

AN ORDINANCE OF THE COUNTY COMMISSIONER OF BARTOW COUNTY SITTING FOR COUNTY PURPOSES FOR THE PURPOSE OF **AMENDING THE CODE OF BARTOW COUNTY, CHAPTER 34, ARTICLE IV, THE BARTOW COUNTY SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE; ADDING PROVISIONS TO COMPLY WITH STATE-MANDATED CHANGES; ADDING DEFINITIONS; AMENDING PLAN SUBMISSION REQUIREMENTS; AMENDING EDUCATION REQUIREMENTS; AMENDING SURETY REQUIREMENTS; AND FOR OTHER PURPOSES** AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON OCTOBER 6, 2010.

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**WHEREAS**, Bartow County, in accordance with the mandates of Chapter 7 of Title 12 of the Georgia Code, the “Erosion and Sedimentation Control Act of 1975,” regulating the control of erosion, sedimentation and pollution in order to preserve the public health, safety and welfare has adopted a local erosion and sedimentation control ordinance, as contained in Article IV of Chapter 34 of the Code of Bartow County; and

**WHEREAS**, the preexisting Bartow County Soil Erosion and Sedimentation Control Ordinance, (Article IV of Chapter 34 of the Code of Bartow County), having been amended and readopted from time to time, needs further changes and amendments to better serve the citizens of Bartow County; and

**WHEREAS**, it is the intent of this amendment to serve the public health, safety and welfare as well as comply with recent amendments to the E & S Model Ordinance promulgated by the Environmental Protection Division of the Georgia Department of Natural Resources, in accordance with O.C.G.A. § 12-7-1 et seq.;

**NOW THEREFORE BE IT ORDAINED** AND IT HEREBY IS ORDAINED, by virtue of the authority vested in the Commissioner by law, and by O.C.G.A. § 12-7-4, requiring local governments to adopt erosion and sedimentation control ordinances consistent with the standards put forth in the Erosion and Sedimentation Control Act of 1975, as amended, that Article IV of Chapter 34 of the Code of Bartow County (titled the “Bartow County Soil Erosion and Sedimentation Control Ordinance”) is amended as follows:

**I. In Sec. 34-254, the following definitions are either added, or if an existing definition of the same term exists, the following definition replaces the existing definition:**

*Best management practices (BMPs)* 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.

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

*CPESC:* Certified Professional in Erosion and Sediment Control with current certification by Certified Profession in Erosion and Sediment Control Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

*Design Professional:* A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control Inc.

*Erosion and sediment control plan (also referred to as "Plan"):* A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7 that meets the requirements of this article. As used in this article, this term shall also mean "*Erosion, sedimentation and pollution control plan*"

*Final Stabilization:* All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by the Environmental Protection Division of the Georgia Department of Natural Resources for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (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 a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

*NOI:* A Notice of Intent form provided by EPD for coverage under the State General Permit.

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

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

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

*Qualified Personnel:* Any person who meets or exceeds the education and training requirements of O.C.G.A. 12-7-19.

*Soil and Water Conservation District Approved Plan:* An erosion, sedimentation and pollution control plan approved in writing by the Coosa River Soil and Water Conservation District.

*Trout Streams:* All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at [www.gaepd.org](http://www.gaepd.org). Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

*Vegetative Erosion and Sedimentation Control Measures:* Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
- b. Temporary seeding, producing short-term vegetative cover; or
- c. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

**II. Sec. 34-254 is amended to delete the definition of “Stream.”**

**III. Sec. 34-255 is amended to replace the phrase “Mineral Resources and Caves Act” with the phrase “Georgia Surface Mining Act of 1968.”**

**IV. Existing Sec. 34-267 is deleted and replaced with the following:**

Sec. 34-267. Best management practices; minimum requirements.

(a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirement of this article and the NPDES

General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures 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, sedimentation and pollution during all stages of any land-disturbing activity.

(b) *Best management practices (BMPs).*

(1) Best management practices (BMPs), as set forth in this subsection and subsection (c) of this section, and including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, shall be required for all land-disturbing activities undertaken in Bartow County. All BMPs shall be properly designed, installed and maintained in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia", latest edition, which is incorporated herein by reference.

(2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, or maintained shall constitute a separate violation of any land-disturbing permit issued by Bartow County or of any state general permit issued by the division pursuant to subsection (f) of Code Section 12-5-30 for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction (i.e., the entire common plan of development) 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 Bartow County 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 failure occurs.

(4) The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur

(c) *Additional requirements.* All land-disturbing activity conducted in this County shall require, as a minimum, protections at least as stringent as the State General Permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia*, latest edition, which is incorporated herein by reference, as well as the following:

(1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner to minimize erosion. Stripping of vegetation, regrading or other development activities not essential to the development of the property is prohibited. Only the minimum necessary amount of land shall be cleared for any commercial, residential or industrial development, in accordance with the approved plan and permit.

(2) Cut-fill operations must be kept to a minimum. Cuts or fills that create unnecessary or excessive erosion, threaten the support of neighboring property, endanger adjoining property, or are not necessary for a lawful and permitted use are prohibited.

(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 the erosive elements shall be kept to a practicable minimum.

(6) Disturbed soil shall be stabilized as quickly as practicable, but in no event longer than seven days after first disturbance. Failure to stabilize disturbed soil shall be a violation and shall subject the violator to an immediate stop-work order.

(7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development. Exposed areas shall be vegetated or otherwise stabilized within seven days after disturbance. Temporary vegetation cannot be used as permanent vegetation.

(8) Permanent vegetation and structural erosion control measures shall be installed as soon as practicable, but in no event later than the temporary power release inspection. Permanent vegetation and structural erosion control

measures shall be installed prior to issuance of the certificate of occupancy, unless special circumstances exist, in which case a variance can be sought from the county engineer; in no event shall the variance authorize more than six months after the issuance of the certificate of occupancy to achieve final stabilization and install permanent vegetation. See section 34-298. Temporary vegetation cannot be used as permanent vegetation.

(9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of this article.

(10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills. All exposed slopes will be treated with geotextile fabric matting or coated with a polymer material or will utilize other methods approved by the Bartow County Engineer to prevent erosion.

(11) Cuts and fills that deposit sediment on adjoining property are prohibited; cuts and fills may not endanger adjoining property.

(12) Cuts and fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.

(13) Grading equipment must cross flowing streams by means of bridges or culverts, except when such methods are not possible, provided in any case, that such crossings are kept to a minimum.

(14) Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(2) of this section.

(15) There is established a 50-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, or where a drainage structure or roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specification, 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.

b. 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.

c. A variance from this buffer requirement may be sought, but to no smaller than 25 feet. See Section 34-298.

d. 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 of width of disturbance of not more than 50 feet within the buffer, and adequate temporary (during construction) and permanent (after construction) erosion control measures in compliance with BMPs and sufficient to protect the watercourse from sedimentation are incorporated into the project plans and specification, and are implemented and maintained: i) stream crossings for water lines; ii) stream crossings for sewer lines.

(16) Allowing visible amounts of sediment to flow onto an adjoining property, into the waters of the state, or across any downstream property, shall constitute a violation of this article.

(17) In addition to BMPs, all land-disturbing activities subject to this article shall be conducted in compliance with the *Bartow County Site and Utility Details for Development*, if applicable.

(18) Ephemeral streams are exempted from the requirements of subsection (15) above. 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.

(19) All areas of erodible earth material shall be exposed no longer than one week (seven calendar days) before the area is stabilized with grass, straw,

mulch and seed or a combination of these. The stabilization of new exposed areas shall occur weekly.

(20) Utility Companies which are utilizing roadway shoulders for construction are required to maintain and/or stabilize the earth shoulders to within 300 feet of construction. Shoulder construction shall be stabilized every three days as a maximum period time. They are also required to stabilize the shoulder before leaving the work area on any particular day if rain is forecast within the next 24 hours.

(21) Tree protection fencing and two rows of Georgia DOT Type "C" wired back silt fence shall be installed at all locations where construction activity will be adjacent to a State Water requiring a buffer.

(22) All silt fence installed shall be GDOT approved materials.

(d) *Violations.* Failure to properly design, install, or maintain best management practices where required, as defined by this article and by the "Manual for Erosion and Sedimentation Control in Georgia", shall constitute a violation of this article for each day on which such failure occurs or continues to exist. Failure to properly design, install, maintain, or abide by any minimum requirement shall constitute a violation of this article.

(e) *Construction exits.* A temporary construction exit must be installed and maintained for any land disturbance or other construction occurring in the county. Such exit must be maintained while any construction and/or grading equipment will be leaving a construction site to a public right-of-way, street, or parking area until construction is completed. (The construction exit may be the same as the driveway exit.) The construction exit shall be graded such that drainage is directed away from any paved street or parking area.

(1) *Exit Pad.* The exit pad of consisting of appropriate aggregate size shall be a minimum of twenty (20) feet in width by fifty (50) feet in length with a depth of six (6) inches, and a geo-textile pad placed full length and width underneath. The pad may be required to be an additional width, length, and/or depth if, in the opinion of the Engineering Department, conditions so warrant. The pad shall be adequate to substantially eliminate the transport of mud from the construction site by either motor vehicles and/or equipment or from water run-off.

(2) *Contamination of roadways.* Tracking or carrying soil onto the pavement of any county or state roadway, whether from the wheels of any vehicle or by any other means, shall constitute a violation of this article. The permit holder shall be responsible for any violation by any subcontractor or any party operating under his permit. All parties involved, including the property owner, the operator, the permit holder, the owner of the vehicle, and the operator of



the vehicle, are subject to citation for this violation. This provision shall apply to all residential and non-residential construction, and all clearing and grading, and shall apply whether or not a land disturbance permit is required.

(3) *Clean up.* Any materials or mud spilled, dropped, washed, or tracked from vehicles or from the site onto roadways or into storm drains must be removed within 24 hours or the county may perform any necessary corrective work and the owner/developer shall reimburse county for any expenses incurred. In the event the county undertakes the corrective work, no building permits for said development shall be issued until said expenses have been reimbursed to the county.

(4) The fine for violation of this section shall be \$1,000.00 per day, per exit.

(f) *Maintenance.* Maintenance of all soil erosion, sedimentation and pollution control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner, the permit holder and the operator. Failure to maintain silt fences or other erosion and sedimentation control measures prior to final stabilization shall constitute a violation of this article and shall subject the permit holder, the property owner, the operator, and the persons actually conducting the activity, to citations.

(g) *Continuing duty of Builder or Developer.* In the event final stabilization has not been achieved (due to conditions beyond the control of the owner of the builder/developer), and a request for certificate of occupancy is approved for issuance for a building or structure pursuant to a conditional variance, the builder and/or developer of the property shall have a continuing duty and responsibility under this article to insure final stabilization is complete as soon as possible, but in no event later than the period granted as a condition of the temporary certificate of occupancy. Prior to the issuance of the temporary certificate of occupancy by the Bartow Building Official, a conditional variance shall be issued by the County Engineer to the owner/developer. The builder/developer shall be responsible for materials and workmanship for twelve (12) months from the date a certificate of occupancy is issued to insure final stabilization. In the event, the builder and/or developer are subsequently given notice for failing to comply with the requirements of this article the builder/developer shall be required to immediately bring the property into compliance, or be subject to citation and revocation of the certificate of occupancy.”

**V. Existing Sec. 34-280 is deleted and replaced with the following:**

Sec. 34-280. General.

(a) *Coordination with other Ordinances.* The property owner, operator, developer, and designated planners and engineers shall review the general development plans and detailed plans approved by Bartow County that affect the tract to be developed and the area surrounding it. In addition to this ordinance they shall review the *Bartow County Zoning Ordinance* (Appendix A to the Code of Bartow County), the *Bartow County Stormwater Management Ordinance* (Article VIII of Chapter 34, Sec. 34-551 et seq.), the *Bartow County Floodplain Management/ Flood Damage Prevention Ordinance* (Article II of Chapter 34, Sec. 34-31 et seq.), the *Bartow County Development Regulations* (Appendix B of the Code of Bartow County), the *Bartow County Building Code Ordinance* (Article II of Chapter 18, Sec. 18-21 et seq.), and any other ordinances contained in the Code of Bartow County which regulate the development of land within the jurisdictional boundaries of Bartow County. The Erosion, Sedimentation and Pollution Control Plan under this article may be required as a part of a larger Stormwater Management Plan under the *Bartow County Stormwater Management Ordinance*. No land disturbance permit shall be issued until all applicable provisions of all applicable ordinances, are satisfied. No land disturbance permit shall be issued to any person in violation of any ordinance of Bartow County. All references to other Bartow County Ordinances shall refer to and incorporate the latest revision as set forth in the Code of Bartow County.

(b) *Permittees; responsible parties.* The owner and/or operator are the only parties who may obtain a permit; in all cases, the property owner must be listed on the permit and both the property owner and operator (if separate) shall be responsible for violations of the permit and violations of this article on the owner's property. The property owner and operator, as named on the permit, are the primary permittees and are the parties responsible for and liable for all aspects of said land disturbance activity until such time as Bartow County is notified in writing, supported by the appropriate legal documentation, of a change in property ownership and the permit is transferred to the new owner or operator. A former owner or former operator that is no longer active in the development but is still listed on the permit is still responsible and liable for compliance with this article until proper notification to the county of the new owner or operator. In addition, all secondary permittees, including persons actually conducting the land disturbance activity (such as individual workers on the site and the subcontracting company itself), are also responsible for compliance with this article, and may be cited with violations of this article.

(c) *Interrelation with National Pollution Discharge Elimination System (NPDES) permitting.* Applicants disturbing more than one acre of soil, whether on a single lot or as a part of a larger common plan of development or sale are advised that they may be subject to one of the state general NPDES permits. Compliance with such permit requirements, including submission of Notice of Intent to the EPD, sampling requirements, monitoring requirements and other requirements are contained in the State

General Permits available on the EPD website, at <http://www.gaepd.org>. Applicants are advised to consult the EPD. Compliance with this article is not sufficient to comply with NPDES requirements.

**VI. Existing Sec. 34-281 is deleted and replaced with the following:**

Sec. 34-281. Land disturbance permit application requirements.

(a) *Land disturbance permit required.* No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the County without first obtaining a land disturbance permit from the County Engineering Department to perform such activity and shall provide to the County a copy of the NOI submitted to EPD if applicable. Application under this article should be made in conjunction with application for land disturbance permits under the Bartow County Stormwater Management Ordinance (Code Sec. 34-551 et seq.), as no land-disturbing activity can take place except in compliance with that ordinance. In addition, the applicant is required to comply with all applicable provisions of the ordinances listed in Section 34-280(a).

(b) *Application.* The application for a land disturbance permit shall be submitted to the Bartow County Engineering Department and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as will affirmatively demonstrate that the land-disturbing activity proposed will be carried out in such a manner that the minimum requirements set forth in section 34-267 of this article shall be met. Said plans shall include, as a minimum, the data specified in section 34-282 of this article. No permit shall be issued to any applicant unless Bartow County affirmatively determines that the plan embracing such activities meets the requirements of this article. Applications for a permit will not be accepted unless accompanied by an original and four copies of the applicant's soil erosion, sedimentation and pollution control plan.

(c) *Fees.* Bartow County assesses local permitting fees and also state-mandated fees. All applicable fees shall be paid prior to issuance of the land disturbance permit.

(1) *Local permitting fees.* Except as otherwise provided for herein, fees for an application for a permit on a per-acre of land disturbed basis, as required by this article, shall be as established by the Commissioner of Bartow County from time to time by resolution of the commissioner.

(2) *State-mandated fees.* In addition to the local permitting fees, state-mandated fees shall also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), and regulations adopted thereunder by EPD, in the amount of \$80.00 per disturbed acre, to be divided as follows: \$40.00 per acre to Bartow County and \$40.00 per acre to the Georgia Environmental Protection Division. In the

case of a subdivision or other larger common plan of development or sale, "per disturbed acre" includes all acreage to be disturbed in the entire development. Fees for the county shall be submitted to the county including primary and secondary permittees. Fees for the state shall be submitted to the state on EPD forms available at <http://www.gaepd.org>. However, 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.

(d) *Review by district.* Immediately upon receipt of an application and plan for a permit, the county shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within 35 days of receipt. Failure of a district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the county. No permit will be issued unless the plan has been approved by the district, and all applicable requirements of this article have been satisfied.

(e) *Repeat violations; fraudulent submissions.*

(1) *Repeat violations.* If a permit applicant, whether the property owner or operator, has had two or more violations of previous permits, this article (including predecessors), or the Erosion and Sedimentation Act of 1975, as amended, within three years prior to the date of filing of the application under consideration, the county may deny the permit application. The determination shall be made by the county engineer, based on the number of violations, the number of violations in relation to the size of projects or number of permits the applicant controls, the severity of the violations, and the length of time since the last violation. Corporations owned or controlled by the same person(s) shall count as the same applicant for these purposes.

(2) *Fraudulent submissions.* Fraudulent submissions are prohibited, and any falsehoods or misinformation on a permit application shall subject the application to rejection, and subject any permit to revocation. If a permit is granted to a person who is later determined by the county engineer to be a "strawman," (i.e., not the actual operator, but rather a front for the actual operator), the permit shall be revoked.

(3) *Appeals of denials/revocations.* Any person whose permit has been denied or revoked pursuant to this subsection may appeal to the board of zoning appeals. See section 34-299. Any applicant that wishes to appeal the decision of the board of zoning appeals may do so appealing to the Bartow County Commissioner. See section 34-299. Any person aiding in an attempt to circumvent this paragraph may be cited for violation of this article. Whenever a permit is revoked pursuant to this subsection, the letter of credit posted pursuant to subsection (d) of this section may be called and funds therefrom used to stabilize the property subjected to land-disturbing activities.

(f) *Surety requirements.* The County shall require the permit applicant to post a surety in an amount equal to \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. The surety shall be in the form of an irrevocable standby letter of credit issued by a bank, in a format approved by Bartow County. The letter of credit requirement may be combined with other surety requirements of other provisions of the Bartow County Code relating to roads, storm water, utilities and others. If the applicant does not comply with this article or with the conditions of the permit after issuance, the county engineer may draw against the letter of credit 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.

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, his surety may be drawn against.

At the sole discretion of the county engineer, a different form of surety may be accepted, such as a surety bond or cash escrow deposit to be held by the County, if the applicant demonstrates the unavailability of a letter of credit or provides other satisfactory justification for the request. The county engineer must be satisfied that the proposed alternate surety provides as much protection as an irrevocable standby letter of credit. In such cases, referenced in this article to a "letter of credit" shall be understood to refer to the alternative surety.

(1) *Process and appeal.* If the permit holder believes they are not in violation of this article such that the surety should not be drawn against, the permit holder shall have five days to appeal any notice to comply to the Bartow County Commissioner. The appeal provisions of sec. 34-299 shall not apply to this decision. Appeal shall be made by filing a written notice of appeal with the County Engineer stating the basis for the appeal. The Commissioner shall consider the appeal as soon as possible, at a public meeting. Except in emergency situations, the surety shall not be drawn against until the appeal is considered.

(2) *Partial release.* The county engineer may release a portion of the letter of credit, for the land-disturbing amount, after final stabilization is complete and all permanent vegetation and stabilization measures are in place. Any portion of the letter of credit relating to roads, stormwater, utilities or other provisions of the Bartow County Code shall be governed by its particular section of the code.

**VII. Sec 34-282 (a) is amended by deleting the third sentence and replacing with the following:** “The latest edition of the Manual for Erosion and Sediment Control in Georgia and the most current Commission checklist is hereby incorporated by reference into this article.”

**VIII. Sec. 34-282 is amended to add subsections (b)(14) and (15) as follows:**

(14) The Level 2 Certification number, seal and signature of a design professional.

(15) Any other information required by the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted. If the then-current checklist conflicts with other requirements set forth in this section, the Checklist shall control.

**IX. Sec 34-283 is amended by deleting “approved by the county” and replacing with “approved by the District” in the first sentence.**

**X. Sec 34-283 is amended by adding the following sentence to subparagraph (f):** “Prior to obtaining a building permit, all residential lots of record and additions to existing residential lots will be required to apply for an obtain an Erosion and Sediment Control Inspection Permit in accordance with the *Bartow County Development Regulations (Appendix B to the Code of Bartow County)*.”

**XI. Sec. 34-283 is amended to add new subparagraphs (h) through (p) as follows:**

(h) *Certain Road Projects Exempt.* Land-disturbing activities conducted by Bartow County shall be subject to the requirements of this article, except for road projects conducted by the County, or any construction or maintenance project financed in whole or part by Georgia DOT, the State Road and Tollway Authority or the Georgia Highway Authority, which are exempt from this article and not regulated by the County.

(i) *No Activity Prior to Permit Issuance.* It shall be unlawful to commence any land disturbance activity for the construction of any building; to commence construction of any building; to commence the moving or alteration of any building; or to commence the development of land for a use not requiring a building, until all necessary permits for such work have been issued. All land development or construction shall comply with the codes and ordinances in effect in Bartow County at the time the permit is issued.

(j) *Pre-Design Meeting.* Engineers and developers are encouraged to schedule a pre-design meeting with representatives of the Engineering Department for a consultation meeting at the time of the preliminary plan of subdivision or

other early step in the development process. The purpose of this meeting is to discuss and assess constraints, opportunities and potential ideas for erosion control designs before the formal site design engineering is commenced. This meeting can and should be held in conjunction with the stormwater concept plan meeting as required by the *Bartow County Stormwater Management Ordinance* (Code Sec. 34-551 et seq.).

(k) *Pre-Construction Conference*. Once the construction plans are approved, no permit for land disturbing activity will be issued to an applicant without the applicant first attending an onsite mandatory pre-construction conference with a representative from the Bartow County Engineering Department.

(l) *Erosion and Sediment Control Inspection Permit*. Bartow County requires all new residential home sites and additions to obtain an Erosion and Sediment Control Inspection Permit. This permit approval is required prior to undertaking any clearing activity as may be deemed necessary prior to the issuance of an approved Residential Drainage Plan or building permit as outlined in the Bartow County Development Regulations (Appendix B to the Code of Bartow County). This permit will also be required concurrently with the issuance of a Land Disturbance Permit and prior to release for grading operations for all residential and non-residential development projects. The requirements of said E&S Inspection Permit shall be met prior to recording of final plat, final as-built or release of a Certificate of Occupancy. Fees for this permit shall be as established by resolution of the Bartow County Commissioner.

(m) *Additional Land Disturbance Permit Requirements*. In addition to the requirements of this article, Bartow County requires all new development or redevelopment projects creating or replacing more than 5,000 square feet of impervious surface to obtain a Land Disturbance Permit as required by the *Bartow County Stormwater Management Ordinance* (Code Sec. 34-551 et seq.). This permit is required prior to undertaking any clearing or grading activity for projects exceeding the above listed requirements. All land disturbance permits will be required to follow the three phased construction erosion, sedimentation and pollution control plan submitted and approved by the District (District approval required only on projects disturbing more than one acre) and County Engineer.

(n) *Properly Displaying Permits*. Erosion and Sediment Control Inspection and Land Disturbance Permits for all Development must be displayed prior to beginning any clearing or grading for any residential or non-residential development project. Individual E&S Permits must be displayed prior to beginning any clearing or grading on any lot. All building permits must be displayed prior to beginning any building construction. Such permits must be placed on a post or other structure at least three feet off the ground and no more than two feet back from the right of way, so as to be easily visible to the

inspectors and passers-by. Such permits must be encased in a waterproof container to protect them from the elements, and must be legible. The permittee shall be responsible for ensuring a clear and legible permit is on display at all times. In the event of damage or loss, a replacement permit shall be immediately obtained and displayed. Failure to comply with this provision shall result in an administrative fine of \$250, and the permit and all subsequent inspections shall be suspended until such fine is paid.

(o) *Monthly E&S Report.* Upon the issuance of the land disturbance permit, the operator shall ensure that a monthly Erosion and Sedimentation Report outlining the status of the project is delivered to the Engineering Department on or before the 1<sup>st</sup> business day of each month. The report will be prepared by a qualified Professional Engineer / Architect / Landscape Architect / Certified Professional in Erosion and Sediment Control (CPESC) or an individual meeting the education and certification requirements of Section 34-312 of this article. At minimum, individuals involved in development inspections should be certified as Level 1B. All initial inspections and proposed modifications to structural practices (BMPs) shall be certified by a Level 2 Design Professional. Should this report not be received by 5:00 pm on the said dates, a stop work order along with an administrative fine of \$250 may be issued for the project. The permit and all subsequent inspections shall be suspended until such fine is paid. Should the monthly project report fail to meet the requirements of this article, a 5-day write up will be issued for the project and a follow up inspection may be required within five (5) days of said report to ensure site is brought into compliance with the requirements of this article. Monthly reports are required to be submitted for the project or each phase of the project until proof of the Notice of Termination, as defined as “accepted” by the NPDES General Permit, as filed with the Georgia EPD is submitted to the Bartow County Engineering Department.

(p) *Residential Drainage Plan.* A Residential Drainage Plan (**RDP**) accepted by the Bartow County Engineering Department shall be required prior to issuance of a Building Permit on those lots subject to periodic **or nuisance** flooding or as labeled “RDP” on a Final Plat. An RDP may also be required for lots not part of a larger common development, but in the opinion of the County Engineer it is determined circumstances warrant the preparation and approval of an RPD. The Residential Drainage Plan shall meet the requirements as outlined in the *Bartow County Development Regulations* (Appendix B to the Code of Bartow County).

## **XII. Sec. 34-295 is deleted and replaced with the following:**

(a) *Generally.* Bartow County enforcement personnel 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 County shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a notice of violation (NOV) which may include a stop-work order, citation, civil fine, and/or a written notice to comply may be served upon the owner and/or the person(s) conducting the land-disturbing activity, in addition to any other remedy allowed under this article.

**XIII. Sec 34-295 subparagraph (b) is amended by deleting “Bartow County Planning and Engineering Department” and replace with “Bartow County Engineering Department.”**

**XIV. Section 34-296 subparagraph (4)(e) is amended by deleting the second sentence and replacing with the following:** “Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment control measures, and work to ensure the project site is left in a safe condition so as not to endanger life or damage adjacent properties.”

**XV. Sec. 34-312 is deleted and replaced with the following:**

**Sec. 34-312 Education and Certification.**

- (a) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.
- (b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion, sedimentation and pollution control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are

conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

- (c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this article.
- (d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

**XVI. Any reference in Chapter 34 to “erosion and sedimentation control plan” is deleted and replaced with “erosion, sedimentation and pollution control plan.”**

**SO ADOPTED** this 6<sup>th</sup> day of October, 2010, to be effective immediately, the public health, safety, and welfare demanding.

ATTEST:

BARTOW COUNTY, GEORGIA

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Kathy Gill, Clerk

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Clarence Brown, Commissioner