. Project: The entire proposed area of development regardless of the size of the area of land to be disturbed.
34. Qualified Personnel: Any person who meets or exceeds the education and training requirements of O.C.G.A. 12-7-19.

35. Roadway Drainage Structure: A device such as a bridge, culvert, or ditch, composed of a virtually non-erodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
36. Sediment: 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.
37. Sedimentation: The process of forming or depositing sediment.
38. Soil and Water Conservation District Approved Plan: An erosion and sedimentation control plan, which has been approved in writing by the Coosa River Soil and Water Conservation District.
39. Stabilization: The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
40. State General Permit: The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.
41. State Waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

42. Stream Bank: The defining cut of a stream channel, usually identified as the point where the flow has wrested the vegetation. For non-trout waters, the normal stream flow is any stream flow that consists solely of base flow, or consists of both base flow and direct runoff during any period of year. Base flow results from groundwater that enters the stream channel through the soil. This includes spring flows into streams. Direct runoff is the water entering stream channels promptly after rainfalls or snow melts.
43. Structural Erosion and Sedimentation Control Practices: Means and methods used 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 examples of structural erosion and sediment control practices found in the Manual for Erosion and Sediment Control in Georgia.
44. Trout Streams: All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20 et. seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.
45. Vegetative Erosion and Sedimentation Control Measures: Means and methods used for the stabilization of erodible or sediment-producing areas by covering the soil with permanent seeding, sprigging or planting, producing long-term vegetative cover; or temporary seeding, producing short-term vegetative cover; or Sodding, covering areas with a turf of perennial sod-forming grass, including examples of such practices found in the “Manual for Erosion and Sediment Control in Georgia”.
46. Watercourse: Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

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

703. Exemptions

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

1. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "Mineral Resources and Caves Act";
2. Granite quarrying and land clearing for such quarrying;
3. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
4. Construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in this paragraph and Section IV of this ordinance. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any State Waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Section IV of this ordinance and the buffer zones provided by this Section shall be enforced by the issuing authority;

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5. Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in Section IV E. of this ordinance, 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 (3) years after completion of such forestry practices;
7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture (USDA);
8. Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, AState Waters@ excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 of this Section.

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9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the State General Permit, in which case a copy of a notice of intent under the State General Permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A.36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A.36-18-1, or any agency or instrumentality of the United states engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the State General Permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
11. Any public water system reservoir.

704. Minimum Requirements for Erosion and Sedimentation Control using Best Management Practices

A. GENERAL PROVISIONS

1. Plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Section IV of this ordinance. The application of measures and practices shall apply to all features of the proposed project, including street and utility installations, storm drainage facilities and other temporary and permanent improvements, whether on or off the project site. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

B. BEST MANAGEMENT PRACTICES

1. Best management practices (BMP's) as set forth in Section IV of this ordinance 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 paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b). The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this ordinance.

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2. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 Nephelometric turbidity units for waters supporting warm water fisheries or by more than ten Nephelometric turbidity units for waters classified as trout waters 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 issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by the City or of any State General Permit for construction activities issued by the Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
4. The Director of EPD may require, in accordance with regulations adopted by the Georgia Board of Natural Resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.

C. ADDITIONAL MINIMUM REQUIREMENTS

1. Land-disturbing activities regulated by this ordinance shall include, as a minimum, protections at least as stringent as the State General Permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those properly designed, installed, and maintained practices contained in the Manual as of January 1 of the year in which the land-disturbing activity was permitted.
2. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion.
3. Cut-fill operations shall be kept to a minimum.

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4. Development plans shall conform to topography and soil type so as to create the lowest practical erosion potential.
5. Whenever feasible, natural vegetation shall be retained, protected and supplemented.
6. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
7. Disturbed soil shall be stabilized as quickly as practicable by means of mulch, temporary vegetation, or permanent vegetation which shall be completed on all exposed areas within 14 days after disturbance.
8. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
9. Permanent structural erosion control practices and storm water management facilities shall be installed as soon as practicable.
10. To the extent necessary, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.
11. Adequate provisions shall be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills.
12. Cuts and fills may not endanger adjoining property.
13. Fills shall not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
14. Construction equipment shall not cross flowing streams except by means of bridges or culverts or, where such methods are not feasible, by means of crossing that minimize disturbance, provided, in any case, that such crossings are kept to a minimum.

15. Temporary and permanent storm water detention facilities shall be constructed and certified to be substantially complete and fully stabilized prior to commencement of any other construction on the project site.

D. MAXIMUM SEDIMENT LIMITS

1. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section IV B.2. of this ordinance.
2. A discharge of storm-water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by the City or of any State General Permit issued by the division for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for water supporting warm water fisheries or by more than 10 nephelometric turbidity units for waters classified as trout waters, except that the requirements of this subparagraph do not apply to construction of single-family homes with are not part of a subdivision or planned common development unless five acres or more will be disturbed.

E. BUFFERS REQUIRED

1. Except as provided in paragraph (2) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protection of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the “Georgia Water Quality Control Act”, shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:

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

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

(i) Stream crossings for water lines; or

(ii) Stream crossings for sewer lines; and there is established a 25 foot buffer along the banks of all State Waters, except for trout streams which shall have a 50 foot buffer, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action. Except as provided in paragraph (2) of this subsection, the following requirements shall apply to any such buffer:

2. 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 drainage structure must be constructed, provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate

erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to any such buffer:

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

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

(i) Stream crossings for water lines; or

(ii) Stream crossings for sewer lines.

F. PROOF OR PRESUMPTION OF VIOLATION BY INJURY

1. No requirement of this ordinance shall be interpreted to require any person to exceed the State General Permit requirements for monitoring, reporting, inspections, design standards, turbidity standards, or education and training.
2. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof or nor create presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

705. Permit Application Process

A. GENERAL

1. No person shall commence any land-disturbing activity within the jurisdictional boundaries of the City without having:
 - a. Reviewed the general development plans and detailed plans of the City that affect the tract to be developed and the area surrounding it and reviewed the zoning ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and other ordinances which regulate the development of land within the jurisdictional boundaries of the City of Emerson; and,
 - b. Attended an informal conference with the City Manager, and/or his/her designated representative, to present a general description and preliminary plan of the proposed development project and land-disturbing activities and to evaluate the applicability of this and other ordinances prior to preparation of the soil erosion and sedimentation control plan.

B. PERMIT REQUIRED

1. No land-disturbing activities, as defined in Section II of this ordinance, shall be conducted within the jurisdictional boundaries of the City of Emerson, except those activities exempted, unless the operator of the property where the land-disturbing activity will occur has first securing a permit from the City and provided a Notice of Intent (N. O. I.) and paid fees to the Division and the City as required by O.C.G.A. 12-7-7.
2. The operator, as defined in Section II of this ordinance, is the only party who may apply for and obtain a permit.

C. APPLICATION REQUIREMENTS

1. An application for a permit shall be submitted to the City Clerk on City-furnished forms, and shall be accompanied by the applicant's development plans, soil erosion and sedimentation control plan, and other supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section V, C. of this ordinance. Erosion and sedimentation control plans shall conform to the provisions of Section IV of this ordinance. Applications for a permit will not be accepted unless accompanied by five (5) copies of the applicant's erosion and sedimentation control plan.
2. All applications shall contain a certification stating that the plan preparer or the designee thereof has visited the site prior to creation of the erosion and sedimentation control plan or that such a visit was not required in accordance with rules and regulations established by the Board.
3. The operator shall pay local permit application fees established by the City and for engineering fees that may be reasonably incurred by the City in connection with review of said application, issuance of the permit, and inspections for enforcement thereof.
4. 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. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A.12-7-8 half of such fees levied shall be 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.
5. All applicable fees, local and state, shall be paid prior to issuance of the land disturbance permit and prior to commencement of land disturbing activities at the site.
6. Prior to issuance of a permit by the City, the permit applicant shall certify that a registered 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 responsible for the design of

- the erosion and sediment control measures has been engaged and is authorized to provide periodic inspections, record drawings, and certifications for the project as required by this ordinance. At any time, the permit applicant may submit certification designating another design professional responsible for periodic inspections, record drawings, and certifications for the project.
7. Upon receipt of a completed application for a permit accompanied by an approvable erosion and sedimentation control plan with supportive data, all local permitting fees, proof of payment of state fees and submission of a Notice of Intent (N.O.I.), the City Manager shall refer the application and approvable plan to the District for its review and approval or disapproval concerning the adequacy of the plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending erosion and sedimentation control plan by the District. The results of the District review shall be forwarded to the permit applicant upon receipt by the City. No permit will be issued unless the erosion and sedimentation control plan has been approved by the District, and the City Engineer, and any variances required by Section IV, E. Buffers Required, and bonding, if required per Section V, C. Application Requirements 9., have been obtained. Review by the District shall not be required if the City and the District have entered into an agreement which allows the City to conduct such review and approval of the Plan without referring the application and erosion and sedimentation control plan to the District.
 8. If a permit applicant has had two or more violations of previous permits, this ordinance, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the City Manager may deny the permit application.
 9. The City Manager 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 ordinance or with the conditions of the permit after issuance, the City may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. The permit holder shall have right for hearing and judicial review of any determination or order of the City Manager with respect to alleged permit violations.

706. Plan Requirements

A. GENERAL

1. Erosion and sedimentation control plans shall be prepared to meet the minimum requirements as contained in Section IV of this ordinance. Conformance with the minimum requirements may be attained through the use of minimum design criteria in the Manual or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. Plans shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures, including roadways, constructed waterways, sediment control and storm water management facilities, other local ordinances and State laws.
2. The erosion and sedimentation control plan shall consist of drawings and supportive data, including but not limited to, maps, topographic data, plats, drawings, reports and computations and shall bear the signature and seal of the registered professional engineer, architect, landscape architect, or land surveyor responsible for the design. In addition, after December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the Commission pursuant to O.C.G.A.12-7-20.
3. Retaining walls greater than 4 feet in height shall be designed by and bear the signature and seal of a registered professional engineer.
4. The erosion and sedimentation control plan shall include a separate phase of AInitial Erosion and Sediment Controls consisting of structural measures and vegetative practices intended to be installed prior to commencement of any other activity on the project site including mass grading, utility installation, and site development. The initial measures shall include, but not limited to, perimeter silt fencing, diversion ditching, construction entrance, temporary sediment basins, storm water management facilities and protective fencing delineating buffer limits and other areas to remain undisturbed.

5. Each drawing sheet which constitutes a part of the erosion and sedimentation control plan shall be numbered and clearly identified as part of the erosion and sedimentation control plan and shall include, as a minimum, the following sheets:
 - a. Title Page.
 - b. Narrative and Notes Page.
 - c. Property Plat.
 - d. Site Layout Plan.
 - e. Initial Erosion and Sediment Controls.
 - f. Grading and Drainage Plan.
 - g. Erosion and Sediment Controls.
 - h. Structural Controls Details.
 - i. Other as appropriate to fully define the project.

6. Each drawing sheet which constitutes a part of the erosion and sedimentation control plan shall:
 - a. Contain a graphic scale and north arrow indicating magnetic north;
 - b. Be drawn to 1 inch = 40 ft, or larger scale if necessary for clarity; and
 - c. Be 24inch x 36inch or 36inch x 42inch size. All sheets shall be of equal size in the set.

7. Data Required on the Title Page
 - 1) Name of the proposed project.
 - b. Name, address, and telephone number of the property owner.
 - c. Name, address, and telephone number of the developer of the project.
 - d. Name, address, and 24-hour phone number of the Operator who is responsible for erosion and sedimentation controls.
 - e. A table of contents identifying all drawing sheets which constitute the erosion and sedimentation control plan.
 - f. A vicinity map showing the location of project and existing streets.
 - g. Certifications required by this ordinance and for the State General Permit.

8. Data Required on the Narrative and Notes Page

- a. Narrative description of the proposed project including description of existing and proposed land use at project site and proposed future phases of the development, if applicable.
- b. General notes, and other related information.
- c. An activity schedule showing anticipated starting and completion dates for all land-disturbing activities proposed for the project.

9. Data Required on the Property Plat

- a. Boundary line survey plat of the project site signed, dated and sealed the responsible land surveyor.
- b. Topographic survey of the project site signed, dated and sealed by the responsible land surveyor. Topographic information shall be on USGS datum and a permanent benchmark on the project site shall be identified.
- c. Delineation of the 100 year flood boundary at the project site.

10. Data Required on the Site Layout Plan:

- a. An overall layout of the proposed project including, but not limited to, the location, description, size and dimensions of existing and proposed structures, utilities, and paved areas.
- b. The location of all State Waters, including trout streams, with the required horizontal buffer widths and protective fencing shown.
- c. The outline, size, and layout dimensions for major structures proposed for erosion and sedimentation control structural practices.
- d. Size of the project to be constructed, in acres.
- e. All areas adjacent to the project showing physical features such as streams, lakes, residential areas, etc. which might be affected by the proposed project.
- f. The drainage areas for all off-site stormwater entering the project site and for sub-basins within the site.

11. Data required on the Initial Erosion and Sediment Controls:

- a. The location, identification, and size, for all structural practices proposed for initial erosion and sediment control clearly identified by uniform coding symbols from the Manual.
- b. The location and identification for all vegetative practices proposed for stabilizing initially disturbed areas, clearly identified by uniform coding symbols from the Manual.

12. Data required on the Grading and Drainage Plan:

- a. Existing and planned contours in the project area, with a two (2) foot contour interval and critical spot elevations.
- b. Delineation of proposed disturbed areas within project boundary.
- c. Delineation of protective fencing for areas within the site not to be disturbed.
- d. Stormwater and sedimentation management systems, with sizes, storage capacities, and calculations, including off-site drainage areas.
- e. Proposed retaining walls, if any, showing dimensions and heights.

13. Data required on the Erosion and Sediment Control Plan:

- a. Delineation of soil series.
- b. The location, identification, and size, for all structural practices proposed for erosion and sedimentation control identified by uniform coding symbols from the Manual.
- c. The location and identification for all vegetative practices proposed for stabilizing disturbed areas, identified by uniform coding symbols from the Manual.
- d. A vegetative plan for all temporary and permanent vegetative measures, including a table of species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan shall show options for year-round seeding.
- e. The following maintenance statement: Erosion and sedimentation control measures shall be maintained at all times. If full implementation of the approved plan does not provide effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source. Additional erosion and sedimentation control measures and practices shall be installed if deemed necessary by onsite inspection. @

- f. The following statement, in bold letters: **The installation of erosion and sedimentation control measures and practices shall occur prior to, or concurrent with, land-disturbing activities.**
14. Data required on the Structural Details Sheet:
- a. Detail drawings for all structural practices, the design of which shall, as a minimum, follow guidelines set forth in the Manual.
15. Required Supportive Data
- a. Soils information pertaining to the site as required by the District for review.
 - b. Hydrology Study and Report signed and sealed by the responsible registered professional engineer.

B. PERMITS

- 1. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the City Clerk of a completed application and approvable erosion and sedimentation control plan, providing that variances and bonding are obtained, where necessary.
- 2. No permit shall be issued by the City unless:
 - a. The erosion and sedimentation control plan has been approved by the District;
 - b. The City Engineer has affirmatively determined that the erosion and sedimentation control plan and supporting documents are in compliance with this ordinance; and
 - c. The City Manager has affirmatively determined that all variances required by Section IV E have been obtained, that bonding requirements, if necessary, as per Section V, C.9. are met, and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the City are met.
- 3. If the permit is denied, the reason for denial shall be furnished to the applicant by the City Manager.

4. If the project is to be developed in phases, then separate applications, reviews, fees, and permits shall be required for each phase.
5. Any permit may be suspended, revoked, or modified by the City, as to all or any portion of the land affected by the permit, upon finding that the holder or his/her successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his/her successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title as to all or any portion of the land affected by the approved erosion and sedimentation control plan of the conditions contained in the permit.

707. Maintenance, Record Drawings and Certification Requirements

A. MAINTENANCE

1. Installation and maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, on or off the project site, shall be at all times the responsibility of the permit applicant.

B. RECORD DRAWINGS

1. Upon completion of soil erosion and sediment control measures and stabilization of all disturbed areas, the permit applicant shall cause the design professional responsible for the project to prepare and submit four (4) copies of record drawings showing the actual as-constructed soil erosion and sediment control measures.

C. CERTIFICATIONS

1. Upon completion of soil erosion and sediment control measures and stabilization of all disturbed areas, the permit applicant shall cause the design professional responsible for the project to submit signed and sealed certification that the completed soil erosion and sediment control measures are in substantial compliance with the approved plan and permit conditions. A separate certification shall be submitted for completed retaining walls, if applicable.

708. Inspections

A. AUTHORIZATION

1. The City, or its authorized representatives or agents, shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance and by state law, and for this purpose to enter upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
2. No person shall refuse entry or access to any authorized representative or agent of City, the Commission, the District, or Division who requires 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/her official duties.

B. INSPECTIONS REQUIRED

1. The City, or its authorized representatives or agents, shall 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 approved Plan and if the measures required in the Plan are effective in controlling erosion and sedimentation. Also, the City shall regulate both primary and secondary permittees as such terms are defined in the State General Permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities.
2. The permit applicant shall engage a design professional to conduct periodic inspections of the installation of soil erosion and sediment control measures and to submit periodic reports to the City Manager, or his/her designated representative. The frequency of inspections may vary depending upon the circumstances of the project and shall be at least monthly but not be more frequent than once per week. The reports shall record the progress of activities on the site, effectiveness of the soil erosion and sediment controls on the site, and include specific recommendations to remedy any deficiencies noted.

3. The permit applicant shall cause copies of the periodic inspection reports and copy of the approved erosion and sediment control plan to be on the project site and available for public inspection at reasonable times.

C. LOCAL ISSUING AUTHORITIES

1. The Districts or the Commission or both shall periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A.12-7-8 (a). The Districts or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The Districts or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
2. The Board, on or before December 31, 2003, shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities 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 any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 30 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 30 days after notification by the division, the division may revoke the certification of the county or municipality as a Local Issuing Authority.

709. Penalties and Incentives

A. FAILURE TO OBTAIN A PERMIT FOR LAND-DISTURBING ACTIVITY

1. If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, the person shall be deemed to be in violation of this ordinance and the City Manager shall issue an immediate stop-work order requiring that all activities on the project site be stopped until a permit is issued.

B. FAILURE TO COMPLY WITH PERMIT REQUIREMENTS

1. If, through inspection, it is determined that any person engaged in land-disturbing activities as defined herein has failed, for the first or second time to comply with the approved erosion and sedimentation control plan, with permit conditions, or with other provisions of this ordinance, the City Manager, or his/her representative, shall serve written warning notice upon that person. The warning notice shall set forth the minimum measures deemed necessary to achieve compliance and providing five days to correct the violation.
2. If the person engaged in the land-disturbing activity fails to comply with the warning notice within the time specified, he shall be in violation of this ordinance.
3. If any violation of this ordinance presents an imminent threat to public health or waters of the state, the City Manager shall issue an immediate stop-work order in lieu of a warning.

C. STOP-WORK ORDERS

1. If any person is deemed to be in violation of this ordinance, the City Manager shall issue an immediate stop-work order requiring that all activities on the project site be stopped until necessary corrective action or mitigation has occurred.
2. For a third and each subsequent violation, the City Manager shall issue an immediate stop-work order in lieu of a warning.
3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or where significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her designee, have been or are being discharged into State Waters, and/or where best management practices have not been properly designed, installed, and maintained, an immediate stop work order shall be issued by the Local Issuing Authority or by the Director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
5. All stop work orders shall apply to all construction activities taking place on the project site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls where necessary to bring land-disturbing activities into compliance with requirements of this ordinance.

D. BOND FORFEITURE

1. Any person, having posted a bond under provisions of Section V, C., Application Requirements,9., engaged with land-disturbing activities which fail to comply with the approved Plan shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited the performance bond and the City Manager 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.

E. MONETARY PENALTIES

1. Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order issued by the City as provided in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in the City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

710. Education and Certification

After December 31, 2006, the City Manager shall require that all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall submit certification with each application to the City stating that education and training certification requirements are in compliance with requirements of the Commission and the stakeholder advisory board created pursuant to O.C.G.A.12-7-20

711. Issuance of Building Permits and Certificate of Occupancy

1. No building or development permit of any nature shall be issued for any building or development on the project site until the initial erosion control measures shown on the approved erosion and sedimentation control plan shall have been completed in accordance with this ordinance and approved by the City Engineer.
2. Certificates of Occupancy shall not be issued for any building or development unless all erosion control measures shown on the approved erosion and sedimentation control plan shall have been completed in accordance with this ordinance, all disturbed areas have been stabilized, record drawings and certifications by the property owner=s registered professional engineer, architect, landscape architect, or land surveyor responsible for the project have been delivered and approved by the City Engineer.

712. Administrative Appeal and Judicial Review

A. ADMINISTRATIVE REMEDIES

The suspension, revocation, modification or grant with condition of a permit by the City Manager upon finding that the holder is not in compliance with the approved Plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the erosion and sedimentation control plan or holding the permit to a hearing before the City Council within twenty (20) days after receipt by the Issuing Authority of written notice of appeal.

B. JUDICIAL REVIEW

Any person, aggrieved by a decision or order of the City, after exhausting his/her administrative remedies, shall have the right to appeal *de novo* to the Superior Court of Bartow County.

713. Effectivity, Validity and Liability

A. EFFECTIVITY

This ordinance shall be in effect from the date of acceptance by the Mayor and City Council of the City of Emerson.

B. VALIDITY

If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid, void, or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.

C. LIABILITY

1. Neither the approval of a erosion and sedimentation control plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the City, its authorized representatives or agents, 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 ordinance or the terms of the permit.
3. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved there under or pollute any Waters of the State as defined thereby.

