

ORDINANCE NUMBER 003-2017

AN ORDINANCE AMENDING CHAPTERS II (DEFINITIONS) AND IV (SOIL EROSION AND SEDIMENT CONTROL STANDARDS) OF THE LAND DEVELOPMENT ORDINANCE OF THE CITY OF WOODSTOCK, GEORGIA

**Whereas**, the City of Woodstock, Georgia (hereinafter sometimes referred to as the “City”) is a municipality duly formed and existing pursuant to Georgia law; and

**Whereas**, the 1983 Constitution of the State of Georgia provides for the self-government of municipalities without the necessity of action by the General Assembly<sup>1</sup>; and

**Whereas**, the City of Woodstock, Georgia, has the legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs and local government for which no provision has been made by general laws or which are expressly allowed by general laws, and which are not inconsistent with the Constitution or any charter provision applicable thereto<sup>2</sup>; and

**Whereas**, the governing body of the City has determined that it is in the best interest of the City and its citizens to adopt the following; and

**NOW THEREFORE BE IT RESOLVED**, THE MAYOR AND COUNCIL OF THE CITY OF WOODSTOCK, GEORGIA HEREBY ORDAINS:

**Section 1.** That Chapter II – Definitions, of the Land Development Code, as amended, is hereby further amended by deleting the following definitions:

*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 CPESC with a current certification.

*Director:* The Director of the Environmental Protection Division of the Department of Natural Resources.

*Final Stabilization:* A term that refers to when (1) all soil disturbing activities at the site have been completed, and (2) for all unpaved areas, areas not covered by permanent

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<sup>1</sup> Ga Const , 1983, Article IX, Section II, Paragraph II provides in pertinent part as follows

“The General Assembly may provide by law for the self government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to the municipalities may be dealt with without the necessity of action by the General Assembly “

<sup>2</sup>O C G A § 36-35-3 (a) provides as follows

“(a) The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code section This Code section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof The General Assembly shall not pass any local law to repeal, modify or supersede any action taken by a municipal governing authority under this Code section, except as authorized under Code Section 36-35-6 ”

structures, and areas located outside the waste disposal limits of a landfill cell that has been certified by the Division for waste disposal, one hundred (100) percent of the soil surface is uniformly covered in permanent vegetation with a density of seventy (70) percent or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) are in place. 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.

*Person:* "Person" means and includes any person, firm, partnership, association, corporation, company or organization, singular or plural, of any kind.

**Section 2.** That Chapter II – Definitions, of the Land Development Code, as amended, is hereby further amended by inserting the following definitions:

*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 CPESC with a current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia Law governing professional licensure.

*Director:* The Director of the Environmental Protection Division or an authorized representative.

*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 have been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of a target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

*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 the State of Georgia, any interstate body or any other legal entity.

**Section 3.** That Chapter IV – Soil Erosion and Sediment Control Standards, - Minimum Requirements for Erosion and Sedimentation Control Using Best Management Practices, Section 4.400 of the Land Development Code, as amended, is hereby further amended by deleting, “1” and inserting in lieu thereof the following:

1. Excessive soil erosion and resulting sedimentation can take place during land disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not excluded by this Ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Section 4.400.2 and 3 of this Ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities, and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit. Construction site operators must control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.

**Section 4.** That Chapter IV- Soil Erosion and Sediment Control Standards - Minimum Requirements for Erosion and Sedimentation Control Using Best Management Practices, Section 4.400 of the Land Development Code, as amended, is hereby further amended by adding the following subsections:

4. Nothing contained in O.C.G.A. 12-7-1 et. Seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in section IV B and C of this ordinance.
5. 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 of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

**Section 5.** That Chapter IV – Soil Erosion and Sediment Control Standards, -Application/Permit Process, Section 4.500 of the Land Development Code, as amended, is hereby further amended by deleting, “1” and inserting in lieu thereof the following:

1. *General.* The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, 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.

**Section 6.** That Chapter IV – Soil Erosion and Sediment Control Standards, -Application/Permit Process, Section 4.500 of the Land Development Code, as amended, is hereby further amended by deleting, “2(e)” and inserting in lieu thereof the following:

2. e. Immediately upon the 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 control plan. The District shall approve or disapprove a plan within thirty-five (35) days of receipt. Failure of the District to act within thirty-five (35) days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variance required by Section 4.400, paragraph 3, subparagraphs (o) and (p) and bonding, if required as per Section 4.500, paragraph 2, subparagraph (g), have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the district. 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.

**Section 7.** That Chapter IV – Soil Erosion and Sediment Control Standards, -Administrative Appeal Judicial Review, Section 4.900 of the Land Development Code, as amended, is hereby further amended by deleting Section 4.900 and inserting in lieu thereof the following:

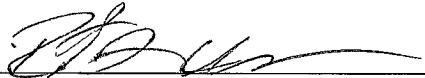
1. *Administrative Remedies* The suspension, revocation, modification, or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to an appeal as outlined in Chapter 10, sec. 10.162 of this ordinance. Any person aggrieved by a decision or order, as it relates to this Chapter, may appeal in writing, as outlined in Chapter 10, Section 10.162, of this Ordinance.
2. *Judicial Review* Any person, aggrieved by a decision or order of the Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Cherokee County.

**Section 8.** Should any provisions of this Ordinance be declared invalid by Court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any provision thereof other than the provisions specifically declare to be invalid. The Mayor and Council hereby declare that it would have passed this Ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phrases may be declared illegal, invalid or unconstitutional.

**Section 9.** This ordinance shall take effect immediately upon its adoption at the 2<sup>nd</sup> Reading.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF WOODSTOCK, GEORGIA, THIS 10th DAY OF JULY, 2017.

1st Reading: 6/12/2017 and 2<sup>nd</sup> Reading: 7/10/2017

  
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ROBERT G. USHER, JR. MAYOR PRO TEM

ATTEST:

  
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RHONDA L. PEZZELLO, CLERK