



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2018-530

Date of Reading and Adoption: December 10, 2018

At the meeting of the Lilburn City Council held at 340 Main Street, Lilburn, Georgia.

**AN ORDINANCE TO AMEND CHAPTER 109, ENVIRONMENT, ARTICLE VII
“STREAM BUFFER PROTECTION” OF THE CODE OF ORDINANCES OF THE
CITY OF LILBURN; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR
AND EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN GEORGIA, HEREBY ORDAIN THAT CHAPTER 109, ENVIRONMENT, ARTICLE VII OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN SHALL BE AMENDED IN ACCORDANCE WITH THE ATTACHED:

ARTICLE VII. – STREAM BUFFER PROTECTION ORDINANCE

Sections 109-302-312

BE IT FURTHER ORDAINED that this ordinance becomes effective **January 1, 2019**.

BE IT FURTHER ORDAINED that all regulations or parts of regulations in conflict with this Ordinance are hereby rescinded to the extent of said conflict.

SO ORDAINED this the 10th day of December, 2018.

Johnny D. Crist, Mayor
City of Lilburn

ATTEST:

Melissa L. Penate, City Clerk
(Seal)

CHAPTER 109, ARTICLE VII. - STREAM BUFFER PROTECTION ORDINANCE^[4]

Footnotes:

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Editor's note— Ord. No. 161-05, §§ 8-16-1—8-16-12, adopted May 9, 2005, amended the Code by adding provisions that were not specifically amendatory. At the editor's discretion, said provisions have been included herein as §§ 109-301—109-312.

Sec. 109-301. - Title.

This article shall be known as the "Stream Buffer Protection Ordinance of the City of Lilburn."

(Ord. No. 161-05, § 8-16-1, 5-9-2005)

Sec. 109-302. - Definitions.

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

Buffer means, with the area of land immediately adjacent to the banks of State Waters of a stream in its existing or natural ~~enhanced~~ state of vegetation, which facilitates, when properly vegetated, the protection of water quality and aquatic habitat. ~~(established by subsection 109-304(a)(4) herein).~~

Base Flow means the discharge that enters a stream channel mainly from groundwater, but also from lakes during periods when no precipitation occurs.

~~*Chattahoochee Corridor* means all land within 2,000 feet of the banks of the Chattahoochee River, including any impoundments thereon, or within the floodplain, whichever is greater, from directly below Buford Dam downstream to the downstream limits of Fulton and Douglas counties, including the entire bed of the river and any improvements and all islands therein.~~

Department means the Planning and Economic Development Department in the City of Lilburn of Gwinnett County, Georgia.

Director means the Director of Planning and Economic Development for ~~of~~ the City of Lilburn, or the director's designee.

Ephemeral Stream means a stream that typically has no well-defined channel and which only flows in direct response to precipitation or runoff.

Floodplain means those lands subject to flooding, which would have at least a one percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the currently adopted land use plan; i.e., the regulatory flood.

~~*Flowing stream* means any stream that is portrayed on the most current United States Geologic Survey 7.5 minute quadrangle for the affected area.~~

Impervious cover or impervious surface means any paved, hardened or structural surface, including but not limited to, buildings, dams, decks, driveways, parking areas, patios, streets, swimming pools, tennis courts, walkways, and other structures.

Intermittent Stream means a stream that flows in a well-defined channel during wet seasons of the year but not for the entire year.

Land development means:

- (1) (Verb) All activities associated with the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy or habitation, other than for agricultural purposes devoted strictly to the cultivation of the land, dairying or animal husbandry. Such activities include land disturbance (clearing and grubbing the land of vegetation and stumps, and grading) and the construction of improvements such as but not limited to streets, driveways or parking areas, water or sewer mains, storm water drainage facilities, sidewalks or other structures permanently placed on or in the property.
- (2) (Noun) Where appropriate to the context, the term "development" also may be used to denote a specific subdivision or project which is a single entity or intended to be constructed as in interrelated whole, whether simultaneously or in phases.

Land development activity means those actions or activities that comprise, facilitate or result in land development.

Land disturbance means any activity which may result in soil erosion from water or wind and the movement of sediments into ~~State~~ Waters or onto lands within the ~~State~~, including, but not limited to, clearing, ~~clearing and~~ grubbing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices.

Land disturbance activity means those actions or activities that comprise, facilitate or result in land disturbance.

Lot or parcel means a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Mitigation means the use of any or all of the following actions listed in descending order of preference:

(1) Avoiding the impact by not taking a certain action;

(2) Minimizing the impact by limiting the degree or magnitude of the action by using appropriate technology or by taking affirmative steps to avoid or reduce the impact;

(3) Rectifying the impact by repairing, rehabilitating or restoring the affected stream buffer;

(4) Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;

(5) Compensating for the impact by replacing, enhancing or providing substitute stream buffer protection areas or other activities that restore maintain or protect stream buffer functions within the city;

(6) Monitoring the impact and taking appropriate corrective measures.

Permit means the permit issued by the City of Lilburn required for undertaking land development activity.

Perennial stream means a stream that flows in a well-defined channel throughout most of the year under normal climatic conditions. ~~watercourse having a source, terminus, banks and channel through which water flows on a continuous basis as depicted on the most recent United States Geological Survey 7.5-minute quadrangle map (scale 1:24,000).~~

Person means 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, interstate body or any other legal entity.

Protection ~~area~~ area or stream protection area means, with respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

Riparian means belonging or related to the bank of a river, stream, lake, pond or impoundment.

Setback means, with respect to a stream, the area established by subsection 109-304(a)(2) extending beyond any buffer applicable to the stream.

State Waters include any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural and artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained upon the property of a single individual., partnership, or corporation except as defines in O.C.G.A. 12-7-17(8)(O.C.G.A. 12-7-3(16)).

Stream means any stream, beginning at:

- (1) The location where the normal stream flow has wrested the vegetation. The normal stream flow is any flow that consists solely of base flow or consists of both base flow and direct runoff during any period of the year. Base flow results from the 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 rainfall or snow melts; or
- (2) A point in the stream channel with a drainage area of 20 acres or more; or
- (3) Where evidence indicates the presence of a stream in a drainage area of other than 20 acres, the City of Lilburn may require field studies to verify the existence of a stream.

Stream bank means the confining cut of a stream channel and is usually identified as the point where the normal stream flow has wrested vegetation.

Stream channel means the portion of a watercourse that contains the base flow of the stream.

Utility means a public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, storm water systems and railroads or other utilities identified by Gwinnett County.

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

Watershed means the land area that drains into a particular stream.

Wrested Vegetation means movement of water that removes soil, debris and vegetation, creating a clear demarcation between water flow and vegetative growth.

(Ord. No. 161-05, § 8-16-2, 5-9-2005)

Sec. 109-303. - Applicability.

This article shall apply to all land development activity on property containing a stream protection area as defined in section 109-302. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

After the effective date of this article, this article shall apply to new subdividing, land development, and platting activities.

- (1) *Grandfather provisions.* This article shall not apply to the following activities:
 - a. Work consisting of the repair, maintenance or replacement within the same disturbed area of any lawful use of land that is zoned and approved for such use on or before the effective date of this article.

- b. Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
- c. Any lawful land development activity that is under construction, has a valid permit, or has submitted a valid and complete application for a permit as of the effective date of this article provided that the permit is or can be issued within 90 calendar days of the effective date of this article and all time frames associated with said permit are observed.
- d. Any lawful land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as a house in a subdivision or a building in an office park or other phased development that has a valid preliminary plat permit per subsection 109-303(1)c. herein, or approved concept plan, or has submitted a valid and complete application for approval of a concept plan and receives approval within 90 calendar days as of the effective date of this article provided that the future permit is or can be issued within two calendar years of the effective date of this article and all time frames associated with said permit are observed.

(2) *Exemptions.* The following specific activities are exempt from this article, however any activity within a state waters' buffer must meet State requirements:

- a. Activities for the purpose of building one of the following:
 - (i) — A perpendicular stream crossing by a driveway, transportation route including but not limited to bike paths and pedestrian trails, or utility line;
 - (ii) — Public water supply intake or public wastewater outfall structures;
 - (iii) — Land development necessary to provide access to a property;
 - (iv) — Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - (v) — Foot trails and paths;
 - (vi) — Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used;
 - (vii) — Storm water outfalls to the stream, by pipe or channel, necessary to protect the buffer from erosion caused by high flow velocities due to steep slopes.
- b. Public sewer line installation in easements running parallel with the stream where necessary, except that all easements (permanent and construction) and land disturbance within a state waters' buffer must meet state requirements. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in subsection a., above.
- c. Land development activities within a dedicated transportation right-of-way existing at the time this article takes effect or approved under the terms of this article.
- d. Within an easement of any utility existing at the time this article takes effect or approved under the terms of this article, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
- e. Emergency work necessary to preserve life or property. However, when emergency work is performed under this subsection, the person performing it shall report such work to the city on the next business day after commencement of the work. Within ten business days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the city to be reasonably necessary to correct any

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impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.

- f. Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.
- g. Detention/water quality ponds provided said ponds comply with all other local, state, and federal requirements including but not limited to the Floodplain Management Ordinance, the Soil Erosion and Sediment Control Ordinance, and U.S. Army Corps of Engineers wetlands rules.

Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

(Ord. No. 161-05, § 8-16-3, 5-9-2005)

Sec. 109-304. - Land development requirements.

(a) *Buffer and setback requirements.* All land development activity subject to this article shall meet the following requirements:

- (1) An undisturbed buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank or wretched vegetation. The land forming the bank is also considered part of the buffer for purposes of this article.
- (2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.
- (3) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to section 109-304(b) herein.

(b) *Variance procedures.* Variance requests from the requirements of this article shall be submitted on an application form as prescribed by the ~~eD~~irector of the city or the ~~eD~~irector's designee, along with such fees as shall be established by the City Council board of commissioners. The ~~eD~~irector of the city or the ~~eD~~irector's designee shall coordinate the review of each variance request with all other affected ~~county~~ departments and shall forward such comments or recommendations as may be received to the Zoning Board of Appeals (ZBA) city for action in their normal course of business. The review must include a recommendation from the city.

This section describes how to apply for a variance from this article, however, any activity within the 25' a state waters' buffer must meet state (GA EPD) requirements.

Variances may be granted in accordance with the following provisions:

- ~~(1) The project involves the construction of one single family home for residential use by the owner of the subject property on a parcel that was platted prior to the effective date of this article, and its shape, topography or other existing physical condition prevents land development consistent with this article, and the city finds and determines that the requirements of this article prohibit the otherwise lawful use of the property by the owner, the city may grant a variance from the buffer and setback requirements hereunder. The city may require mitigation measures to offset the effects of any proposed land development on the parcel. The city is authorized to use a consent agenda to fulfill the terms of this subsection.~~

(12) Except as provided above, the city shall grant no variance from any provision of this article without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Zoning Board of Appeals. The city shall give public notice of each such public hearing in a newspaper of general circulation within Gwinnett County at least once a week for two consecutive weeks before it is heard. The city shall ~~require that the applicant~~ post a sign giving notice of the proposed variance and the public hearing at least 15 days prior to the date of the hearing. The sign shall be of a size and posted in such a location on the property as to be visible from the primary adjacent road right-of-way.

No application or reapplication for a variance affecting the same stream segment on a property shall be heard within 12 months from the date of last action by the city unless such 12-month period is waived by the city, and in no case may such application or reapplication be reconsidered in less than six months from the date of last action by the city.

Variations will not be considered when, following adoption of this article, actions of any property owner of a given property have created conditions of a hardship on that property.

Variations will be considered only in the following cases:

- a. The applicant provides evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable. ~~and~~
- b. The project involves the construction or repair of a structure that, by its nature, must be located within the buffer. Such structures include dams and detention/retention ponds. ~~or~~
- c. The proposed land disturbing activity within the buffer will receive a permit from the United States Army Corps of Engineers (USACE) under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has received a mitigation plan to be implemented as a condition of such a permit. In addition, land disturbing activities in the buffer that are outside the USACE's jurisdiction must be mitigated. ~~or~~
- d. The buffer intrusion ~~will be~~ is mitigated in accordance with using the city's Stream Buffer Restoration Guidelines, procedure established in the Gwinnett County Storm Water Design Manual. ~~or~~
- e. A valid and complete application for rezoning of the property is submitted prior to the effective date of this article and approval of the rezoning by the board of commissioners occurs after the effective date of this article application, and the variance request is consistent with the intent of this article factoring into account the property owner's reliance on standards in effect at the time of the rezoning.

(32) At a minimum, a variance request shall include the following information:

- a. A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
- b. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- c. A dated site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
- d. Documentation that impacts to the buffer have been avoided or minimized to the fullest extent practicable;
- e. A calculation of the total area and length of the proposed intrusion;
- f. A stormwater management site plan, if applicable;

- g. Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed;
- h. A description of the project, with details of the buffer disturbance, including estimated length of time for the disturbance and justification for why the disturbance is necessary;
- i. Any other reasonable information related to the project that the city may deem necessary to effectively evaluate the variance request;
- j. A copy of the permit application, supporting documentation, and proposed mitigation plan as submitted to the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, if applicable;
- k. A copy of the permit application, supporting documentation, and proposed mitigation plan as submitted to the Georgia Environmental Protection Division for a variance from the state waters' buffer; and
- l. A buffer mitigation plan in accordance with the procedure outlined in [City of Lilburn Restoration Guidelines](#)~~the Gwinnett County Storm Water Design Manual~~, if applicable.

(43) The following factors may be considered in determining whether to issue a variance:

- a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- b. The locations of all streams on the property, including along property boundaries as determined from field inspection;
- c. The location and extent of the proposed buffer or setback intrusion; and,
- d. Whether alternative designs are possible which require less intrusion or no intrusion;
- e. The long-term and construction water-quality impacts of the proposed variance;
- f. Whether issuance of the variance is at least as protective of natural resources and the environment;
- g. The value of mitigation activities as calculated in accordance with the Gwinnett County Storm Water [Management Design](#) Manual.

(Ord. No. 161-05, § 8-16-4, 5-9-2005)

Sec. 109-305. - Additional information requirements for development on buffer zone properties.

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

(1) *A site plan showing:*

- a. The location of all streams on the property;
- b. Limits of required stream buffers and setbacks on the property;
- c. Buffer zone topography with contour lines at no greater than two-foot contour intervals;
- d. Delineation of forested and open areas in the buffer zone~~;~~ ~~and~~;
- e. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback~~;~~ ~~and~~;

(2) *Description.* A description of all proposed land development within the buffer and setback~~;~~ ~~and~~;

(3) *Documentation.* Any other documentation that the city may reasonably deem necessary for review of the application and to insure that the buffer and landscaping requirements zone ordinance is are addressed in the approval process-

(4)- All buffer and setback areas must be recorded on the final plat of the property following plan approval.

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(Ord. No. 161-05, § 8-16-5, 5-9-2005)

Sec. 109-306. - Responsibility.

Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this article shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon the City of Lilburn - Gwinnett County, its officers or employees, for injury or damage to persons or property.

(Ord. No. 161-05, § 8-16-6, 5-9-2005)

Sec. 109-307. - Inspection.

(1) The city may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the city in making such inspections. The Director city manager or the Director's city manager's designee shall have the authority to conduct such investigations as he or she may reasonably deem necessary to carry out the duties as prescribed in this article, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area.

(2) No person shall refuse entry or access to any authorized representative or agent who requests entry for 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 official duties.

(Ord. No. 161-05, § 8-16-7, 5-9-2005)

Sec. 109-308. - Violations, enforcement and penalties.

Any action or inaction that violates the provisions of this article or the requirements of an approved plan or permit shall be subject to the enforcement actions or penalties outlined herein. Any such action or inaction that is continuous with respect to time is deemed to be a public nuisance and also may be abated by injunctive or other equitable relief. The imposition of any of the enforcement actions or penalties described herein shall not prevent such equitable relief.

(1) *Enforcement procedures.* The following are the enforcement procedures authorized by this article. In the event the owner or responsible person fails to correct the violations after the deadline contained in the notice of violation, both the city manager or city manager's designee and the building official are authorized to take or impose any one or more of the additional actions contained herein.

a. *Notices of violation.* Enforcement shall begin with the issuance of a written notice of violation to the owner or responsible person by the city of manager or city manager's designee. The notice may be delivered in personally or by electronic or sent by first class mail return receipt requested. The notice of violation shall contain at least the following information:

1. The name and address of the owner or responsible person;

2. The location or address of the site upon which the violation is occurring;
 3. A description of the nature of the violation;
 4. A description of the remedial actions or measures necessary to bring an action or inaction into compliance with a permit, approved plan or this article;
 5. The deadline or completion date of any such remedial actions or measures;
 6. A statement of the penalty or penalties that may be assessed against the owner or responsible person to whom the notice of violation is directed.
- b. *Stop-work orders.* The ~~Director~~city manager or ~~the Director's~~city manager's designee is authorized to issue stop-work orders to an owner or responsible person. Stop-work orders are effective immediately and shall remain in effect until the necessary corrective actions or remedial measures as set forth in the notice of violation have occurred. Stop-work orders may be withdrawn or modified by the ~~Director~~ city manager or ~~the Director's~~city manager's designee in order to enable an owner or responsible person to take necessary remedial actions or measures to correct the violations.
 - c. *Refusal to issue certificates of occupancy or completion.* The ~~Director~~ city manager or ~~the Director's~~city manager's designee is authorized to refuse to issue certificates of occupancy or completion for the building or other improvements constructed or being constructed on a site until the owner or responsible person has taken the remedial actions or measures as set forth in the notice of violation or has otherwise corrected the violations described therein.
 - d. *Suspension, revocation, or modification of permit.* The ~~Director~~ city manager or ~~the Director's~~city manager's designee is authorized to suspend, revoke or modify a permit that was issued authorizing land disturbing activities or development. The ~~Director~~ city manager or ~~the Director's~~city manager's designee is authorized to reinstate a suspended, revoked or modified permit after the owner or responsible person has taken the remedial actions or measures stated in the notice of violation or has otherwise corrected the violations described therein. The ~~Director~~ city manager or ~~the Director's~~city manager's designee is also authorized to reinstate such permit, which may include conditions as the city manager or city manager's designee may deem necessary, to enable the owner or responsible person to take the necessary remedial actions or measures to correct the violations.
 - e. *Refusal to approve final subdivision plats.* The ~~Director~~ city manager or ~~the Director's~~ city manager's designee is authorized to refuse to approve final plats until the owner or responsible person has taken the remedial actions or measures set forth in the notice of violation or has otherwise corrected the violations described therein.
 - f. *Issuance of citations or summons to court.* The ~~Director~~ city manager or ~~the Director's~~ city manager's designee is authorized to issue a citation or summons to the owner or responsible person requiring such person to appear in a court of competent jurisdiction to answer charges for violations of this article.
- (2) *Legal penalties and/or remedies.*
- a. *Fine and/or sentence.* Any person convicted by a court of competent jurisdiction of violating any provision of this article shall be guilty of violating a duly adopted ordinance of the county and shall be punished either by a fine not less than \$100.00 per day and not greater than \$1,000.00 per day, or by a sentence of imprisonment not to exceed 60 days in jail, or both a fine and jail or work alternate. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
 - b. *Other legal remedies.* In any case in which a violation of this article has occurred, the city, in addition to other remedies provided by law, may petition for a restraining order, injunction, abatement, or take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain, or abate such unlawful use or activity.

- (3) *Petition.* In any case in which any land is, or is proposed to be, used or activities are undertaken in violation of this article or any amendment thereto adopted by the ~~M~~Mayor and ~~C~~City ~~C~~Council, the city, in addition to other remedies provided by law, may petition for a restraining order, injunction, abatement, or take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain, or abate such unlawful use or activity.

(Ord. No. 161-05, § 8-16-8, 5-9-2005)

Sec. 109-309. - Administrative appeal and judicial review.

- (a) *Administration.* This article shall be administered, interpreted, and enforced by the ~~Director city manager~~ or the ~~Director's city manager's~~ designee.
- (b) *Administrative appeal.* Appeals of the interpretation by either the ~~Director city manager~~ or the ~~Director's city manager's~~ designee shall first be submitted in writing (on a form provided by the city) to either the ~~e~~City ~~m~~Manager or ~~e~~City ~~m~~Manager's designee who shall review the request in a timely manner and receive comments from other affected departments. Such appeal shall be made within 15 days after the decision to be appealed. The appeal there upon shall be forwarded to the City of Lilburn ~~Mayor and City Council Zoning Board of Appeals~~ for action in their normal course of business.
- (c) *Judicial review.* Any person aggrieved by a decision or order of the ~~Director city manager~~ or the ~~Director's city manager's~~ designee or the ~~Mayor and City Council Zoning Board of Appeals~~, after exhausting all administrative remedies, shall have the right to appeal certiorari to the Superior Court of Gwinnett County.

(Ord. No. 161-05, § 8-16-9, 5-9-2005)

Sec. 109-310. - Fees.

- (a) Application filing, permit, inspection, and other fees shall be as may be established from time-to-time by the City of Lilburn, Georgia.
- (b) Permit fees, if any, shall be submitted as a prerequisite to issuance of the permit. Non-payment as a result of submission of a check having insufficient funds on account, or for any other reason, shall cause the permit to be voided and re-issuance subject to penalty as may be established by the ~~M~~Mayor and ~~C~~City ~~C~~Council.
- (c) Application fees, if any, shall be submitted with the application and upon acceptance of said submission for review and consideration shall not be refundable. Failure to pay a required application fee shall cause the application to be returned to the applicant without acceptance for review or consideration by the city.
- (d) Following the approval of development plans, and prior to authorization to begin construction, the developer shall provide the city such fees as may be established from time-to-time by the mayor and city council. Such fees shall not be refundable following issuance of a development permit, except upon approval of the ~~M~~Mayor and ~~C~~City ~~C~~Council.
- (e) Prior to approval of a final plat or certificate of occupancy, the developer shall provide to the city such fees and performance and/or maintenance bonds as shall be required by this article or established from time-to-time by the ~~M~~Mayor and ~~C~~City ~~C~~Council.

(Ord. No. 161-05, § 8-16-10, 5-9-2005)

Sec. 109-311. - Adoption and amendment.

(a) *Effective date.*

- (1) This article shall be in full force and effect on ~~January 1, 2019~~ ~~May 9, 2005~~, following the adoption by the Mayor and City Council of Lilburn, Georgia, and shall apply to any land disturbance permit for which an application is received after the effective date of this article.
- (2) Nothing in this article shall be construed to affect the validity of any building permit lawfully issued prior to the effective date of this article.

(b) *Amendments.*

- (1) This article may be amended from time-to-time by resolution of the ~~M~~Mayor and ~~C~~City ~~C~~ouncil. Such amendments shall be effective as of their date of adoption unless otherwise stated in the adopting resolution.
- (2) Any subdivision or other project for which a valid and complete application for a development permit shall have been received prior to the adoption of an amendment to this article may, at the developer's option, proceed to completion and building permits may be issued as though no amendment had been approved, provided that the development permit is or can be issued within 90 calendar days of said amendment and all time frames associated with said permit are observed.
- (3) Any subdivision or other project for which a development permit has been issued prior to the adoption of an amendment to this article may, at the developer's option, proceed to completion and building permits may be issued as though no amendment had been approved.
- (4) Any subdivision or other project for which only a clearing, clearing and grubbing, or grading permit shall have been issued prior to adoption of an amendment to this article shall be brought into conformance with the amendment (if applicable) prior to issuance of a development permit.
- (5) No amendment to this article shall be construed to affect the validity of any building permit lawfully issued prior to the adoption of said amendment.

(Ord. No. 161-05, § 8-16-11, 5-9-2005)

Sec. 109-312. - Severability.

If any section, provision or clause of any part of this article shall be declared invalid or unconstitutional, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to effect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.

(Ord. No. 161-05, § 8-16-12, 5-9-2005)

Secs. 109-313—109-400. - Reserved.