

## **Sec. 21-2. Definitions.**

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

*Final stabilization:* All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or 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.

## **Sec. 21-5. Application/permit process.**

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

(b) *Application requirements.*

(1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the county without first obtaining a permit from the county engineer to perform such activity and providing a copy of the notice of intent ("NOI") submitted to the environmental protection division if applicable.

(2) The application for a permit shall be submitted to the Macon-Bibb County engineering department and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, at a minimum, the data specified in [subsection 21-5\(c\)](#) of this chapter. Erosion, sedimentation and pollution control plans, together with supporting data,

must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of subsections 21-4(b) and (c) of this chapter will be met. Applications for a permit will not be accepted unless accompanied by four copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.

(3) A fee, in the amount of \$80.00 shall be charged for any acre or fraction thereof in the project area. The acreage shall include both disturbed and undisturbed acreage.

(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 submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. § 12-7-17 shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.

(5) Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation and pollution control plan. A 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 issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by subsections 21-4(c)(15) and (16) have been obtained, all fees have been paid; and bonding, if required as per subsection (b)(7), has been obtained. Such review will not be required if the issuing authority and the district have entered into an agreement which allows the issuing authority to conduct such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.

(6) If a permit applicant has had two or more violations of previous permits, this section, or the Erosion and Sedimentation Act, as amended, within three years

prior to the date of filing of the application under consideration, the local issuing authority may deny the permit application.

(7) The local issuing authority shall 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 chapter or with the conditions of the permit after issuance, the local issuing authority shall call the bond or any part thereof to be forfeited and shall use the proceeds to hire a contractor to stabilize the site of land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the local issuing authority with respect to alleged permit violations.

## **Sec. 21-7. Penalties and incentives.**

(a) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining the appropriate permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.

(b) *Stop-work orders.*

(1) For the first and second violations of the provisions of this chapter, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the local issuing authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the director or the local issuing authority shall issue an immediate stop-work order in lieu of a warning.

(2) For a third and each subsequent violation of the provisions of this chapter, the director or the local issuing authority shall issue an immediate stop-work order.

(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) Violations consisting of engaging in land-disturbing activity without a permit, failure to maintain a stream buffer, the discharge of significant amounts of sediment into state waters, or the failure to design, install, and maintain BMPs (all as determined by the local issuing authority or by the director or his or her designee) shall result in the issuance of a stop work order by the local issuing authority or the director, or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of installation and maintenance of temporary or permanent erosion and sediment controls.

(c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed to be in violation of this chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of [subsection 21-5\(b\)\(7\)](#). The local issuing authority may cause the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) *Monetary penalties.* Any person who violates any provision of this chapter, or any permit condition or limitation established pursuant to this chapter, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this chapter shall be liable for a civil penalty not to exceed \$2,500.00 per day. Notwithstanding any limitation of law as to penalties which can be assessed for violations of ordinances, the municipal court of Macon-Bibb County or any other court of competent jurisdiction trying cases brought as violations of this chapter shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which the violation or failure or refusal to comply continues shall be treated as a separate violation.