

ARTICLE 4

PERMITS REQUIRED FOR DEVELOPMENT OR CONSTRUCTION

4.1 AUTHORIZATION REQUIRED FOR LAND DISTURBANCE OR DEVELOPMENT ACTIVITIES

4.1.1 Permit Required; Exemptions

No disturbance of the land, including clearing, grubbing, or grading activities, shall commence or proceed except in accordance with the provisions of these Development Regulations, unless the activity is exempt as an agricultural activity in the RA-200 zoning district, or is for the construction of an individual single-family detached or duplex residence on a buildable lot of record.

4.1.2 Plan Review and Approval

Any developer of land within the City of Duluth shall first submit to the Department such plans, plats, or construction drawings as may be required by these Regulations and shall have been granted a permit consistent with these Regulations and approved by the Department prior to the initiation of development activities. Approval of plans by the City or employees shall not imply nor transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture, or any other profession, from the professional corporation or individual under whose hand or supervision the plans were prepared and sealed. Article 10 of these Regulations details the elements of the required plans.

4.1.3 Chattahoochee River Corridor Certificate

If any portion of a property included within a proposed project is located within 2,000 feet of the bank of the Chattahoochee River, the project shall first obtain a Certificate authorizing the development under the provisions of the Metropolitan River Protection Act before any clearing, grading, or construction activity may be granted a permit by the Department or any other agency. All permits issued by the City of Duluth pursuant to such authorization shall be consistent with the requirements and provisions of the Certificate. Any violation of the provisions of the Metropolitan River Protection Act Certificate shall be considered as though a violation of these Development Regulations, and shall be subject to the enforcement and penalty provisions hereunder.

4.1.4 Interdepartmental Review and Approval

The Department shall not issue a permit for any development activities until the plans, plats, or construction drawings, as applicable, have been approved by such other departments or agencies as may have authority or jurisdiction over said activities in whole or in part.

4.1.5 Activities Limited to Permit Authorization

Development activities shall be limited to those as authorized by the applicable permit and as may be further restricted by conditions of approval pertaining thereto attached by the Department or other department or agency as may have authority or jurisdiction over said activities in whole or in part.

4.1.6 Developer's Responsibility for Compliance

No permit shall be interpreted to relieve any developer or subdivider of the responsibility of maintaining full compliance with all codes, ordinances, and other regulations of the City of Duluth except as amended by an approved Waiver, Variance, or other relief granted through applicable formal appeal procedures for a specific property or application. Any permit issued in error or in contradiction to the provisions of an adopted code, ordinance, or regulation of the City of Duluth shall be considered to have been null and void upon its issuance.

4.2 LAND DISTURBANCE PERMITS

4.2.1 Clearing Permit, Clearing and Grubbing Permit, and Grading Permit.

The following permits covering portions of the land development process may be issued in accordance with the requirements of these Regulations and the provisions of any Metropolitan River Protection Act Certificate, if applicable:

a. Clearing Permit:

- (1) A permit limited to clearing only with no grubbing or other land disturbance (as defined in the Georgia Soil Erosion and Sedimentation Act) may be issued upon identification of the property, the limits of the area to be cleared and the type of activities to be undertaken, and approval of a Tree Protection/Replacement Plan as may be required under the Buffer, Landscape and Tree Ordinance. All clearing activities are to be consistent with the provisions of these Regulations, the Soil Erosion and Sediment Control Ordinance, the

Zoning Ordinance and any conditions of zoning.

- (2) A clearing permit shall expire unless clearing activities are commenced within 60 consecutive calendar days of issuance of the permit or if activities lapse and are abandoned for a period exceeding 30 consecutive calendar days.
- (3) A clearing permit shall not be construed as approval of or authorization to construct any improvements, buildings, or other structures on the property.

b. Clearing and Grubbing Permit:

- (1) A clearing and grubbing permit may be approved based on approval of a Concept Plan and Tree Protection/Replacement Plan (if required) for the development. Appropriate soil erosion and sedimentation controls and tree protection measures shall be placed and maintained as required.
- (2) A permit for clearing and grubbing shall expire unless activities are commenced within 60 days of issuance of the permit or if activities lapse and the project is abandoned for a period exceeding 14 calendar days.
- (3) A clearing and grubbing permit shall be limited to the removal of vegetation and stumps and the placement of required tree protection measures and soil erosion and sedimentation facilities, and may authorize the removal of existing structures on the property at the option of the developer. No grading or construction activities may be started under a clearing and grubbing permit. The approval of a clearing and grubbing permit shall not imply the approval of or authorization to construct any improvements, buildings, or other structures on the property.

c. Grading Permit:

- (1) A grading permit which may include clearing and grubbing, may be issued prior to approval of a development permit, as provided under Article 10 of these Regulations. A grading permit may also be issued for earth borrow or storage, where no development or construction is proposed or imminent, based on approval of a grading plan, soil erosion and sediment control plan, and hydrology study, consistent with the requirements of the Buffer, Landscape and Tree Ordinance, the zoning category of the site, and the provisions of the Comprehensive plan (as applicable).

- (2) A grading permit shall expire unless activities are commenced within 60 consecutive calendar days of issuance of the permit or if activities lapse and the project is abandoned for a period exceeding 14 30 consecutive calendar days. Any site for which the grading permit expires shall immediately be stabilized to prevent erosion.
- (3) A grading permit shall be limited in its authorization to land grading activities along with associated tree protection, clearing and grubbing, and demolition activities, and may authorize the construction of storm drainage improvements and soil erosion and sedimentation facilities as allowed by the permit.

4.2.2 Development Permit

a. Development Activities Authorized

A Development Permit shall be issued to authorize all activities associated with the land development process, including clearing and grubbing, grading, for the construction of such improvements as streets, surface parking areas and drives, sewer systems, storm water drainage facilities, sidewalks, or related structures permanently placed on or in the property. Grading for building and structures requiring a building permit is not authorized under a Development Permit. Clearing, grubbing and grading outside the rights-of-way and utility easements is not allowed by a Development Permit unless in compliance with the Buffer, Landscape and Tree Ordinance. Water system improvements shall be authorized solely by the Public Utilities Department. (amended 1-11-99)

b. Development Permit Approval

A development permit (which may include grading, clearing, and grubbing) shall be issued at the developer's request following approval of a Metropolitan River Protection Act Certificate, if applicable, and upon approval of a Preliminary Plat for a subdivision or a Site Plan for a non-subdivision project, along with approval of all other development plans and documents required to be submitted under Article 5 of these Regulations. All plans approved for a development permit shall expire after six months if no permit is issued within said time period.

c. Expiration of Development Permits

A development permit shall expire 12 consecutive calendar months after

issuance unless development activity as authorized by the permit are commenced within said 12-month period or if such authorized activities lapse and the project is abandoned for a period exceeding 60 consecutive calendar days. The Director may approve one extension not exceeding three consecutive calendar months within which time development activity must commence or the permit shall expire. Said extension shall be applied for within the first 12 consecutive calendar months after the permit's issuance.

d. Lapse in Construction Activity

For the purposes of these Regulations, a lapse in or suspension of development activity as authorized by a development permit, as a direct result of action or inaction on the part of the City of Duluth completely beyond the control of the developer, shall not be considered as a lapse in activity causing the development permit to expire. The 12 months within which development activity must begin shall exclude any such time period during which the activity is prohibited or has been caused to lapse by said City action or inaction.

e. Expiration of Approved Development Plans

If construction activity has not commenced within the permit period and the Development Permit expires, the Director shall require new site plans to be submitted for the project. The new plans must comply with any changes or amendments to these regulations, the Zoning Ordinance, or other ordinances as adopted by the City.

Where development plans have been approved by the Director, and no development permit has been issued, new plans shall be submitted after 24 months if a Development Permit has not been issued and construction has not commenced on the project.

4.3 BUILDING PERMITS

4.3.1 Applicable Codes

Building permits for all structures or interior finishes are issued after the applicant for said permits has met the applicable requirements of the fire prevention and life safety codes of Gwinnett County, and the various health, water, sewer, and building codes, as well as the provisions of any Certificate approved under the Metropolitan River Protection Act, if applicable.

4.3.2 Health Department: On-Site Sewage Disposal

For any structure for which on-site sewage disposal will be provided, a permit issued by the Health Department shall be required prior to issuance of a building permit. Said permit may first require approval by the Gwinnett County Health Department of a plan showing the location of the sewage disposal system and other site improvements, in accordance with their regulations.

4.3.3 Single-Family and Duplex Residences

- a. A building permit for a single or two-family residence may be issued after the recording of a Final Plat or after the lot upon which the building is to be located has otherwise become a buildable lot of record.
- b. The approval by the Department of a House Location Plan (HLP), Residential Drainage Plan (RDP), or Residential Drainage Study (RDS), may be required prior to issuance of the building permit, as noted and conditioned on the Final Plat or as may be required for compliance with the Georgia Metropolitan River Protection Act. For such lots, a Certificate of Occupancy shall not be issued until conformance to the HLP, RDP, or RDS has been field verified by the Department as shown on a certified field survey prepared by Registered Land Surveyor and a stamped “as-built” survey has been submitted to the Department. (See Article 6 for plan and study specifications.)

4.3.4 Swimming Pools

Issuance of a building permit for a swimming pool as an accessory use to a single or two-family residence, whether to be issued at the same time as or subsequent to the permitting or construction of the dwelling, shall first require approval of a Swimming Pool Location Plan. The plan shall show the proposed location of the swimming pool and enclosing fence relative to the residence, the property boundaries, setback lines, septic tank and septic tank drain field (if any), and any easements on the site. The location of such swimming pool shall comply with all requirements of the Zoning Ordinance and Swimming Pool Code. Based on site conditions, a Residential Drainage Study (RDS) may be required prior to issuance of the building permit. A Certificate of Occupancy shall not be issued until conformance to the Swimming Pool Location Plan and to provisions of the RDS, if applicable, has been field verified by the Department.

4.3.5 Multi-Family and Nonresidential Structures

- a. Issuance of a building permit for any principal building other than a single-family detached or duplex residence (and associated accessory structure) shall first require issuance of a Development Permit for the building site, and the building permit shall be consistent with said Development Permit.
- b. Building plans must be reviewed and approved by the Gwinnett County Fire Services Division, and Public Utilities Departments and the Duluth Planning and Development Department prior to permitting for all multi-family and non-residential structures and such accessory structures. Building Plan approval shall expire after one year, after which re-review and approval shall be required prior to issuance of a building permit for the building or additional buildings.

4.3.6 Issuance on Buildable Lots of Record; Exceptions

Building permits shall only be issued on buildable lots of record, as defined in these Regulations, except under special circumstances limited to and as specifically described in this Section, below.

- a. In single-family detached and duplex residential subdivision, building permits for no more than two model home buildings, on specific lots may be issued by the Department on the basis of an approved Preliminary Plat after the approval by the Fire Services Division and the Health Department or Water Pollution Control Division, as appropriate, and subject to all limitations or requirements as may be established by the Director. No Certificate of Occupancy shall not be issued for the completed model home until the Final Plat encompassing the model home building lots has been approved and recorded.
- b. In fee-simple townhouse subdivisions, a building permit may be issued on a buildable lot of record established for each building (containing any number of townhouse dwelling units) through recording of a Final Plat following completion of all required public improvements. Upon completion of the buildings, the Final Plat shall be re-recorded to establish individual lots for the townhouse units, based on their actual locations, prior to issuance of Certificates of Occupancy.
- c. In Non-Residential subdivisions, building permits may be issued by the Department on the basis of an approved Site Plan, after a Development

Permit has been approved reflecting the site plan and construction drawings for specific buildings and associated site improvements, after the detention facility has been constructed and all erosion control measures have been installed according to the approved Erosion Control Plan. Issuance of the building permits shall be conditioned upon the following: (added 9-22-97)

- (1) A Performance Bond or other approved surety shall have been received in a form acceptable to the City Attorney, drawn in favor of the City of Duluth and in an amount not less than 110 percent (110%) of the cost of completing all public improvements as authorized and required by the Site Plan and these Regulations;
- (2) The Performance Bond or other approved surety shall not exceed an aggregate total for all required public improvements of \$12,000 per acre for the total acreage included within the subdivision or portion of the subdivision wherein the improvements are proposed, except by approval of the City Council;
- (3) Gwinnett County Fire Services Division approval shall be required prior to issuance of any building permit, which may include approval of acceptable access and water pressure of combustible construction;
- (4) Approval of Gwinnett County Health Department for on-site sewage disposal by the Gwinnett County Water Pollution Control Division for a building to be served by public sewer shall be required prior to issuance of any building permit;
- (5) Construction of the required public improvements shall proceed concurrently with construction of the buildings;
- (6) No C.O. shall be approved for any structure within the subdivision prior to recording of the Final Plat without the express approval of the Director; and
- (7) The Director shall have found that the public interest is best served and that a public purpose is involved in the acceptance of the Performance Bond.