

1 **RESOLUTION AMENDING CODE OF LAWS OF FULTON COUNTY, GEORGIA, CODIFIED**
2 **THROUGH SUBPART A, CODE OF ORDINANCES, CHAPTER 26 - ENVIRONMENT,**
3 **ARTICLE IV, STORMWATER MANAGEMENT RELATING TO STORMWATER DRAINAGE**
4 **MANAGEMENT, PLANNING AND DEVELOPMENT REQUIREMENTS; TO PROVIDE FOR**
5 **POST-CONSTRUCTION STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND**
6 **REDEVELOPMENT; AND FOR OTHER PURPOSES.**
7

8 **WHEREAS**, O.C.G.A. § 12-5-20, established the Georgia Rules and Regulations for
9 Water Quality Control, as amended, providing for municipal, construction, and industrial
10 permitting of stormwater facilities, and places primary responsibility for ensuring stormwater
11 enforcement on the Environmental Protection Division (EPD) of the Georgia Department of
12 Natural Resources; and

13 **WHEREAS**, the Director of EPD is required to promulgate regulations and rules to
14 regulate entities in the state and to issue permits to require conformance with all rules,
15 regulations and orders, adopted pursuant to the Clean Water Act of 1972 and the Water Quality
16 Control Act Control of 1977; and

17 **WHEREAS**, the EPD provides oversight of the Municipal Separate Storm Sewer System
18 (MS4) National Pollutant Discharge Elimination System (NPDES) Permit process; and

19 **WHEREAS**, Fulton County Code of Ordinances, Article IV (Stormwater Management),
20 Chapter 26 (Environment), provides the basis of operation and management of the Fulton
21 County Stormwater System and the compliance with said rules; and

22 **WHEREAS**, Fulton County is required to establish a comprehensive Stormwater
23 Management Program (SWMP) and to develop a plan and program to control stormwater
24 pollution discharges to waters of the State to the maximum extent practical and to eliminate non-
25 storm water discharges from entering the stormwater system; and

26 **WHEREAS**, the Board of Commissioners, as owner and operator of the Fulton County
27 Storm Sewer System, finds it desirable and in the interest of the health, safety and welfare of
28 the public to amend said Code of Ordinances in order to better reflect the operational conditions
29 of the stormwater system as well as better complying with said Rules.

1 **NOW, THEREFORE, BE IT RESOLVED** that Chapter 26, Article IV (Stormwater
2 Management) of the Fulton County Code of Laws is hereby by amended as is reflected in the
3 attachment hereto that is incorporated herein by this reference as Exhibit "A."

4 **BE IT FINALLY RESOLVED**, that this Resolution shall become effective upon adoption
5 and that all Resolutions and parts of Resolutions in conflict with this Resolution are hereby
6 repealed to the extent of the conflict.

7 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County, Georgia,
8 this _____ day of January 2021.

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ATTEST:

By: _____
Tonya R. Grier
Clerk to the Commission

**BOARD OF COMMISSIONERS
OF FULTON COUNTY, GEORGIA**

By: _____
Robert L. Pitts, Chairman

APPROVED AS TO FORM:

By: _____
Patrise M. Perkins-Hooker
County Attorney

EXHIBIT A

ARTICLE IV. - STORMWATER MANAGEMENT

DIVISION 1. - GENERALLY

Sec. 26-111. - Short title of article.

The provisions of this article shall constitute and be known as the "Stormwater Management Ordinance of Fulton County, Georgia."

(95-0093, art. I, § A (1), 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-112. - Definitions.

For the purposes of this article, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this article its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the words "should" or "may" are permissive. Unless otherwise specified, or apparent from the context, definitions herein will be the same as those in other Fulton County codes. For the purpose of this article, the following terms, phrases, and words, and their derivatives, shall have the meaning given herein:

Accidental discharge means a discharge of any non-stormwater related substance into the separate storm sewer that occurs by chance and without planning or consideration prior to occurrence.

Administrator means the Director of Public Works

Agricultural practices means practices involving the establishment, cultivation, or harvesting of products of the field or orchard; the preparation and planting of pasture land and farm ponds; and the construction of farm buildings, or other related activities per section 5.1 of the Zoning Resolution.

Applicant means a person submitting a land disturbance permit application for approval.

As-built plan or record *drawing* means a set of engineering or site drawings that delineate the specific permitted stormwater management facility as actually constructed.

Best management practices (BMPs) means both structural devices to store or treat stormwater runoff and non-structural programs or practices which are designed to prevent or reduce the pollution of the waters of the State of Georgia.

BMP landscaping plan means a design for vegetation and landscaping that is critical to the performance and function of the BMP including how the BMP will be stabilized and established with vegetation. It shall include a layout of plants which cites common and scientific plant names.

Board means the Fulton County Board of Commissioners.

Channel means a natural or artificial watercourse with a definite bed and banks that conveys continuously or periodically flowing water.

Clean Water Act means the Federal Water Pollution Control Act, as amended (32 USC 1251 et seq.).

Conservation easement means an agreement between a land owner and the county or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place but continues to leave the remainder of the fee interest in private ownership.

Construction sequencing plan means a document noting the sequence of construction and identification of infiltration zones for protection during staged installation of permanent post-construction

BMPs to ensure suitable site conditions such as avoiding soil compaction by heavy equipment in areas designated for infiltration BMPs.

Cooling water means water used exclusively as cooling medium in an appliance, device, or apparatus.

County means unincorporated Fulton County, Georgia.

County commissioner means an elected official of the Fulton County Board of Commissioners.

County/separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, highways, rights-of-way, county streets, catch basins, curbs, gutters, ditches, manmade channels, pipes, culverts, storm drains, detention ponds, other stormwater facilities) which are:

- (1) Owned or maintained by the county;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Not a combined sewer; and
- (4) Not a part of publicly owned treatment works (POTW).

Design report means the report that accompanies the stormwater management plan and includes data used for engineering analysis, results of all analysis, design and analysis calculations (including results obtained from computer programs), and other engineering data that would assist the county in evaluating proposed stormwater management facilities.

Detention means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

Detention facility, structure and/or pond means a stormwater management structure designed for the storage and gradual release of stormwater runoff at controlled rates.

Developer means a person who undertakes land development activities.

Development means new development or redevelopment project.

Director of the Department of Public Works or Director means the duly designated department head of the public works department or his/her designee.

Discharge means the release of treated or untreated water, fluid or other substance to the county separate storm sewer system.

Drainage easement means an easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.

Erosion and sedimentation control ordinance means the ordinance adopted by the county that controls, reduces, or eliminates soil erosion and its transportation to the county's lakes, rivers, and streams, latest revision.

Erosion and sedimentation control plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.

Existing land use conditions means the ground surface in its original state before grading, excavating, or filling.

Extended detention means the storage of stormwater runoff for an extended period of time, typically 24 hours or greater.

Extreme flood protection means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) A volume of surface water that exceeds the banks or walls of a BMP, or channel and overflows onto adjacent lands.

GSMM means the latest edition of the Georgia Stormwater Management Manual, Volume 2: Technical Handbook, and its Appendices.

Grading means excavating, filling (including hydraulic fill), or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.

Greenspace or open space means permanently protected areas of the site that are preserved in a natural state.

Green Infrastructure/Low Impact Development (GI/LID) BMP means measures that use of natural and/or engineered systems designed to mimic natural processes to more effectively manage urban stormwater and reduce receiving water impacts. Such measures from the GSMM include but are not limited to bio retention basins, bioslopes, enhanced swales, grass channels, stormwater planters and vegetated filter strips.

Hotspot means a land use or activity on a site that has the potential to produce higher than normally found levels of pollutants in stormwater runoff. As defined by the administrator, hotspot land use may include gasoline stations, vehicle service and maintenance areas, industrial facilities (both permitted under the Industrial Stormwater General Permit and others), material storage sites, garbage transfer facilities, and commercial parking lots with high-intensity use.

Hydrologic soil group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce significant runoff.

Illicit connection means any connection to the county's separate stormwater conveyance system (pipe, culvert, road, ditch, channel, draw or watercourse) that is not composed entirely of stormwater runoff or a connection that does not conform to an approved stormwater management plan from the county, other than the NPDES permit for discharging from the county separate storm system.

Impervious cover means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.

Industrial Stormwater General Permit means the National Pollutant Discharge Elimination System (NPDES) permit issued by the Georgia Environmental Protection Division to an industry or group of industries for stormwater discharges associated with industrial activity. The permit regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies based on Standard Industrial Classification (SIC) Codes.

Infiltration means the process of percolating stormwater runoff into the subsoil.

Inspection and maintenance agreement means a written agreement providing for the long-term inspection, operation, and maintenance of the stormwater management system and its components on a site with respect to a land development project. When properly recorded in the deed records, this document constitutes a restriction on the title to a site or other land involved in a land development project.

Issuing department means that department in the county that has been designated as the department with the authority over the issuance, inspection, enforcement, and acceptance of permits for the sole purpose of developing or improving land, or building or constructing structures, utilities, public improvements (including stormwater management facilities), or other facilities located within the county.

Jurisdictional wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land development means any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

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

Land development application means the application for a land development permit on a form provided by Fulton County along with the supporting documentation required in Section 26-166 and Appendix B Section 34-4.

Land development permit or land disturbance permit (LDP) means the authorization necessary to begin construction-related, land-disturbing activity.

Land development project means a discrete land development undertaking.

Land disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including but not limited to clearing, dredging, grading, excavating, and filling of land. Land disturbing activity does not include agricultural practices as described O.C.G.A. 12-7-17(5) or silvicultural land management activities as described O.C.G.A. 12-7-17(6) within areas zoned for these activities.

Linear Feasibility Program means a feasibility program developed by Fulton County and submitted to the Georgia Environmental Protection Division, which sets reasonable criteria for determining when implementation of stormwater management standards for linear transportation projects being constructed by Fulton County is infeasible.

Linear Transportation Projects means construction projects on traveled ways including but not limited to roads, sidewalks, multi-use paths and trails, and airport runways and taxiways.

Maintenance means any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this article or prevent structural failure of such facilities. Maintenance shall not include actions taken solely for the purpose of enhancing the aesthetic aspects associated with stormwater management facilities and BMPs.

MS4 Permit means the NPDES permit issued by Georgia Environmental Protection Division for discharges from the county's municipal separate storm sewer system.

National Pollutant Discharge Elimination System (NPDES) permit means a permit issued by the appropriate authority in accordance with the U.S. Environmental Protection Agency (EPA) regulations which require certain jurisdictions to obtain permits to discharge stormwater into waterbodies of the U.S.

New development means land disturbing activities, structural development (construction, installation or expansion of a building or other structure), and/or creation of impervious surfaces on a previously undeveloped site.

Non-erodible means a material, e.g., natural rock, riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces of wind, water, ice, gravity, or a combination of those forces except over a long period of time.

Nonpoint source pollution means a form of water pollution that does not originate from a discrete point such as a wastewater treatment facility or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water or groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Non-structural stormwater management practice or non-structural practice means any natural or planted vegetation or other non-structural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

Off-site facility means a stormwater management facility located outside the boundaries of the site.

On-site facility means a stormwater management facility located within the boundaries of the site.

Overbank flood protection means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e., flow events that exceed the capacity of the channel and enter the floodplain).

Owner means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Permit means the permit issued by the county to the applicant which is required for undertaking any land development activity.

Permittee means the applicant who has applied for and/or been granted a permit for disturbance of the land by the governing agency.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

Person responsible for the land disturbing activity means:

- (1) The person who has or represents having financial or operational control over the land disturbing activity; and/or

- (2) The landowner or person in possession or control of the land who directly or indirectly allowed the land disturbing activity or has benefited from it or who has failed to comply with any provision of this article.

Pollution means the contamination or other alteration of any water's physical, chemical, or biological properties, including changes in the temperature, taste, color, turbidity, or odor of such waters or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

Post-construction stormwater management means stormwater best management practices that are used on a permanent basis to control and treat runoff once construction has been completed in accordance with a stormwater management plan.

Post-development means the conditions anticipated to exist on site immediately after completion of the proposed development.

Practicability policy means the latest edition of the Metropolitan North Georgia Water Planning District's Policy on Practicability Analysis for Runoff Reduction.

Pre-development means the conditions that exist on a site immediately before the implementation of the proposed development. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time before the first item being approved or permitted shall establish pre-development conditions.

Pre-development hydrology means (a) for new development, the runoff curve number determined using natural conditions hydrologic analysis based on the natural, undisturbed condition of the site immediately before implementation of the proposed development; and (b) for redevelopment, the existing conditions hydrograph may take into account the existing development when defining the runoff curve number and calculating existing runoff, unless the existing development causes a negative impact on downstream property.

Previously developed site means a site that has been altered by paving, construction, and/or land disturbing activity.

Private means property or facilities owned by individuals, corporations, and other organizations and not by the county government or other governing entity.

Procedure means a procedure adopted by the utility, by and through the Director, to implement a regulation or regulations adopted under this article, or to carry out other responsibilities as may be required by this article or other codes, ordinances, or resolutions of the county.

Project means the entire proposed development regardless of the size of the area of land to be disturbed.

Public works department means the department within the county responsible for all stormwater management activities and implementation of the provisions of this article.

Redevelopment means structural development (construction, installation, or expansion of a building or other structure), creation or addition of impervious surfaces, replacement of impervious surfaces not as part of routine maintenance, and land disturbing activities associated with structural or impervious development on a previously developed site. Redevelopment does not include such activities as exterior remodeling.

Regional stormwater management facility or regional facility means stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.

Responsible personnel means any foreman, superintendent, or similar individual who is the onsite person in charge of land disturbing activities.

Retention structure and/or pond means a permanent structure whose primary purpose is to permanently store a given volume of stormwater runoff. Release of the given volume is by infiltration and/or evaporation.

Right-of-way means a portion of land over which a local or state government has designated a right of use.

Routine maintenance means activities to keep an impervious surface as near as possible to its constructed condition. This includes ordinary maintenance activities, resurfacing paved areas, and exterior building changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

Runoff means stormwater runoff.

Site means an area of land where development is planned, which may include all or portions of one or more parcels of land. For subdivisions and other common plans of development, the site includes all areas of land covered under an applicable land development permit.

Stormwater better site design means non-structural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for non-structural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

Stormwater concept plan means an initial plan for post-construction stormwater management on the site that provides the groundwork for the stormwater management plan including the natural resources inventory, site layout concept, initial runoff characterization, and first round stormwater management system design. The plan should include stormwater management structures, BMPs and supporting documentation as specified in the Stormwater Management Design and Criteria Manual. The purpose of this document is to define on a conceptual level the nature of the proposed development and to describe existing conditions and the proposed measures needed to conform to the requirements.

Stormwater management means the collection, conveyance, storage, treatment, and disposal of stormwater runoff in a manner to minimize accelerated channel erosion, increased flood damage, and/or degradation of water quality and in a manner to enhance and ensure the public health, safety, and general welfare, which shall include a system of vegetative or structural measures, or both, that control the increased volume and rate of stormwater runoff caused by manmade changes to the land.

Stormwater Management Design and Criteria Manual means the most recent approved manual of design, performance, and review criteria for stormwater management practices, prepared under the direction of the Director of the Department of Public Works or his/her agent. Copies of this manual can be obtained from the Public Works Department.

Stormwater management districts means any districts established by the board of commissioners where there are special assessments of property owners for the purpose of management and maintenance of stormwater.

Stormwater management facilities means those structures and facilities that are designed for the collection, conveyance, storage, treatment, and disposal of stormwater runoff into and through the drainage system. In most cases, stormwater management facilities will refer to facilities whose primary purpose is related to the quantity of stormwater, and where the BMPs primary purpose will be related to water quality concerns of stormwater.

Stormwater management master plan means the plans for the unincorporated county that govern storm drainage and related facilities, existing and proposed, for all drainage basins and/or watersheds within the county.

Stormwater management measure means any stormwater management facility or non-structural stormwater practice.

Stormwater management plan means a plan for post-construction stormwater management at the site that meets the requirements of Section 26-166-(d) and is included as part of the land development application.

Stormwater management qualitative control means a system of vegetative, structural, or other measures that reduce or eliminate pollutants that might otherwise be carried by stormwater runoff.

Stormwater management standards means those standards set forth in Section 26-166.

Stormwater management system means the entire set of non-structural site design features and structural BMPs for collection, conveyance, storage, infiltration, treatment, and disposal of stormwater runoff in a manner designed to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

Stormwater retrofit means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff means the flow on the surface of the ground, resulting from precipitation

Structural stormwater control means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

Subdivision means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

Trout stream means waters designated by the Wildlife Resources Division of the Georgia Department of Natural Resources as Primary Trout Waters or Secondary Trout Streams. Primary Trout Waters are waters supporting a self-sustaining population of Rainbow, Brown or Brook Trout. Secondary Trout Streams are those with no evidence of natural trout reproduction but are capable of supporting trout throughout the year.

Variance means the modification of the minimum stormwater management requirements for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this article.

Waiver means the relinquishment from stormwater management requirements by the Director of the issuing department or his/her agent for a specific land disturbing activity on a case-by-case review basis.

Waste means materials that are discarded, disposed of, or no longer usable.

Water quality means those characteristics of stormwater runoff from a land disturbing activity that relates to the physical, chemical, biological, or radiological integrity of water.

Water quantity means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff to downstream areas resulting from land disturbing activities.

Zoning Resolution of Fulton County (Z.R.F.C.) means the rules and regulations that address zoning and development within the unincorporated areas of the county, latest revision.

Other terms used but not defined in this Article shall be interpreted based on how such terms are defined and used in the GSMM and the county's MS4 permit.
(95-0093, art. II, § B, 3-15-95; Ord. No. 08-0194, 2-20-08)

Cross reference— Definitions generally, § 1-2.

Sec. 26-113. – Violations and enforcement; penalties for violation of article.

Any violation of the approved stormwater management plan during construction, failure to submit as-built drawings, failure to submit a final BMP landscaping plan, or failure of the final inspection shall constitute and be addressed as violations of, or failures to comply with, the approved land disturbance permit and/or building permit. To address a violation of this Article, the county shall have all the powers and remedies that are available to it for other violations of building and land disturbance permits, including without limitation the right to issue notices and orders to ensure compliance, stop work orders, and penalties as set forth in the applicable ordinances for such permits.

- (a) Upon determination that a violation of this article has occurred, the person responsible for the land disturbing activity shall be given a written notice of the violations and a time in which to correct the deficiencies.
- (b) If construction violations of the approved plan are occurring, an immediate stop work order may be issued by the Director of the issuing department or his/her designee.
- (c) All non-construction related violations of this article shall be issued a citation by the county.
- (d) The magistrate court of the county and the state court of the county shall each have jurisdiction to try offenses alleging violations of this article by any person, firm, corporation, partnership, or other entity. Violations of this article shall be deemed to be a misdemeanor. Each day any violation of this article shall continue shall be considered a separate offense. Upon conviction, any person, firm, corporation, partnership, or other entity shall be subject to a fine of \$1,000 per violation or imprisonment in the county jail for not more than 60 days, or by both this fine and imprisonment for each offense.
- (e) The county attorney on behalf of the county may institute injunctive, or other appropriate action or proceedings at law or equity for the enforcement of this article or to correct violations of this article, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

(95-0093, art. VII, § F, 3-15-95; 99-0644, § II, 5-5-99; Ord. No. 08-0194, 2-20-08)

State Law reference— Maximum punishments which may be imposed for violations of county ordinances, O.C.G.A. § 36-1-20(b).

Sec. 26-114. - Authority of article.

- (a) This article is established as a new article to and under the authority of this Code.
- (b) The authority for this article is based on home rule provisions of Ga. Const. art. IX, § II.
- (c) In compliance with the provisions of the Clean Water Act, 33 USC 1251 et seq., as amended, by the Water Quality Act of 1987, PL 100-4.

(95-0093, art. I, § A (2), 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-115. - Purpose/objectives of article.

The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. Proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. Additionally, the county is required to comply with several State and Federal laws, regulations and permits and the requirements of the Metropolitan North Georgia Water Planning District's regional water plan related to managing the water quantity, velocity, and quality of post-construction stormwater runoff. This article seeks to meet that purpose through the following objectives:

- (1) Protect, maintain, and enhance the short-term and long-term public health, safety, and general welfare. This objective will be achieved by:
 - a. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources.
 - b. Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats.
 - c. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality.
 - d. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards.
 - e. Encourage the use of non-structural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable. Coordinate site design plans, which include greenspace, with the county's greenspace protection plan.
 - f. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and non-structural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety.
 - g. Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.
- (2) To satisfy federal (EPA) and state (DNR) regulations that require local programs to control stormwater discharges of pollution.
- (3) To keep streets open to emergency vehicle traffic by reducing the flooding of streets.
- (4) Require construction of drainage systems which aesthetically and functionally approximate natural systems.

(5) Establish the development and implementation of stormwater management districts.

(95-0093, art. I, § A (3), 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-116. - Application and scope of article; applicability criteria for stormwater management.

The application of this article and the provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute. In addition, if site characteristics indicate that complying with the minimum requirements of this article will not provide adequate designs or protection for local property or residents, the county may impose requirements greater than those set forth in this article. The Director of the Department of Public Works or his/her designee shall be responsible for the coordination and enforcement of the provisions of this article.

This article shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to section 26-125 below. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:

- a. New development that involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of one acre of land or greater;
- b. Redevelopment (excluding routine maintenance and exterior remodeling) that creates, adds, or replaces 5,000 square feet or greater of new impervious surface area or that involves land disturbing activity of one acre or more;
- c. New development and redevelopment if
 - (1) such new development or redevelopment is part of a subdivision or other common plan of development, and
 - (2) the sum of all associated impervious surface area or land disturbing activities that are being developed as part of such subdivision or other common plan of development meets or exceeds the threshold in (a) and (b) above, and
- d. Any commercial or industrial new development or redevelopment, regardless of size, that is a hotspot land use as defined in this Article; and
- e. Linear transportation projects that exceed the threshold in (a) or (b) above.

(95-0093, art. I, § A (4), 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-117. - Conflict with other laws.

- (a) This Article is not intended to modify or repeal any other Article, ordinance, rule, regulation or other provision of law, including but not limited to any applicable stream buffers under state and local laws, and the Georgia Safe Dams Act and Rules for Dam Safety. In the event of any conflict or inconsistency between any provision in the county's MS4 permit and this Article, the provision from the MS4 permit shall control. In the event of any conflict or inconsistency between any provision of this Article and the GSMM, the provision from this Article shall control.
- (b) Whenever the provisions of this article impose more restrictive standards than are required in or under any other ordinance, the regulations herein contained shall prevail. Whenever the provisions of any other law require more restrictive standards or imposes higher protective standards for human health or the environment than are required herein, the requirements of such law shall prevail.

(95-0093, art. VII, § H, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-118. - Severability.

If any term, requirement, or provision of this article or the application thereof shall, to any extent, be invalid or unenforceable, the remainder of this article or the application of such terms, requirements, and provisions shall not be affected thereby and each term, requirement, or provision of this article shall be valid and be enforced to the fullest extent permitted by law.

(95-0093, art. VII, § I, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-119. - Amendments.

This article may be amended in the manner as prescribed by law for its original adoption.

(95-0093, art. VII, § J, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-120. - Liability of county.

Neither the approval of a plan under the provisions of this article nor the compliance with the provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor shall it impose any liability upon the county for damage to any person or property.

(95-0093, art. VII, § K, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-121. - Implementation of the GSMM and other ordinances.

- (a) In implementing this Article, the county shall use and require compliance with all relevant design standards, calculations, formulas, methods, and other guidance from the GSMM as well as all related appendices.
- (b) This article does not negate the following codes, laws, and ordinances or any other applicable ordinance:
 - (1) Erosion and sedimentation control ordinance of the county.
 - (2) Zoning resolution of the county including the floodplain management section.
 - (3) Rules for dam safety under the Environmental Protection Division by the State of Georgia Safe Dam Act of 1978 (O.C.G.A. § 12-5-370 et seq.). All other impounding structures (dams) criteria not covered by the Safe Dam Act (O.C.G.A. § 12-5-440 et seq.) shall be addressed in the Fulton County Comprehensive Stormwater Manual.
 - (4) MRPA, Metropolitan River Protection Act (O.C.G.A. § 12-5-440 et seq.).
 - (5) South Fulton Chattahoochee River Corridor (Georgia River and Mountain Protection Act).

(95-0093, art. VII, § L, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-122. - Effective date.

This article shall take effect 60 calendar days after Board of Commissioners approval.

(95-0093, art. VII, § M, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-123. - Scope of article; scope of responsibilities.

- (a) *Imposition of stormwater management measures.* No person shall develop any land without having provided for stormwater management measures in compliance with this article, unless exempted under the terms of this article, particularly section 26-125.
- (b) *Geographic scope of measures.* The provisions of this article shall apply throughout the unincorporated area of the county.

(95-0093, art. I, § C, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-124. – Designation of administrator; powers of the department of public works.

- (a) The Department of Public Works shall have the power to administer and enforce all regulations and procedures adopted to implement this article, including the right to maintain an action or procedure in any court of competent jurisdiction to compel compliance with or restrain any violation of this article.
- (b) The Public Works Director or Designee may from time to time appoint a designee to administer and implement this Article.
- (c) The Director of the Department of Public Works or his/her designee shall be responsible for the coordination and enforcement of the provisions of this article. In addition, it shall be the duty of all officers and employees of the county, especially members of the police department, sheriff's department and marshal's office, to assist the Director in the course of his/her duties to enforce this article.
- (d) The Director of the Department of Public Works or his/her designee shall be responsible for the conservation, management, maintenance (where applicable), extension, and improvement of the county separate storm sewer system, including activities necessary to control stormwater runoff and activities necessary to carry out stormwater management programs included in county NPDES stormwater permit.
- (e) The Director of the Department of Public Works or his/her designee shall develop, or cause to be developed and updated periodically, a stormwater management design manual for the guidance of persons preparing stormwater management plans and designing or operating stormwater management systems.
- (f) The Director of the Department of Public Works or his/her designee shall prepare or cause to be prepared and updated a stormwater management master plan.
- (g) The Director of Public Works shall interpret the provisions of this article and may use the opinions of the county attorney and others in arriving at interpretations. Appeals from an interpretation of the Director shall be in accordance with the provisions of section 26-131.
- (h) The Director of Public Works or his/her designee shall:
 - (1) Administer, coordinate, and oversee acquisition, design, construction, and operation and maintenance of municipal/county stormwater facilities and conveyances;
 - (2) Establish or oversee establishment of development standards and guidelines;
 - (3) Determine the manner in which stormwater facilities should be operated;
 - (4) Inspect private systems which discharge to the municipal/county separate storm sewer system;
 - (5) Advise the other departments on issues related to stormwater;
 - (6) Protect facilities and properties controlled by the county and prescribe how they are to be used by others;
 - (7) Require new, increased, or significantly changed stormwater contributions to comply with the terms of this article;
 - (8) Develop programs or procedures to control the discharge of pollutants into the municipal/county separate storm sewer system;
 - (9) Adopt and implement the stormwater management program for county government.

(95-0093, art. I, § D, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-125. - Exemptions

All development, construction or improvements that occur within the boundaries of the county shall be governed by the provisions of this article and the county's Comprehensive Storm Drainage Design and Criteria Manual. This Article does not apply to the following activities:

- (1) Land disturbing activity conducted by local, state, authority, or federal agencies, solely to respond to an emergency need to protect life, limb, or property or conduct emergency repairs;

- (2) Land disturbing activity that consists solely of cutting a trench for utility work and related pavement replacement;
- (3) Land disturbing activity conducted by local, state, authority, or federal agencies, whose sole purpose is to implement stormwater management or environmental restoration;
- (4) Any maintenance or renovation of an existing structure or system not materially changing or affecting the rate or volume of stormwater runoff, in the sole discretion of the Director of the issuing department;
- (5) Repairs to any stormwater management facility or practice deemed necessary by the Director;
- (6) Agricultural practices as described per O.C.G.A. 12-7-17(5) within areas zoned for these activities with the exception of buildings or permanent structures that exceed the threshold in 26-116 (a) or (b);
- (7) Silvicultural land management activities as describe per O.C.G.A. 12-7-17(6) within areas zoned for these activities with the exception of buildings or permanent structures that exceed the threshold in 26-116 (a) or (b);
- (8) Installations or modifications to existing structures solely to implement Americans with Disabilities Act (ADA) requirements, including but not limited to elevator shafts, handicapped access ramps and parking, and enlarged entrances or exits; and
- (9) Linear transportation projects being constructed by Fulton County to the extent the administrator determines that the stormwater management standards may be infeasible to apply, all or in part, for any portion of the linear transportation project. For this exemption to apply, an infeasibility report that is compliant with the Fulton County linear feasibility program shall first be submitted to the administrator that contains adequate documentation to support the evaluation for the applicable portion(s) and any resulting infeasibility determination, if any, by the administrator.

(95-0093, art. I, § E, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-126. - Grandfather clause.

Any applicant or owner of a parcel of land within the jurisdiction of the county who has constructed the required stormwater management facility or BMP or who is in the process of meeting the stormwater management requirements of the law at the time of the effective date of this article, may elect to apply to the Director for reconsideration under the provisions of this article.

(95-0093, art. VII, § G, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-127. - Stormwater Management Design and Criteria Manual.

- (a) Through the passage of this article, the board of commissioners adopts the Fulton County Comprehensive Storm Drainage Design and Criteria Manual (the manual) and all the rules, regulations, and definitions contained therein. This manual was developed to assist in the design and evaluation of stormwater management facilities and practices. The Director of Public Works shall be responsible for the promulgation of the manual and its contents. The manual shall be updated periodically to reflect the most current and effective practices, rules, and regulations, and shall be made available to the public.
- (b) The following topics will be set forth in the Comprehensive Stormwater Management Design and Criteria Manual:
 - (1) Stormwater concept and management plan approval process;
 - (2) Stormwater quantity management facilities;
 - (3) Minimum runoff quality control requirements;
 - (4) Maintenance agreement for privately owned stormwater facilities; and
 - (5) All technical criteria and procedures related to stormwater quality and quantity.

(95-0093, art. I, § F, art. VII, § A, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-128. - Variances.

- (a) The Director of Public Works may grant a variance from the requirements of this article if there are hardships applicable to the site.
- (b) A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, for their granting.
- (c) The Director may grant a variance from requirements of this article if the proposed development activity:
 - (1) Does not change or increase the rate, velocity or volume of runoff significantly; or
 - (2) Does not have a significant, negative impact on wetland, watercourse, or water body; or
 - (3) Does not contribute to degradation of downstream water quality or quantity; or
 - (4) If the construction of proposed improvements will create a safety, traffic or drainage hazard; or
 - (5) Are impractical to construct; or
 - (6) The grading, or construction of any of the facilities, related to the development activity that are needed to meet the requirements of this article and will have an adverse impact to an adjacent or downstream property owner.

(95-0093, art. VII, § B, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-129. - Off-site drainage facilities.

Guidelines for consideration of off-site facility/conveyance system use are defined in the Fulton County Comprehensive Stormwater Management Design and Criteria Manual and section 26-172 of this article.

(95-0093, art. VII, § C, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-130. - Stormwater management districts.

Upon the recommendation of the Director of the Department of Public Works, the board of commissioners shall designate stormwater management districts throughout the unincorporated areas of the county. It shall be the responsibility of the Director of the Department of Public Works to determine the boundaries of each stormwater district and shall use the stormwater management master plan as a guide.

(95-0093, art. VII, § D, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-131. - Appeals.

- (a) Any person aggrieved by a decision of the Director of the issuing department, including any decision with reference to the granting or denial of a variance from the terms of this article, may appeal the same by filing a written notice of appeal with the Director within 30 calendar days of the issuance of said decision by the Director.
- (b) All appeals shall be heard by the Director or his/her designee who is hereby granted specific authority to hear and determine such appeals. The hearing shall be held within 30 days after receipt of notice of appeal or a date mutually agreed upon in writing. The final decision of the Director shall be based on published guidelines of appeals established by the county and amended from time to time.
- (c) Any appeal of said final decision may be made to the superior court within 30 days from the date of the notice of a final decision. Said notice shall be sent registered mail to the permittee.

(95-0093, art. VII, § E, 3-15-95; Ord. No. 08-0194, 2-20-08)

DIVISION 2. - STORMWATER DRAINAGE MANAGEMENT, PLANNING AND DEVELOPMENT REQUIREMENTS

Sec. 26-166. - General requirements.

- (a) Adequate drainage and control of stormwater are an integral and important part of any development. Proper drainage planning shall be considered an essential element of any stormwater concept plan or stormwater management plan submitted to the county. The design of the stormwater management system shall be in accordance with the applicable sections of the GSMM. Any design which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable. The design and construction of a site shall also follow the rules and regulations found in article XXXIV of Z.R.F.C. and section 26-39 of this Code.
- (b) *Presubmittal Meeting.* Before a land development permit application is submitted, an applicant may request a pre-submittal meeting with the county. The pre-submittal meeting should take place based on an early step in the development process such as before site analysis and inventory (GSMM Section 2.4.2.4) or the stormwater concept plan (GSMM Section 2.4.2.5). The purpose of the pre-submittal meeting is to discuss opportunities, constraints, and ideas for the stormwater management system before formal site design engineering. To the extent applicable, local and regional watershed plans, greenspace plans, trails and greenway plans, and other resource protection plans should be consulted in the pre-submittal meeting. Applicants must request a pre-submittal meeting with the county when applying for a Determination of Infeasibility through the Practicability Policy.
- (c) *Site Visit.* Prior to the submittal of a land disturbance permit, or in connection to the stormwater concept plan, the applicant shall conduct a site visit, to determine if drainage studies and reports, design computations, and such other information are necessary to ensure that stormwater originating both from the proposed subdivision or development and lands lying upgradient will be adequately drained and controlled. The visit should include, but not be limited to, an evaluation of the location of storage facilities, stormwater discharge path of detention/retention ponds, other downstream and upstream constraints and other matters with potential stormwater implications.
- (d) *Stormwater Concept Plan.* Prior to or concurrent with the initial submittal to the county of an application for a land disturbance permit, the applicant shall be required to submit to the Department of Public Works, a stormwater concept plan for review and approval. The stormwater concept plan shall be a preliminary drawing of the proposed location of storage facilities, stormwater discharge path of detention/retention pond(s), other downstream and upstream constraints and other matters with potential stormwater implications. Such plans and supplementary information shall be consistent with the requirements of this article, the Z.R.F.C., and the Comprehensive Stormwater Management Design and Criteria Manual.

The stormwater concept plan shall be prepared using the minimum following steps:

- (1) Develop the site layout using better site design techniques, as applicable (GSMM Section 2.3).
 - (2) Calculate preliminary estimates of the unified stormwater sizing criteria requirements for stormwater runoff quality/reduction, channel protection, overbank flooding protection and extreme flood protection (GSMM Section 2.2).
 - (3) Perform screening and preliminary selection of appropriate best management practices and identification of potential siting locations (GSMM Section 4.1).
- (e) *The stormwater concept plan shall contain:*
- (1) Common address and legal description of the site
 - (2) Vicinity map
 - (3) Existing conditions and proposed site layout mapping and plans (recommended scale of 1" = 50'), which illustrate at a minimum:
 - (A) Existing and proposed topography (minimum of 2-foot contours)
 - (B) Perennial and intermittent streams

- (C) Mapping of predominant soils from USDA soil surveys
 - (D) Boundaries of existing predominant vegetation and proposed limits of clearing and grading
 - (E) Location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.)
 - (F) Location of existing and proposed roads, buildings, parking areas and other impervious surfaces
 - (G) Existing and proposed utilities (e.g., water, sewer, gas, electric) and easements
 - (H) Preliminary estimates of unified stormwater sizing criteria requirements
 - (I) Preliminary selection and location, size, and limits of disturbance of proposed BMPs
 - (J) Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains
 - (K) Flow paths
 - (L) Location of the boundaries of the base flood floodplain, future-conditions floodplain, and the floodway (as applicable) and relationship of site to upstream and downstream properties and drainage
 - (M) Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings
 - (N) A determination whether GI/LID BMPs can be incorporated into the proposed development and if not, why such measures are not feasible
- (f) *Stormwater Management Plan.* Prior to the issuance of any building or land disturbance permits, the applicant shall, at his/her sole expense, prepare and submit for review and approval to the Department of Public Works a stormwater management plan. The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this article, including the performance criteria set forth below. The stormwater management plan shall contain the items listed in this part and be prepared under the direct supervisory control of either a registered Professional Engineer or a registered Landscape Architect licensed in the state of Georgia. Items (5), (6), (7), and (8) shall be sealed and signed by a registered Professional Engineer licensed in the state of Georgia. The overall site plan must be stamped by a design professional licensed in the State of Georgia for such purpose. (GSMM Section 2.4.2.7) Portions of the overall plan may be prepared and stamped by a registered land surveyor licensed in the State of Georgia as appropriate, such as boundary surveys, contour maps, erosion and sedimentation control plans. The stormwater management plan must ensure that the requirements and criteria in this article are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the as per this Article.
- (g) *The Stormwater Management Plan shall contain:*
- (1) Common address and legal description of site.
 - (2) Vicinity map.
 - (3) Natural Resources Inventory
 - (4) Stormwater Concept Plan
 - (5) Existing Conditions Hydrologic Analysis
 - (6) Post Development Hydrologic Analysis

- (7) Stormwater Management System
 - (8) Downstream Analysis
 - (9) Erosion and Sedimentation Control Plan
 - (10) BMP Landscaping Plan
 - (11) Determination of Feasibility of GI/LID BMPs
 - (12) Construction Sequencing Plan
 - (13) Inspection and Maintenance Agreement
 - (14) Evidence of Acquisition of Applicable Local and Non-Local Permits
 - (15) Determination of Infeasibility (if applicable)
- (h) *Natural Resources Inventory.* Site reconnaissance and surveying techniques shall be used to complete a thorough assessment of existing natural resources, both terrestrial and aquatic, found on the site. Resources to be identified, mapped, and shown on the Stormwater Management Plan, shall include, at a minimum (as applicable):
- (1) Topography (minimum of 2-foot contours) and Steep Slopes (i.e., Areas with Slopes Greater Than 15%)
 - (2) Natural Drainage Divides and Patterns
 - (3) Natural Drainage Features (e.g., swales, basins, depressional areas)
 - (4) Natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers, drinking water wellhead protection areas and river corridors
 - (5) Predominant soils (including erodible soils and karst areas)
 - (6) Existing predominant vegetation including trees, high quality habitat and other existing vegetation
- (i) *Existing conditions hydrologic analysis.* The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each subbasin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, predevelopment conditions shall be modeled using the established guidelines for the portion of the site undergoing land development activities.
- (j) *Post-development hydrologic analysis.* The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each subbasin affected by the project; calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in section 26-173; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50 percent of the site area for the entire site, then the performance criteria in Section 26-173 must be met for the stormwater runoff from the entire site.
- (k) *Stormwater management system.* The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: a map and/or

drawing or sketch of the stormwater management facilities, including the location of non-structural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in section 26-173; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.

- (l) *Post-development downstream analysis.* Due to peak flow timing and runoff volume effects, some structural components of the stormwater management system fail to reduce discharge peaks to pre-development levels downstream from the site. A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. A downstream peak flow analysis shall be provided to the point in the watershed downstream of the site or the stormwater management system where the area of the site comprises 10% of the total drainage area in accordance with Section 3.1.9 of the GSMM. This is to help ensure that there are minimal downstream impacts from development on the site. The downstream analysis may result in the need to resize structural components of the stormwater management system. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the stormwater design manual.
- (m) *Construction-phase erosion and sedimentation control plan.* An erosion and sedimentation control plan in accordance with the Georgia Erosion and Sedimentation Control Act (or reference to the local erosion and sedimentation control ordinance) or NPDES permit for construction activities. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.
- (n) *BMP Landscaping and open space plan.* A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (o) *Evidence of acquisition of applicable local and non-local permits.* The applicant shall certify and provide documentation to the county that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.
- (p) *Operations and maintenance plan.* Detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. These plans will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and

maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

- (q) *Maintenance access easements.* The applicant must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property.
- (r) *Stormwater Management System Inspection and Maintenance.* The components of the stormwater management system that will not be dedicated to and accepted by the county, including all drainage facilities, GI/LID and other best management practices, credited conservation spaces, and conveyance systems, shall have an inspection and maintenance agreement to ensure that they continue to function as designed. All new development and redevelopment sites are to prepare a comprehensive inspection and maintenance agreement for the on-site stormwater management system. This plan shall be written in accordance with the requirements in Section 26-278. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management facility or practice.
- (s) For redevelopment and to the extent existing stormwater management structures are being used to meet stormwater management standards the following must also be included in the stormwater management plan for existing stormwater management structures:
 - (1) As-built Drawings
 - (2) Hydrology Reports
 - (3) Current inspection of existing stormwater management structures with deficiencies noted
 - (4) BMP Landscaping Plans
 - (5) GI/LID BMPs
- (t) The stormwater management plan shall conform to the stormwater concept plan for said development. Such plans and supplementary information shall be consistent with the requirements of this article, the Z.R.F.C., and the Comprehensive Stormwater Management Design and Criteria Manual.
- (u) A developer and his/her professionals should discharge the drainage from their site into a storm conveyance system that is publicly owned and maintained. Every subdivider shall provide, at no cost to the county, an easement up to a maximum width as is necessary to accommodate drainage from a 100-year storm for the purpose of constructing and maintaining the drainage system for the transmission, through the sub-divider's property, of all stormwater generated upstream from the subdivision. Notwithstanding this requirement, any natural drainageway which traverses any sub-divider's property or adjacent properties, shall not be encroached upon or altered so as to render the same less suitable to accept and transport stormwater that has historically flowed through such drainageway. Should a subdivider fail to obtain an off-site easement for the purpose of drainage conveyance, then the design discharge at the outlet facilities of the subdivision shall be limited to the pre-developed conditions for all storm events, including the discharges and velocities, whichever is more restrictive shall apply.
- (v) It shall be the responsibility of the developer to demonstrate that the development and/or stormwater conveyance facilities will not cause a violation of local, state, and federal laws or regulations to occur at the time of the application for a land disturbance permit. Evidence that the applicant has complied with requirements to obtain other state and federal permits which may be applicable, such as, but not limited to wetlands (404) permit, NPDES permit, and Metropolitan River Protection Act, must also be supplied to the county as part of the stormwater management plan and study.

- (w) It shall be the responsibility of the developer/engineer to accurately depict the conditions of the site, both onsite and off-site, on the plans submitted to the county that are affected by this article. Any modifications, changes, or construction that occur to the plans or in the field, as a result of having to conform to the county's Storm Drainage Criteria Manual or other criteria found in this article, and the cost to rectify shall be borne entirely by the developer.

(95-0093, art. II, § A, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-167. - Specific requirements.

- (a) Prior to the issuance of a land disturbance permit the following must be in effect:
 - (1) Documentation that authorizes the right of entry by the county for emergency maintenance of stormwater management facilities.
 - (2) Documentation that authorizes the right of entry by the county for the purpose of inspecting the stormwater management facilities.
 - (3) Any off-site easements necessary to effectuate subsections (a)(1) and (a)(2) of this section (easements must be recorded), or to implement the stormwater management plan.
 - (4) Written authorization from an adjacent property owner allowing any proposed off-site grading, construction, storage, or other improvements to their property.
 - (5) An approved stormwater concept plan or stormwater management plan, as adjudged appropriate in the discretion of the Director of the Department of Public Works or his/her designee.
 - (6) Recorded easements for stormwater management facilities.
- (b) In accordance with section 24.1 of the Z.R.F.C. and with sections 26-40 and 26-42 of this chapter, all applications for building permits, and the accompanying plot plan, shall correspond with the approved grading plan or the approved stormwater management plan on file with the county. The issuing authority may require spot elevations, flow direction arrows, contour lines, or other information that it deems necessary prior to the issuance of the building permit to ensure compliance to the approved grading plan or the approved stormwater management plan.
- (c) Prior to the issuance of a certificate of occupancy by the county, all stormwater management facilities required as part of the stormwater management plan shall be completed and approved by the county.
- (d) Prior to the issuance of the certificate of occupancy by the appropriate department, the following must be submitted to the county:
 - (1) Receipt by the county of an as-built/record drawing of the stormwater management facilities that is signed and sealed by a registered engineer. Discrepancies between the record drawing and the approved stormwater management plan must be identified to the county, and the county shall give its approval to any discrepancies prior to the issuance of the certificate of occupancy.
- (e) Any and all land disturbance permits may be revoked at any time if the construction of the site or the stormwater management facilities are not in strict accordance with the approved stormwater management plans or other sections of this article.
- (f) It shall be the responsibility of the person, firm, corporation, or other entity to maintain the drainage patterns and the stormwater management facilities that are in existence at the time of the issuance of the certificate of occupancy. They, their heirs, or assigns are prohibited from performing any improvements or regrading of the site, that in any way block, alter, or redirect the existing drainage patterns or facilities, except for the occasional maintenance to facilities to keep them operating as originally designed. Conviction by a person, firm, corporation, or other entity for violating this section shall be a misdemeanor and shall be subject to the penalties found in section 26-113.
- (g) All development shall be consistent with the approved stormwater management plan and all applicable land disturbance and building permits and conducted only within the area specified in the

approved stormwater management plan. No changes may be made to an approved stormwater management plan without review and advanced written approval by the administrator.

(95-0093, art. II, § B, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-168. - Development in flood hazard area.

Should a subdivider or owner wish to develop within a flood hazard area, then the subdivider or owner shall prepare, at his/her sole expense, an engineering study and supporting information per section 4.24 of the zoning resolution of the county and follow all the other criteria, rules and regulations that are indicated therein. Per section 4.24.9F of the Z.R.F.C., any revisions or amendments to the FEMA FIRM maps required shall be completed prior to the county's issuance of a certificate of occupancy.

(Ord. No. 08-0194, 2-20-08)

Editor's note— Ord. No. 08-0194, adopted February 20, 2008, amended the Code by repealing former § 26-168 and adding a new § 26-168. Former § 26-168 pertained to the watershed management plans, and derived from 95-0093, art. II, § C, adopted March 15, 1995.

Sec. 26-169. - Drainage system connection.

Permission is required from the county to connect to or discharge into any drainage system, conveyance system, or watercourse within the county. Permission shall be implied as part of an approved stormwater management plan from the county. Deviations from the approved stormwater management plan, that do not have the permission of the county, shall be deemed an illicit connection and in violation of division 6 of this article, and shall prohibit the county from issuing a certificate of occupancy or recording of the final plat, even if the deviations result from mistakes to or omissions from the stormwater management plan or changes that occur in the field.

(95-0093, art. II, § D, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-170. - Permit suspension and revocation.

- (a) A land disturbance, building or grading permit, or any type of certificate of occupancy may be suspended or revoked by the issuing department if one or more of the following occurs:
- (1) Violations of the conditions of the stormwater management plan approval;
 - (2) Construction not in accordance with the approved plans;
 - (3) Noncompliance with correction notices or stop work orders; or
 - (4) The existence of an immediate danger in the judgment of the Director of the Department of Public Works or his/her designee.
- (b) If one or more of these conditions are found, a written notice of violation from the issuing department shall be served upon the owner or authorized representative and an immediate stop work order may be issued. The notice shall set forth the measures necessary to achieve compliance with the plan. Correction of these violations must be initiated within seven days of the notice, or the owner shall be deemed in violation of this article and subject to penalties for the said violation.

(95-0093, art. II, § E, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-171. - Professional registration requirements.

- (a) The stormwater management plan shall be prepared under the direct supervisory control of either a registered Professional Engineer or a registered Landscape Architect licensed in the state of Georgia. Items 26-166 (g) (5), (6), (7), and (8) shall be sealed and signed by a registered Professional Engineer licensed in the state of Georgia. The overall site plan must be stamped by a design professional licensed in the State of Georgia for such purpose. (GSMM Section 2.4.2.7)

- (b) The preparer shall undertake to perform services only in areas of his/her competence, and only when qualified by education and/or experience in the specific technical field. In addition, the engineer must certify that the plans have been designed in accordance with the standards and criteria stated or referred to in this article.

(95-0093, art. II, § F, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-172. - Modifications for off-site facilities.

The stormwater management plan for each land development project shall provide for stormwater management measures located on the site of the project, unless provisions are made to manage stormwater by an off-site or regional facility. The off-site or regional facility must be located on property legally dedicated for the purpose, must be designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by on-site practices and there must be a legally-obligated entity responsible for long-term operation and maintenance of the off-site or regional stormwater facility. In addition, on-site measures shall be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the off-site facility.

A stormwater management plan must be submitted to the county which shows the adequacy of the off-site or regional facility.

To be eligible for a modification, the applicant must demonstrate to the satisfaction of the county that the use of an off-site or regional facility will not result in the following impacts to upstream or downstream areas:

- (1) Increased threat of flood damage to public health, life, and property;
- (2) Deterioration of existing culverts, bridges, dams, and other structures;
- (3) Accelerated streambank or streambed erosion or siltation;
- (4) Degradation of in-stream biological functions or habitat; or
- (5) Water quality impairment in violation of State water quality standards, and/or violation of any state or federal regulations.

(Ord. No. 08-0194, 2-20-08)

Sec. 26-173. - Post-development stormwater management performance criteria.

The design of the stormwater management system shall be in accordance with the applicable sections of the GSMM as directed by the administrator. The following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this article:

- (a) *Better Site Design Practices for Stormwater Management:* Stormwater management plans shall preserve the natural drainage and natural treatment systems and reduce the generation of additional stormwater runoff and pollutants to the maximum extent practicable. Additional details can be found in the GSMM Section 2.3. Consideration shall be given to incorporation of the GI/LID BMPs from the GSMM such as:
- (1) Bioretention Basins
 - (2) Bioslopes
 - (3) Enhanced Dry Swales
 - (4) Grass Channels
 - (5) Stormwater Planters
 - (6) Vegetated Filter Strips
- (b) *Stormwater Runoff Quality/Reduction.* Stormwater Runoff Quality/Reduction shall be provided by using the following:

- (1) For development with a stormwater management plan submitted on or after the date of adoption of this amendment, the applicant shall choose (A) Runoff Reduction and additional water quality shall not be required. To the extent (A) Runoff Reduction has been determined to be infeasible for all or a portion of the site using the Practicability Policy, then (B) Water Quality shall apply for the remaining runoff from a 1.2 inch rainfall event and must be treated to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM.

(A) Runoff Reduction - The stormwater management system shall be designed to retain the first 1.0 inch of rainfall on the site using runoff reduction methods, to the maximum extent practicable.

(B) Water Quality – The stormwater management system shall be designed to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM for runoff from a 1.2-inch rainfall event.

- (2) If a site is determined to be a hotspot as detailed in Section 26-116, the county may require the use of specific or additional components for the stormwater management system to address pollutants of concern generated by that site.
- (c) *Stream Channel Protection:* Stream channel protection shall be provided by using all of the following three approaches:
 - (1) 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event;
 - (2) Erosion prevention measures, such as energy dissipation and velocity control; and
 - (3) Preservation of any applicable stream buffer.
 - (d) *Overbank Flood Protection:* Downstream overbank flood protection shall be provided by controlling the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour storm event.
 - (e) *Extreme Flood Protection:* Extreme flood protection shall be provided by controlling the 100-year, 24-hour storm event such that flooding is not exacerbated.
 - (f) *Trout Stream Protection:* Trout stream protection shall be provided by controlling temperature for receiving waters with trout stream designation. In streams designated as primary trout waters by the Wildlife Resources Division, there shall be no elevation of natural stream temperatures. In streams designated as secondary trout waters, there shall be no elevation exceeding 2°F of natural stream temperatures.
 - (g) *Structural stormwater controls.* All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the county before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the Director may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.

Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.
 - (h) *Drainage system guidelines.* Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter,

swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:

- a. Methods to calculate stormwater flows shall be in accordance with the stormwater design manual;
 - b. All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the stormwater design manual; and,
 - c. Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the stormwater design manual.
- (i) *Dam design guidelines.* Any land disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

(Ord. No. 08-0194, 2-20-08)

Secs. 26-174—26-205. - Reserved.

DIVISION 3. - OWNERSHIP AND COUNTY PARTICIPATION

Sec. 26-206. - Ownership of stormwater management facilities and BMPs.

- (a) All stormwater management facilities and BMP structures shall be privately owned and maintained unless the county accepts the facility for county ownership and/or maintenance, subject to the provisions of division 5 of this article. The owner of all private facilities shall grant and shall be deemed to have granted to the county, a perpetual, nonexclusive easement that allows for public inspection and emergency repair.
- (b) All stormwater management measures relying on designated vegetated areas or special site features should be privately owned and maintained as defined on the stormwater management plan.
- (c) Regional stormwater management facilities may be publicly owned.

(95-0093, art. III, § A, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-207. - County participation.

A voluntary development agreement between the applicant and the county may provide for additional storage capacity beyond that required by the applicant for onsite stormwater management in order to correct for future development. The county designee shall be authorized to negotiate, subject to ultimate approval by the board of commissioners, within the following guidelines:

- (1) Require that the applicant grant any necessary easement over, through, or under the applicant's property to provide access to or drainage for such facility.
- (2) Require that the applicant obtain from the owners of property any easements necessary for the construction and maintenance of the same, and the county may assist by purchase, condemnation, dedication, and subject to cost incurred to be paid by applicant.

(95-0093, art. III, § B, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-208. - Agreement between county and municipalities.

- (a) Prior to implementation of a stormwater plan, the Director may furnish a copy of any stormwater management plan which affects any incorporated city, town, municipality, or other local government, and possessing the power to regulate stormwater management of any stormwater management facility or development.
- (b) The county may enter into an intergovernmental agreement with any incorporated city, town, or other municipality concerning any matter related to stormwater management.

(95-0093, art. III, § C, 3-15-95; Ord. No. 08-0194, 2-20-08)

Secs. 26-209—26-240. - Reserved.
DIVISION 4. - FUNDING AND FEES
Sec. 26-241. - Application review fees.

The fee for review of any stormwater management application shall be based on the fee structure established by the county and payment shall be made prior to the issuance of any land disturbance permit for the development.

(Ord. No. 08-0194, 2-20-08)

Secs. 26-242—26-275. - Reserved.
DIVISION 5. - MAINTENANCE, CONSTRUCTION AND INSPECTION
Sec. 26-276. - Maintenance.

- (a) Any stormwater management facility or BMP which services a residential, commercial, or industrial development shall be privately owned and privately maintained so that the facilities operate as originally designed. The owner thereof shall grant to the county, a perpetual, nonexclusive easement which allows for public inspection and emergency repair, in accordance with the terms of the maintenance agreement set forth in section 26-277. The county may periodically inspect all privately owned and maintained stormwater management facilities and BMPs for compliance with this article and the county criteria. Failure to maintain such facilities shall be considered a violation and subject the owner to the considerations of this article to rectify the situation or be subject to the penalties in section 26-113.
- (b) All regional stormwater management control facilities, identified by the county's storm drainage master plan, shall be publicly maintained.
- (c) All other stormwater management control facilities and BMPs shall be privately owned and/or maintained, unless specifically accepted for ownership and maintenance by the county.
- (d) Private maintenance requirements shall be a part of the deed to the affected property.

(95-0093, art. V, § A, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-277. - Construction and inspection.

- (a) Prior to approval of the stormwater management plan, the permittee shall submit a proposed staged inspection and construction control schedule, which the Director shall either approve, disapprove, or modify.
- (b) No stage of work, related to the construction of stormwater management facilities or BMPs, shall proceed until the preceding stage of work is inspected and approved.
- (c) Any portion of the work that does not comply with this article or with the stormwater management plan shall be promptly corrected by the permittee.
- (d) The permittee shall notify the Director before commencing any work and upon completion of the work.
- (e) After commencing initial stormwater management operations, the permittee shall provide for regular biweekly inspection reports to be certified by a registered professional engineer approved by the county. These reports shall be submitted to the Department of Public Works. Inspections shall use the approved stormwater management plan and the construction sequencing plan for establishing compliance. All inspections shall be documented with written reports that contain the following information:
 - (1) The date and location of the inspection;
 - (2) Whether the stormwater management system is in compliance with the approved stormwater management plan;
 - (3) Variations from the approved stormwater management plan; and
 - (4) Any other variations or violations of the conditions of the approved stormwater management plan.

- (f) The applicant shall submit an as-built/record drawing plan certified by a registered professional upon the completion of the stormwater management facilities included in the stormwater management plan. The required as-built documents shall include a certification of volume, or other performance test applicable to the type of stormwater management system component, to ensure each component is functioning as designed and built according to the design specifications in the approved stormwater management plan. This certification and the required performance tests shall be performed by a qualified person and be submitted to the Department of Public Works with a request for final inspection. Upon completion of the development, the applicant is responsible for:
- (1) Certifying that the stormwater management system is functioning properly and was constructed in conformance with the approved stormwater management plan and associated hydrologic analysis,
 - (2) Submitting as-built drawings showing the final design specifications for all components of the stormwater management system as certified by a professional engineer,
 - (3) Certifying that the landscaping is established and installed in conformance with the approved BMP landscaping plan; and
 - (4) Certifying that the GI/LID BMPs are installed in conformance with the approved plan.
 - (5) Certifying that the recorded inspection and maintenance agreement does not conflict with the final as built conditions.
- (g) A final inspection shall be conducted by the Director with the applicant upon completion of the work included in the approved stormwater management plan.
- (h) The Director shall maintain a file of inspection reports and make available copies of all inspection reports.
- (i) The Director will notify the person responsible for the land disturbing activity in writing when violations are observed.

(95-0093, art. V, § B, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-278. - Inspection and maintenance agreement (onsite facilities only).

- (a) An inspection and maintenance agreement shall be executed for all private onsite stormwater management facilities prior to the issuance of a grading, land disturbance, or building permit. Such agreement shall be binding on all heirs, successors, or assignees.
- (b) The agreement shall provide that preventive maintenance inspections of filtration systems, retention, or detention structures may be made by the Department of Public Works at its option.
- (c) The agreement shall provide that the Director shall notify the owners of the facility of any violation, deficiency, or failure to comply with this article. The agreement shall also provide that, upon a failure to correct violations requiring maintenance work, within 30 days after the notice thereof, the county may provide for all necessary work to place the facility in proper working condition. The owners of the facility shall be assessed the costs of the work performed by the county pursuant to this subsection.
- (d) The agreement shall obligate the owner to inspect, clean, maintain, and repair the stormwater management system, including all GI/LID BMPs and vegetation in the final BMP landscaping plan. The form of the inspection and maintenance agreement shall be the form provided by the county. After the inspection and maintenance agreement has been signed by the owner and the county, the owner shall promptly record such agreement at the owner's cost in the property record for all parcel(s) that make up the site.
- (e) The agreement shall identify by name or official title the person(s) serving as the point of contact for carrying out the owner's obligations under the inspection and maintenance agreement. The owner shall update the point of contact from time to time as needed and upon request by the county. Upon any sale or transfer of the site, the new owner shall notify the county in writing within 30 days of the name or official title of new person(s) serving as the point of contact for the new owner. Any failure of

an owner to keep the point of contact up to date shall, following 30 days' notice, constitute a failure to maintain the stormwater management system.

- (f) The agreement shall run with the land and bind all future successors-in-title of the site. If there is a future sale or transfer of only a portion of the site, then:
 - (1) The parties to such sale or transfer may enter into and record an assignment agreement designating the owner responsible for each portion of the site and associated obligations under the inspection and maintenance agreement. The parties shall record and provide written notice and a copy of such assignment agreement to the county.
 - (2) In the absence of a recorded assignment agreement, all owners of the site shall be jointly and severally liable for all obligations under the inspection and maintenance agreement regardless of what portion of the site they own.
- (g) The terms of the inspection and maintenance agreement shall provide for the county's right of entry for maintenance inspections and other specified purposes. If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then the county shall have the right to enter and make inspections pursuant to the county's general provisions for property maintenance inspections pursuant to Section 34-744 Inspection of Property
- (h) The terms of the agreement shall provide for what constitutes a failure to maintain a stormwater management system and the enforcement options available to Fulton County. If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then:
 - (1) An owner's failure to maintain the stormwater management system so that it performs as it was originally designed shall constitute and be addressed as a violation of, or failure to comply with, owner's property maintenance obligations pursuant to Section 34-743 Maintenance of Property and
 - (2) To address such a failure to maintain the stormwater management system, the county shall have all the powers and remedies that are available to it for other violations of an owner's property maintenance obligations, including without limitation prosecution, penalties, abatement, and emergency measures.

(95-0093, art. V, § C, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-279. - Inspection for preventive maintenance (regional facilities only).

Preventive maintenance inspections of infiltration system, retention, or detention structures comprising regional public facilities may be made by the Department of Public Works.

(95-0093, art. V, § D, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-280. - Maintenance of preexisting residential stormwater management facilities.

All dedicated and accepted residential stormwater management facilities in existence in the county on the effective date of this article shall be maintained by the owners (except those constructed prior to 1990) in such a manner as to maintain and enhance the public health, safety, and general welfare to reduce and minimize damage to property; to reduce and minimize the impact of such facilities on land and stream channel erosion; to assist in the attainment and maintenance of water quality standards; to reduce local flooding; and to maintain, as nearly as possible, the preexisting development runoff characteristics of the area. The owners shall be responsible for providing reasonable ingress and egress for maintenance. The county shall not be responsible for aesthetic maintenance.

(95-0093, art. V, § E, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-281. - Maintenance of preexisting commercial/industrial stormwater management facilities.

- (a) All commercial/industrial stormwater management facilities in existence in the county on the effective date of this article shall be maintained by the owners thereof in such a manner as to maintain and enhance the public health, safety, and general welfare in order to be assured that such facilities are safe and will not result in injury or harm to persons or property; to reduce and minimize damage to public and private property; to reduce and minimize the impact of such facilities on land and stream channel erosion; to assist in the attainment and maintenance of water quality standards; to reduce local flooding; and to maintain, as nearly as possible, the preexisting development runoff characteristics of the area. All such maintenance of such facilities shall be at the sole cost and expense of the owners thereof.
- (b) For any stormwater management systems approved and built based on requirements predating the current GSMM and that is not otherwise subject to an inspection and maintenance agreement, such stormwater management systems shall be maintained by the owner so that the stormwater management systems perform as they were originally designed.
- (c) The county shall have the authority to take necessary steps to abate any nuisance as that term is defined by applicable law.
- (d) If the charges and costs provided for in subsection (b) of this section remain unpaid by the owner for a period of 30 days after notice thereof to the owner or occupant of the property upon which such conditions existed, the county's duly authorized representative shall cause a lien to be issued against the owner of the property for those charges. The execution shall be a lien on the property and, when recorded in the general execution docket of the county, shall be a lien on all property of the defendant in execution from the date of such recording.

(95-0093, art. V, § F, 3-15-95; Ord. No. 08-0194, 2-20-08)

Secs. 26-282—26-315. - Reserved.

DIVISION 6. - PROHIBITIONS AND ILLICIT CONNECTIONS

Sec. 26-316. - Prohibitions.

- (a) It is unlawful for any person, company, corporation, etc., to throw, drain, run, or otherwise discharge to any component of the county's stormwater system, including streets, highways, rights-of-way; or to cause, permit, or suffer to be thrown, drain, run, or allow to seep or otherwise discharge into such system, any organic or inorganic matter that shall cause or tend to cause pollution to such waters, as provided for in this article.
- (b) The Director of Public Works may exempt the following from the prohibition provision above:
 - (1) Water line flushing performed by a government agency, diverted stream flows, rising groundwaters, and unpolluted groundwater infiltration.
 - (2) Unpolluted pumped groundwater.
 - (3) Discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and water from street washing.
 - (4) Discharges or flows from firefighting.
 - (5) Other unpolluted water.
- (c) In the event of an accidental discharge or an unavoidable loss to the municipal/county separate storm sewer system of any material of substance other than stormwater runoff, the person responsible shall inform the department of public works within five days of the nature, quantity, and time of the occurrence of the discharge. The person responsible shall take immediate steps to minimize the effects of the discharge on the municipal/county system and receiving streams. The person shall also take immediate steps to ensure no recurrence of the discharge.

(95-0093, art. VI, § A, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-317. - Illicit connections.

- (a) It is unlawful for any person, company, corporation, etc., to connect any pipe, open channel, or any other conveyance, structure or system to the county's stormwater conveyance system that discharges anything except stormwater runoff and that are not identified on the stormwater management plan.
- (b) Improper connections in violation of this article must be disconnected and redirected, if necessary, to the county sanitary system or other acceptable outfall upon approval by the Director of Public Works.

(95-0093, art. VI, § B, 3-15-95; Ord. No. 08-0194, 2-20-08)

Sec. 26-318. - Cooperation with the county.

- (a) It shall be the responsibility of any person, firm, company, corporation, etc., to cooperate with the county in the search for illicit connections or prohibitive activities as described in this division in order for the county to comply with the conditions of its NPDES permit.
- (b) Any person, firm, company, corporation, etc., shall answer the questions of the county and share information on business activities as they relate to this article, except those records and activities that are confidential and proprietary. If necessary, the county may obtain access to confidential and proprietary records and activities through a court order, subject to the following conditions:
 - (1) The county shall have access to records and information for the purpose of examination for compliance with the conditions of this article only during normal business hours;
 - (2) The county shall not have the right to make copies, excerpts, or transcripts of such records and activities without receiving prior written consent; and
 - (3) The county shall not disclose or make available to third parties any such records or information obtained unless required to do so by a separate court order.
- (c) Failure to comply with the conditions of this division shall be considered a violation and subject to the penalties found in section 26-113.

(95-0093, art. VI, § C, 3-15-95; Ord. No. 08-0194, 2-20-08)

Secs. 26-319—26-350. - Reserved.