

## **ARTICLE VIII** **STORMWATER MANAGEMENT**

### **DIVISION 1. GENERALLY.**

#### **SECTION 111-249. Definitions.**

“*Accidental Discharge*” means a discharge prohibited by this Division into the City of Cumming Separate Storm–Sewer System which occurs by chance and without planning or consideration prior to occurrence.

“*Agriculture*” means the raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, ratites, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, and turkeys; producing plants, trees, fowl, or animals, or the production of agricultural, horticultural, dairy, livestock, poultry, eggs and apiarian products.

“*Applicant*” means a person submitting a post-development stormwater management application and plan for approval.

“*Best Management Practices (BMPs)*” means a collection of structural and nonstructural measures and vegetative practices which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control.

“*Channel*” means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

“*City of Cumming Separate Storm-Sewer System*” means a conveyance or system of conveyances which is located within City-owned right-of-way and designed and used only for collecting or conveying storm water runoff or other approved surface water discharges.

“*Clean Water Act*” means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

“*Clean Water Act (CWA), Section 401*” means that provision of federal law that requires that an applicant for a federal license or permit provide a certification that any discharges from the facility will comply with the act including water quality standard requirements.

“*Clean Water Act, Section 404*” means provisions which regulate the disposal of dredged and fill material into "water of the United States" including wetlands. Other activities which

destroy wetlands such as drainage, flooding, pumping and burning are not regulated under the CWA unless they entail discharges of dredged or fill material into waters of the United States.

*“Conservation Easement”* means an agreement between a land owner and the City of Cumming 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 Activity”* means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*“Conveyance”* means stormwater features designed for the movement of storm water through the drainage system, such as concrete or metal pipes, ditches, depressions, swales, catch basins, curbs, gutters, storm drains, etc.

*“County Health Department”* means the Forsyth County Health Department established by the Georgia Health Code (O.C.G.A. Chapter 31-3-1) or the executive officer and his or her designated representative acting on the Health Department's behalf for the administration and enforcement of septic tank rules.

*“Crossings”* means those crossings for roads, driveways, paths and utilities.

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

*“Detention Facility”* means a detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

*“Developer”* means a person who undertakes land development activities.

*“Development”* means a land development or land development project.

*“Discharge”* means the release of treated or untreated storm water runoff or other material to the City of Cumming Separate Storm Sewer.

*“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.

*“Drainage System”* means a conveyance or system of conveyances designed and used for collecting or conveying storm water runoff.

*“Easement”* means an acquired legal right for the specific use of land owned by others.

“*Erosion*” means the process by which land surface is worn away by the action of wind, water or gravity.

“*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.

“*Extended Detention*” means the detention of stormwater runoff for an extended period, 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.

“*Filling*” means the natural or manmade placement of any soil or solid material either organic or inorganic on a natural ground surface or an excavation.

“*Flooding*” means a volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.

“*Grading*” means altering ground surfaces to specified elevations, dimensions and/or slopes; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof.

“*Greenspace*” or “*Open Space*” means permanently protected areas of the site that are preserved in a natural state.

“*Hazardous Material*” means a flammable, highly corrosive, acidic or toxic material as identified in the Official Code of Georgia (O.C.G.A. 12-14-1) in the “Oil and Hazardous Materials Spill Reporting” requirements.

“*Hotspot*” means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

“*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 much more runoff.

“*Illegal Connection*” means either of the following: (a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or (b) Any pipe, open channel, drain or conveyance connected to the City of Cumming’s Separate Storm-Sewer System which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

***“Illicit Connection”*** means a connection to the City of Cumming’s Separate Storm-Sewer System that is not composed entirely of storm water runoff except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the City of Cumming Separate Storm-Sewer System).

***“Illicit Discharge”*** means any direct or indirect non-stormwater discharge to the City of Cumming’s Separate Storm-Sewer System, except as exempted by this division.

***“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 Activity”*** means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

***“Industrial Stormwater Permit”*** means a National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

***“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 and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

***“Intermittent Stream”*** means a stream which flows only at certain times of the year when it receives water from springs or from some sub-surface source such as a seep. This definition is not meant to include drainage ways that flow only during and shortly after storm events.

***“Issuing Authority”*** means the City of Cumming, Georgia.

***“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 Project”*** means a discrete land development undertaking.

*“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 division or to prevent structural failure of such systems.

*“Maximum Extent Practicable”* means best management practices, control techniques, system design or engineering methods and any other provisions which can be economically and reasonably implemented to reduce the discharge of pollutants to the City of Cumming Separate Storm-Sewer System.

*“Municipal Separate Storm Sewer System”* means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, municipal streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is: (a) Owned or maintained by the City of Cumming; (b) Not a combined sewer; and (c) Not part of a publicly-owned treatment works.

*“National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit”* means a permit issued by the Georgia EPD under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*“Nephelometric Turbidity Units (NTU)”* means numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

*“New Development”* means a land development activity on a previously undeveloped site.

*“Nonpoint Source Pollution”* means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant 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 and 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-Stormwater Discharge”* means any discharge to the storm drain system that is not composed entirely of stormwater.

*“Nonstructural Stormwater Management Practice”* or *“Nonstructural Practice”* means any natural or planted vegetation or other nonstructural 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), and that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.

**“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.

**“Perennial stream”** means a stream which flows continuously in a well-defined channel throughout most of the year under normal climatic conditions.

**“Permit”** means the permit issued by the City of Cumming to the applicant which is required for undertaking any land development activity.

**“Person”** means, except to the extent exempted from this ordinance, 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.

**“Pervious Surface”** means any surface that allows storm water to infiltrate the ground below, including, but not limited to gravel, porous pavement (such as a lattice paver), mulch, grassed areas, and forested areas.

**“Pollutant”** means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

**“Pollution”** means the contamination or other alteration of any water’s physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in 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, welfare, or environment, or to domestic, commercial, industrial, agricultural,

recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

*“Post-development”* refers to the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

*“Pre-development”* refers to the time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

*“Premises”* mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

*“Private”* means property or facilities owned by individuals, corporations, and other organizations and not by city, county, state, or federal government.

*“Project”* means a land development project.

*“Redevelopment”* means a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

*“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.

*“Riparian Zones or Riparian Environments”* means the areas that border streams, rivers, lakes and wetlands. Riparian zones can be floodplains, streamside forests or stream banks. They are usually different from surrounding lands because they have unique soil and vegetation characteristics and are strongly influenced by water. Riparian zones provide an interface between the water and the land and they serve many functions which make them valuable to people.

*“Runoff”* means stormwater runoff.

*“Sediment”* means soils, both organic and inorganic, or other superficial materials transported and/or deposited by the action of wind, water, ice or gravity as a product of erosion.

*“Sedimentation”* means the process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

“*Site*” means the parcel of land being developed, or the portion thereof on which the land development project is located.

“*Stabilization*” means the process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

“*State Waters*” means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Georgia which are not entirely confined and retained completely upon the property of a single person.

“*Stormwater Better Site Design*” means nonstructural site design approaches and techniques that can reduce a site’s impact on the watershed and can provide for nonstructural 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 Management*” means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended 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 Management Facility*” means any infrastructure that controls or conveys stormwater runoff.

“*Stormwater Management Measure*” means any stormwater management facility or nonstructural stormwater practice.

“*Stormwater Management Plan*” means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this division.

“*Stormwater Management System*” means the entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

“*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*” or “*Stormwater*” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.



***“Stream Bank”*** means the uppermost part of the bank, usually marked by a break in slope, or as otherwise defined by rules of the Georgia Department of Natural Resources (DNR). A stream bank is not necessarily the water's edge.

***“Structural Erosion and Sedimentation Control Practices”*** means practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication, *Manual for Erosion and Sediment Control in Georgia*.

***“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.

***“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.

***“Top of Bank”*** means the mark on all lakes and streams that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation.

***“Undisturbed Buffer”*** means a natural or enhanced vegetated area with no or limited minor land disturbances, which facilitates the protection of water quality and aquatic habitat.

***“Undisturbed Upland Area”*** means any fully vegetated lands, greater than 200 feet from the banks of a water body, that are to remain ungraded after a project's completion. These areas include, but are not limited to undisturbed forested areas, pasture land that is to remain undeveloped, and other natural areas.

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

***“Water Quality”*** means those characteristics of storm water runoff that relate to the physical, chemical, biological or radiological integrity of the water.

***“Water Quantity”*** means those characteristics of storm water runoff that relate to the rate and volume of the storm water runoff.

## **SECTION 111-250. Findings.**

- (1) Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition. Land-disturbing activities associated with development can threaten the aquatic integrity and storage capacity of water resources.
- (2) Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters. The ability of natural systems to attenuate the negative effects of stormwater runoff can be threatened by unrestricted urban and suburban development. Stormwater runoff, particularly from impervious surfaces, can introduce toxicants, nutrients and sedimentation into water supplies, making water treatment more complicated and expensive and rendering water resources unusable. Studies have documented that the main causes of degradation of water quality are increased flows, sedimentation and erosion, and habitat destruction. The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters.
- (3) It has been determined that 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. Adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural facilities as well as nonstructural measures, such as the conservation of open space and green space areas.
- (4) Localities in the State of Georgia are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and nonpoint source pollution

## **SECTION 111-251. Purpose and Intent.**

- (a) This article is intended to provide for the health, safety and welfare of the public and a healthy economic climate within the City of Cumming and the region by ensuring the quality of water resources. The City of Cumming has established this set of stormwater management requirements to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. It has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to

control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.

- (b) It is the intent of this Division to comply with the model ordinances of the Metropolitan North Georgia Water Planning District regarding post-development stormwater management.

### **SECTION 111-252. Objectives.**

This Division seeks to meet its purposes through the following objectives:

- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
- (2) 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;
- (3) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- (4) 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;
- (5) Encourage the use of nonstructural 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 adopted open space and/or greenspace protection plans;
- (6) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and,
- (7) 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.

### **SECTION 111-253 Applicability.**

***New Development or Redevelopment***- This division shall apply to all land development, including, but not limited to, site plan applications, subdivision applications, and grading, land-disturbance, or development applications, unless exempt pursuant to this division. The standards and requirements of this division apply to any new development or redevelopment site that meets one or more of the following criteria:

(1) 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 (1) acre or more;

(2) Redevelopment that includes the creation, addition, or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of one (1) acre or more;

(3) Any new development or redevelopment, regardless of size, that is defined by the Director of Utilities or Zoning Administrator to be a hotspot land use; or,

(4) Land development activities that are smaller than the minimum applicability criteria set forth in this section, if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

(5) Any development activity that results in the increase of peak rate of discharge by more than 1 cubic feet per second in the ten-year storm when compared to the site prior to its development. Sites undergoing numerous small additions will require a storm water management facility when this threshold is met.

(6) Any development activity that results in the calculated discharge of 65 pounds per acre per year of suspended solids. The suspended solids discharge rate is to be calculated using the City of Cumming Storm Water Quality Performance Review Form, and no water quality monitoring is required to verify compliance with this suspended solids requirement. Sites undergoing numerous small additions will require a storm water management facility when this threshold is met.

(7) Any development activity for which the Storm Water Management Report indicates will result in adverse impacts to storm water quality and/or quantity.

(8) Any development that discharges stormwater to a 303d listed body of water.

(b) ***Existing Development*** - if the City deems that an existing development is having a deleterious impact on the storm sewer system, a body of water such as but not

limited to a stream or lake, a downstream property, or other impact, the City may require that the existing property owner bring the property into compliance with the requirements of this ordinance which includes but is not limited to the design, construction, and maintenance of a stormwater management structure or other applicable BMP and/or Good housekeeping practice.

### **SECTION 111-254. Exemptions.**

The following activities may be exempt from this division, if deemed acceptable by the City:

- (1) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;
- (2) Additions or modifications to existing single-family or duplex residential structures;
- (3) Agricultural or silvicultural land management activities within areas zoned for these activities; and,
- (4) Repairs to any stormwater management facility or practice deemed necessary by the Director of Utilities.

### **SECTION 111-255. Assignment of Administrative Authority.**

- (a) The Director of Utilities shall have authority to administer, interpret, and enforce the provisions of this article in the post-development processes. Post-development processes include but are not limited to the maintenance and repair of storm water detention facilities, BMPs, and other stormwater structures.
- (b) The Zoning Administrator shall have authority to administer, interpret, and enforce the provisions of this division in the plan review, development permitting, inspection, and post-development processes, as more specifically described in this division. The Zoning Administrator shall be responsible generally for administering the plan submission requirements of this division and coordination of reviews concurrent with other city development requirements, including zoning, subdivision, and development and building permitting.

### **SECTION 111-256. Relationship to Other Regulations.**

This article is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this division are in addition to the requirements of this division are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

## **SECTION 111-257. Stormwater Design Manual.**

The City of Cumming will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the *Georgia Stormwater Management Manual*, for the proper implementation of the requirements of this division. Said manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

## **SECTION 111-258. Appeals.**

- (a) The Board of Zoning Appeals as established in Article II of the City of Cumming Zoning Ordinance, Appendix A of the Code of Ordinances of the City of Cumming, is empowered to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Director of Utilities in the interpretation or enforcement of this division.
- (b) Such appeal shall be taken within thirty (30) days, by filing with the Director of Utilities notice of appeal specifying the grounds thereof. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the Board of Zoning Appeals.
- (c) The Board shall select a reasonable time and place for the hearing of the appeal and give at least fifteen (15) days of public notice thereof and due notice to the parties in interest and shall render a decision on the appeal within sixty (60) days of the date of the public hearing.

## **SECTIONS 111-259—111-279. Reserved.**

## **DIVISION 2. ENFORCEMENT AND PENALTIES.**

## **SECTION 111-280. Notice of Violation and Citation.**

- (a) Whenever the director of utilities determines that a violation of this chapter or regulations and procedures adopted thereto has occurred, he shall serve upon the stormwater discharger a notice of violation. The notice of violation shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this article which have been violated, and state that, if the violation is not remedied within a specified reasonable time to be determined by the director of utilities, a citation shall be issued for the discharger to appear in the municipal court. The penalty involved

and the fact that each day the violation continues will constitute a new and separate violation.

- (b) Notwithstanding the foregoing, the director of utilities may issue a citation to appear in municipal court without first issuing a notice of violation if, in the judgment of the city engineer, the illicit discharge or illicit connection was not an accidental discharge or if the violation constitutes a threat to the public health, safety and general welfare, or the City Municipal Separate Storm Sewer System (MS4).
- (c) If the violation has not been remedied within the time specified in the notice of violation, the director of utilities shall issue a citation to the discharger to appear in the municipal court.
- (d) Nothing in this section shall limit the authority of the director of utilities to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

### **SECTION 111-281. Response to Notice of Violation or Summons and Corrective Plan.**

Within 15 days of receipt of the notice of violation, the discharger shall submit to the director of utilities a written explanation of the nature, quantity and time of occurrence of the illicit discharge, illicit connection or other activity made unlawful by this article and which resulted in the notice of violation and a plan for the satisfactory correction of the violation, including corrective and preventive procedures and implementation of best management practices, where necessary to prevent recurrence. Submission of this plan in no way relieves the person of liability for any violations occurring before or after receipt of the notice of violation. The failure to submit this written explanation and plan as required by this section shall constitute a separate violation of this article.

### **SECTION 111-282. Cease and Desist Order.**

When the director of utilities finds that a person has violated, or continues to violate, any provision of this article or that person's past violations are likely to recur, the director of utilities may issue an order to the person directing the person to cease and desist all such violations and to:

- (1) Immediately comply with the provisions of this article; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing and threatened violation and to prevent recurrence of the violation.

Each day of violation of a cease and desist order, after notification thereof, shall constitute a separate violation of this article.

**SECTION 111-283. Penalties.**

- (a) Any person found guilty of violating the provisions of this article shall on conviction thereof be guilty of a misdemeanor.
- (b) Nothing in this section shall prevent the director of utilities from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief.

**SECTION 111-284. Injunctive Proceedings.**

- (a) The Director of Utilities may institute appropriate action or proceedings at law or equity for the enforcement of or to correct violations of this article. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief which restrains the violation or compels compliance with the requirements imposed by this division on activities of the violator. The director of Utilities may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the violator to conduct environmental remediation. A petition for injunctive relief shall not bar against, or a prerequisite for, taking any other action against the violator.
- (b) The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, environmental impact assessments, geotechnical work, and other costs of any actual damages incurred by the City, including, but not limited to, costs of containment and cleanup.

**SECTION 111-285. Civil Damages Suits.**

When the Director of Utilities finds that a person has violated, or continues to violate, any provision of this article, the Director of Utilities may file a civil damage action against the violator through the City Attorney, seeking such damages, fees, and costs as are permitted by law.

**SECTION 111-286. Cooperation With Other Governments.**

The city may enter into agreements with other local governments to carry out the purposes of this article, to comply with the provisions of the City's stormwater permit, and to implement the City's stormwater management program. These agreements may include, but are not limited to, agreements regarding enforcement provisions, resolution of disputes, cooperative stormwater management programs, and cooperative stormwater monitoring, maintenance, enforcement, and management of municipal storm-sewer systems, or other actions as may be needed to control the contribution of pollutants from and between any municipal system and the City Municipal Separate Storm-Sewer System (MS4).



**SECTION 111-287. Emergency Powers.**

- (a) If, after inspection, the condition of a stormwater conveyance or discharge presents an immediate danger to the public health, safety, or general welfare because of unsafe conditions or improper maintenance, the City shall have the right to take action as may be necessary to protect the public health, safety, and general welfare and make the stormwater conveyance safe.
- (b) The director of utilities may conduct emergency maintenance and remediation operations on private property and on private stormwater conveyances. Emergency maintenance or remediation operations shall constitute actions to remedy conditions that in the opinion of the City Engineer create a condition potentially injurious to life, property, or the City Municipal Separate Storm-Sewer System (MS4).
- (c) Emergency maintenance conducted on any stormwater conveyance shall not be construed as constituting a continuing obligation on the part of the City.
- (d) All costs incurred from any emergency work performed by the City shall be the responsibility of the owner and such costs shall constitute a lien on the property, which shall be recorded in the records of the County.

**SECTION 111-288. Conflict With Other Ordinances.**

In the event a stormwater discharge is made to a storm-sewer conveyance system under the jurisdiction of an approved stormwater management ordinance for another governing authority, the more restrictive requirement shall prevail.

**SECTIONS 111-289 –111-309. Reserved.****DIVISION 3. PERMIT REQUIREMENTS AND PROCEDURES.****SECTION 111-310. Permit Application Requirements.**

No owner or developer shall perform any land development activities without first meeting the requirements of this division prior to commencing the proposed activity. Unless specifically exempted by this division, any owner or developer proposing a land development activity shall submit the following to the City of Cumming Zoning Administrator:

- (1) Permit application on a form provided by the Zoning Administrator for that purpose.
- (2) Stormwater concept plan and consultation meeting certification in accordance with this division;
- (3) Stormwater management plan in accordance with this division;
- (4) Inspection and maintenance agreement in accordance with this division, if applicable;
- (5) Performance bond in accordance with this division, if applicable; and,
- (6) Permit application and plan review fees in accordance with this division.

### **SECTION 111-311. Stormwater Concept Plan and Consultation Meeting.**

- (a) Before any stormwater management permit application is submitted, it is recommended that the land owner or developer meet with the Zoning Administrator and Utilities Director for a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-development stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential ideas for stormwater management designs before the formal site design engineering is commenced.
- (b) To accomplish this goal the following information should be included in the concept plan which should be submitted in advance of the meeting:
  - (1) Existing Conditions / Proposed Site Plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum:
    - a. existing and proposed topography;
    - b. perennial and intermittent streams;
    - c. mapping of predominant soils from soil surveys (when available);
    - d. boundaries of existing predominant vegetation and proposed limits of clearing and grading; and

- e. location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
- (2) **Natural Resources Inventory.** A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the 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.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- (3) **Stormwater Management System Concept Plan.** A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

Local watershed plans and green-space or open space plans (if applicable), and any relevant resource protection plans will be consulted in the discussion of the concept plan.

## **SECTION 111-312. Stormwater Management Report.**

- (a) A Storm Water Management Report shall be submitted during the development review process for every project to which this division applies. A Professional Engineer currently registered in the State of Georgia must prepare the report. The purpose of this report shall be to formulate a plan to manage the quantity and quality of storm water runoff, so that storm water runoff hazards are not created, existing runoff-related problems are not expounded, and that storm water quality is not adversely affected, either upstream or downstream from or within the boundaries of the property being developed.
- (b) The Storm Water Management Report shall identify the locations and quantities of storm water runoff entering and exiting the site for both pre-developed and post-developed conditions. Analysis of the off-site properties may require anticipating future development in addition to addressing existing conditions. It shall contain drainage area delineation maps and other exhibits at a satisfactory scale and sufficient in quantity and scope to define the boundaries of the site relative to any applicable water courses, drainage divides, drainage structures and other pertinent features.

- (c) The Storm Water Management Report shall estimate the storm water quality in terms of total suspended solids for both pre-developed and post-developed conditions.
- (d) 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 way "immediately" downstream from the project. In determining downstream effects from storm water discharge control structures and the development, hydrologic-hydraulic engineering studies, using the 2, 10, and 25-year design storm, shall extend to the next downstream structure or shall extend downstream to a point where the proposed development represents less than ten (10) percent of the total watershed. If the discharge calculations indicate that adjacent properties, between the exit of the proposed development and the "10 percent downstream point" might be adversely impacted by the proposed development, then the engineer shall provide a summary of his recommendations.
- (e) The site plan that is submitted in conjunction with the Storm Water Management Report shall depict all streams, lakes, wetlands, and other bodies of water. Additionally, the plan shall depict relevant the boundaries of the one hundred-year flood plain. The floodplain boundary information must be obtained using Federal Emergency Management Agency (FEMA) guidelines. One hundred-year Base Flood Elevations (BFEs) for areas that are designated as Approximate Zone A on the City of Cumming's FEMA maps must be calculated using appropriate FEMA methodologies. Scaling off the FEMA maps to derive flood boundary information is unacceptable and shall not be permitted.
- (f) The following criteria shall be evaluated by the Engineer preparing the Storm Water Management Report:
  - (1) Existing land uses downstream.
  - (2) Anticipated future land uses downstream.
  - (3) Magnitude of increase in peak flows due to development.
  - (4) Presence of existing storm water quality and/or quantity problems.
  - (5) Capacity of existing and anticipated drainage systems.
  - (6) Creation of concentrated flows where none had occurred previously.
  - (7) Existing flows generated off-site which pass through the project site.
  - (8) The nature of the receiving watercourse.

All designs, calculations, and rationale must follow the principles set forth in the City of Cumming Storm Water Manual.

### **SECTION 111-313. Stormwater Management Plan Requirements.**

- (a) 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 Division, including the performance criteria set forth in this division.
- (b) This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the state of Georgia, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the stormwater design manual.
- (c) The stormwater management plan must ensure that the requirements and criteria in this division 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 Stormwater Management Site Plan checklist found in the stormwater design manual, including the following:
  - (1) Common address and legal description of site.
  - (2) Vicinity Map.
  - (3) 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 sub-basin 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.
  - (4) 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 sub-basin affected by the project; calculations for determining the runoff volumes that need to be addressed for each sub-basin for the development project to meet the post-development stormwater management performance criteria in this division; 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 this division must be met for the stormwater runoff from the entire site.

- (5) 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 nonstructural 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 4; 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 green-space protection plan.
- (6) Post-Development Downstream Analysis. 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. This area shall extend downstream from the project to a point in the drainage basin where the project area is 10 percent of the total basin area. 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.

- (7) Construction-Phase Erosion and Sedimentation Control Plan. An erosion and sedimentation control plan in accordance with the City of Cumming's Erosion and Sedimentation Control Ordinance (Chapter 107 of the Code of Ordinances) and any applicable 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.
- (8) 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 green-space 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.
- (9) 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.
- (10) Inspection and Maintenance Agreements. Unless an on-site stormwater management facility or practice is dedicated to and accepted by the City of Cumming as provided in this division, 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 in accordance with this division.
- (11) Evidence of Acquisition of Applicable Local and Non-local Permits. The applicant shall certify and provide documentation to the City of Cumming that all other applicable environmental permits have been acquired for the site prior

to approval of the stormwater management plan. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Cumming prior to allowing discharges to the municipal separate storm sewer system.

- (12) Application Review Fees. The applicant shall pay a fee for review of any stormwater management application, which shall be based on the fee structure established by the Mayor and City Council. Said fee shall be made at the time of application for permit approval under the terms of this division.

### **SECTION 111-314. Required Easements.**

- (a) Access easements. Owners of stormwater conveyances that discharge to the city municipal separate storm sewer system shall provide a perpetual easement to the city that provides for adequate access from a public road to the stormwater conveyance for the purpose of the monitoring, inspection and emergency maintenance of the conveyances. No obstruction shall be built, constructed or planted that would interfere with the property interests granted to the city by such easement.
- (b) Drainage easements. The developer shall execute a 20 feet drainage easement surrounding the entire perimeter of the facility in favor of the City of Cumming for the purpose of inspecting and monitoring the facility if necessary. The easement boundary shall be measured from the 100-year storm water ponding limits or 6 inches above the elevation of the overflow.

### **SECTION 111-315. Stormwater Management Inspection and Maintenance Agreements.**

Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice under the terms of this division and for which the City of Cumming requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the City of Cumming, execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that shall be binding on all subsequent owners of the site. The inspection and maintenance agreement, if applicable, must be approved by the City of Cumming prior to plan approval, and recorded in the deed records upon final plat approval. Inspection and maintenance agreements shall meet the requirements specified in this division.

### **SECTION 111-316. Application Procedure.**

- (a) Applications for land development permits shall be filed with the City of Cumming Zoning Administrator.



- (b) Permit applications shall include the items set forth in this division (two copies of the stormwater management plan and the inspection maintenance agreement, if applicable, shall be included).
- (c) After review by the Utilities Director, the Zoning Administrator shall inform the applicant whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved.
- (d) If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, the Zoning Administrator shall notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same as a revision to the initial application.
- (e) Upon a finding by the City that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this division, the Zoning Administrator will issue a permit for the land development project, provided all other legal requirements for the issuance of such permit have been met.

### **SECTION 111-317. General Requirements Following Approval of Permit.**

Notwithstanding the issuance of the permit, in conducting the land development project, the applicant or other responsible person shall be subject to the following requirements:

- (1) The applicant shall comply with all applicable requirements of the approved plan and this division and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
- (2) The land development project shall be conducted only within the area specified in the approved plan;
- (3) The City's administrative officials shall be allowed to conduct periodic inspections of the project;
- (4) No changes may be made to an approved plan without review and written approval by the City in accordance with the procedures established in this division; and,
- (5) Upon completion of the project, the applicant or other responsible person shall submit the engineer's report and certificate and as-built plans required by this division.

### **SECTION 111-318. Modifications For Off-site Facilities.**

- (a) 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.
- (b) A stormwater management plan must be submitted to the City which shows the adequacy of the off-site or regional facility.
- (c) To be eligible for a modification, the applicant must demonstrate to the satisfaction of the Director of Utilities 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.

### **SECTION 111-319. Stormwater Management Facility Design Criteria.**

- (a) All designs, calculations, and rationale must follow the principles set forth in the *Georgia Stormwater Management Manual*.
- (b) Storm water runoff must be managed to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the streams. Soil erosion and sedimentation control measures, structures and devices shall be so planned, designed and constructed as to provide for a range of design flows for flood control. These design flows should be demonstrated for the 2, 10, and 25 year storm events using the procedures as outlined in the United States Department of Agriculture Soil Conservation Service's "Technical Release 55 Urban Hydrology for Small Watersheds" or other acceptable calculation procedures. All BMPs must be

designed for a 25-year storm. All storm water management facilities must have outlet devices able to effectively route the 100-year storm. All disturbed land must drain to an approved BMP, and storm water runoff must be managed for the entire drainage area above the detention system or BMP.

- (c) Storm water management facilities can only be located in perennial streams with strict adherence to United States Army Corps of Engineers permitting requirements. Such in-stream facilities do not include those for controlling erosion at land disturbing activities. Proper documentation demonstrating compliance with Corps requirements must be provided before the City of Cumming will permit the in-stream storm water management facility. Additionally, a dredging plan depicting how the facility will be cleaned of silt accumulations in the future must be provided prior to permitting.
- (d) During construction, all land disturbing activities (to include all land uses) must comply with sedimentation and erosion control procedures/program as defined by General Permit (No. GAR100000), and per the Soil and Sediment Control Ordinance (Chapter 34, Article II of the Official Code of the City of Cumming)
- (e) Applicants must demonstrate compliance with the storm water management plan to the City prior to approval of any building or subdivision permit request.
- (f) After construction, runoff from the first 1.0 inches of rainfall must be captured and released evenly over a 48-hour period. Facilities must maintain peak flows for the 2, 10, and 25-year storm at the property boundaries equal to or less than flow under undeveloped conditions and be able to route a 100-year storm through the facility. The site must discharge no more than a calculated 65 pounds of suspended solids per acre per year. The suspended solids discharge rate is to be calculated using the City of Cumming Storm Water Quality Performance Review Form, and no water quality monitoring is required to verify compliance with this suspended solids requirement. Alternative best management practices and alternative modeling methods are allowed and encouraged provided the same theoretical level of storm water quality and quantity is achieved. The City of Cumming will verify that best management practices deemed necessary by the City of Cumming Storm Water Quality Performance Review Form, or the approved alternative modeling method, are installed on site. The property owner may choose to designate additional undisturbed buffer areas to reach the targeted suspended solids discharge rate. The proper installation and maintenance of BMPs, undisturbed upland areas, and stream buffers deemed necessary by the City of Cumming Storm Water Quality Performance Review Form, or alternative modeling method, shall constitute a complete defense to any allegation of noncompliance with this paragraph regardless of the result of water quality monitoring. The City of Cumming Storm Water Quality Performance Review Form uses the following BMP efficiencies and loading rates to calculate the discharge of suspended solids:

1. BMP Efficiencies:

| <b>BMP</b>                        | <b>TSS Removal (%)</b> |
|-----------------------------------|------------------------|
| Extended detention pond (wet/dry) | 80                     |
| Dry detention pond                | 50                     |
| Constructed wetland               | 80                     |
| Vegetated filter strips           | 50                     |
| Sand filters                      | 80                     |
| Infiltration trenches             | 80                     |
| Oil/grit separator                | 60                     |
| Grassed swales                    | 15                     |

2. Total suspended solids (TSS) loading rates applied to land use categories:

| <b>Land use category</b>  | <b>TSS Loading rate (lb/ac/yr)</b> |
|---|------------------------------------|
| Undisturbed upland area (woods, preserves, etc.)                | 30                                 |
| Undisturbed stream buffers                                      | 15                                 |
| Disturbed pervious area (lawns, gardens, porous pavement, etc.) | 65                                 |
| Impervious area (driveways, rooftops, parking lots, etc.)       | 400                                |

- (g) Storm water management facility fencing: Fences and warning signs will be required on all detention ponds, constructed wetlands, retention ponds or similar devices where the sides of the device adjacent to the water are steeper than 3:1 and the depth of the water in the pond is greater than three feet. Fences shall be five (5) feet high chain link or other approved material with a twelve (12) foot wide gate. The gate shall be locked with a Master Number 1 lock that is keyed as per the City of Cumming, and two keys will be provided to the City of Cumming. Fences shall be located on the outside edge of the twenty (20) foot perimeter easement when possible.
- (h) A silt gauge will be installed on all detention ponds consisting of a durable, weather-resistant post. The post will be embedded a minimum of 2 feet and extend a minimum of 5 feet above the ground. Numbers and adjacent tick marks must be on the post beginning with the number “1” at 1 foot above the ground elevation and thereafter a number and tick mark for each corresponding foot. Numbers and tick marks must be clear, readable, weather resistant, and durable.
- (i) A concrete survey marker shall be placed in the near vicinity of the storm water management facility. The marker shall be a minimum of five inches by five inches in width and be embedded one foot into the ground. The marker shall

have a “PK” nail embedded in the top. The marker must be placed above the high water elevation of the facility and within the drainage easement area. Alternate survey markers are allowed with prior approval from the City of Cumming.

- (j) Outlet structures and piping for residential storm water management facilities must be constructed of concrete to be eligible for acceptance into the City of Cumming maintenance system.
- (k) All stormwater inlets installed by the developer shall have a storm sewer stencil or insignia approved by the Planning and Zoning Director.

## **SECTIONS 111-320 through 111-341 Reserved.**

### **DIVISION 4. STORMWATER UTILITY.**

#### **Section 111-342. Establishment of a Stormwater Utility and Enterprise Fund.**

(a) There is hereby established a Stormwater Management Utility within the City of Cumming which shall be responsible for stormwater management throughout the City's corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of stormwater systems and facilities.

(b) The City shall establish a stormwater enterprise fund in the city's budget and accounting system, separate and apart from its general fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established by the Mayor and Council of the City of Cumming. All revenues and receipts of the stormwater utility shall be deposited promptly upon receipt into the stormwater enterprise fund, to be held and invested in trust for the purposes dedicated, and expended exclusively for all purposes of the utility allowable under Georgia law, including capital project construction. No other funds of the City shall be deposited in the stormwater enterprise fund or commingled with dedicated stormwater revenues, except that other revenues, receipts, and resources not accounted for in the stormwater enterprise fund, including grants, loans, and bond proceeds may be combined with and applied to stormwater management capital projects as deemed appropriate by the Mayor and Council of the City of Cumming, upon recommendation of the stormwater utility director.

(c) The Mayor and Council of the City of Cumming hereby transfers to the Director operational control over the existing stormwater management systems and facilities owned and heretofore operated by the City and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment. Nothing contained herein nor in any other

section of this ordinance shall be construed as an acceptance, express or implied, of any stormwater management system, facility, or appurtenance, which has not heretofore been expressly accepted by the City of Cumming.

(d) The City of Cumming Stormwater Management Utility is hereby authorized to charge a fee for the provision of stormwater management services, including but not limited to stormwater collection, distribution, and treatment of stormwater, within the City of Cumming's corporate limits. Said fee shall be as described in the fee schedule as published and amended from time to time by the Mayor and Council of the City of Cumming.

## **SECTIONS 111-343 through 111-372 Reserved.**

### **DIVISION 5. DEDICATIONS, SECURITIES, AND INSPECTIONS.**

#### **Section 111-373. Dedication and Public Acceptance of Stormwater Management Facility.**

- (a) The City of Cumming, in lieu of an inspection and maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this division and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
- (b) If the facilities are not publicly dedicated and accepted by the City of Cumming, then the property owner on which the stormwater management facilities are located shall be responsible for proper inspection, maintenance, repair, and corrective action as may be required by the City of Cumming. If a property owner or homeowner's association will be responsible for stormwater management facilities, then the Planning and Zoning Director shall require that a note be placed on the final plat specifying these requirements and responsibilities.

#### **Section 111-374. Acceptance of Stormwater Conveyances.**

As a condition to accepting the dedication of any stormwater conveyance or facility, maintenance bonds shall be issued to the city with good and sufficient surety or sureties in an amount determined as appropriate by the Director of Utilities to cover the maintenance of such stormwater conveyance or facility for a period of at least 12 months from the date of acceptance. In lieu of a maintenance bond, at its sole discretion, the city may accept an acceptable substitute, such as an irrevocable letter of credit, from a bank or savings and loan association. All bonds or bond substitutes must be issued and submitted in proper form.

### **Section 111-375. Inspections to Ensure Plan Compliance During Construction.**

- (a) Periodic inspections of the stormwater management system construction shall be conducted by the staff of the Department of Planning and Zoning and/or the Department of Utilities, as appropriate, or conducted and certified by a professional engineer who has been approved by the City. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.
- (b) All inspections shall be documented with written reports that contain the following information:
  - (1) The date and location of the inspection;
  - (2) Whether construction is in compliance with the approved stormwater management plan;
  - (3) Variations from the approved construction specifications; and,
  - (4) Any other variations or violations of the conditions of the approved stormwater management plan.
- (c) If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.

### **Section 111-376. Final Inspection and As Built Plans.**

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual "as built" plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a Professional Engineer. A final inspection by the Director of Utilities is required before the release of any bonds (performance securities) can occur.

### **Section 111-377. Inspection and Acceptance of Residential Systems.**

Stormwater management facilities that have been constructed in accordance with the approved plans will be inspected at the time of final platting, and a punch list will be provided at that time. Prior to final plat approval, the following items must be completed:

- (1) All punch list items must be properly addressed.

- (2) After construction and before approval of the final plat, the designer shall submit a certified field run topographic map of the detention area and a revised hydrology study using the as-built topographic map. The topographic map of the storm water management facility should include the state plane coordinates and mean sea level elevations of applicable outfalls, silt gauges, and survey markers. The as-built will be submitted in electronic form and hard copy form to the City of Cumming Planning and Zoning Department.
- (3) The designer shall certify that the facility is working as it was designed and that the required detention storage and outflow rates are being provided.
- (4) The stormwater management facility will be bonded.
- (5) All accumulations of silt need to be removed so that the grade of the bottom of the stormwater management facility is at the design grade. The silt gauge should read zero upon completion.
- (6) Subsequently, the facilities will be inspected prior to release of bonds. At that time, any deficiencies in the facility will be noted in the 45-day letter. The following items must be completed:
  - a. All deficiencies noted on the 45-day letter must be properly addressed.
  - b. All accumulations of silt need to be removed so that the grade of the bottom of the pond is at the design grade. The silt gauge should read zero upon completion.
  - c. The entire storm water management facility needs to be stabilized with permanent vegetation as shown on the approved plans.

### **Section 111-378. Inspection and Acceptance of Non-Residential Systems.**

A final inspection of non-residential stormwater management systems will occur at the time the developer requests a certificate of occupancy inspection. At that time, any deficiencies in the facility will be noted as a punch-list item. The non-residential development will not receive a certificate of occupancy until the following items are completed:

- (a) After construction and before acceptance for occupation or otherwise, the designer shall submit a certified field run topographic map of the detention area and a revised hydrology study using the as-built topographic map. The topographic map of the storm water management facility should include the state plane coordinates and mean sea level elevations of applicable outfalls, silt



gauges, and survey markers. The as-built will be submitted in electronic form and hard copy form.

- (b) The designer shall certify that the facility is working as it was designed and that the required detention storage and outflow rates are being provided.
- (c) All accumulations of silt need to be removed so that the grade of the bottom of the stormwater management facility is at the design grade. The silt gauge should read zero upon completion.
- (d) The entire storm water management facility needs to be stabilized with permanent vegetation as shown on the approved plans.

### **Sections 111-379—111-399. Reserved.**

## **DIVISION 6. POST-DEVELOPMENT STORMWATER MANAGEMENT PERFORMANCE CRITERIA.**

### **Section 111-400. Water Quality.**

All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:

- (1) It is sized to treat the prescribed water quality treatment volume from the site, as defined in the *Georgia Stormwater Management Manual*;
- (2) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the *Georgia Stormwater Management Manual*; and,
- (3) Runoff from hotspot land uses and activities identified by the (local permitting authority) are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

### **Section 111-401. Stream Channel Protection.**

Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:

- (1) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
- (2) 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event. This requirement may be adjusted or waived by the Director of Utilities for sites that discharge directly into larger streams, rivers, wetlands, or lakes, or to a man-made channel or conveyance system where the reduction in these flows will not have an impact on upstream or downstream stream bank or channel integrity.
- (3) Erosion prevention measures such as energy dissipation and velocity control.

### **Section 111-402. Over-Bank Flooding Protection.**

Downstream over-bank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm under this division is exempted, then peak discharge rate attenuation of the 2-year through the 25-year return frequency storm event must be provided.

### **Sec. 111-403. Extreme Flooding Protection.**

Extreme flood and public safety protection shall be provided by controlling and safely conveying the 100-year, 24 hour return frequency storm event such that flooding is not exacerbated.

### **Sec. 111-404. Structural Stormwater Controls.**

- (a) 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 City 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 of Utilities 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.
- (b) 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.

### **Section 111-405. 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:

- (1) Methods to calculate stormwater flows shall be in accordance with the stormwater design manual;
- (2) 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,
- (3) Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the stormwater design manual.

### **Section 111-406. 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.

### **Sections 111-407 –111-425. Reserved.**

## **DIVISION 7. MAINTENANCE, INSPECTION, INVESTIGATION, AND RIGHT OF ENTRY.**

### **Section 111-426. Stormwater Conveyance Ownership; Authority of Director of Utilities.**

- (1) All stormwater conveyances shall be privately owned and maintained, unless duly accepted by the city for public ownership and maintenance.
- (2) The Director of Utilities shall have the authority to investigate any apparent violation of any provision of this division and to take any action authorized by this division which is deemed appropriate to enforce the provisions of this division.
- (3) The Director of Utilities may inspect any stormwater conveyance within or outside of an existing drainage easement to ensure that the facility is properly functioning and in good repair.

- (4) The owner shall at his or her expense inspect, repair, and maintain all stormwater facilities and keep such facilities in good working order at all times. This includes but is not limited to the clearing of all trees and vegetation from all stormwater structures as required by the City. All underground detention and water quality structures shall be video-inspected at least once annually and a copy of the video provided to the City for review. All stormwater facilities and structures shall be properly maintained in a manner and at a frequency determined by the City and at no cost to the City.

### **Section 111-427. Specifications for Inspection and Maintenance Agreements.**

All inspection and maintenance agreements required by this division shall at minimum consist of or contain the following:

- (1) The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance. Responsibility for the operation and maintenance of the stormwater management facility or practice shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.
- (2) As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof.
- (3) The terms of the inspection and maintenance agreement shall provide for the City of Cumming to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance. In addition to enforcing the terms of the inspection and maintenance agreement, the City of Cumming may also enforce all of the provisions for ongoing inspection and maintenance in this division.

### **Section 111-428. Long-Term Maintenance Inspection of Stormwater Facilities and Practices.**

- (a) Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this division.
- (b) A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the Director of Utilities shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City may correct the violation as provided in this division.
- (c) Inspection programs by the City of Cumming may be established on any reasonable basis, including but not limited to:
  - (1) routine inspections;
  - (2) random inspections;
  - (3) inspections based upon complaints or other notice of possible violations;  
and
  - (4) joint inspections with other agencies inspecting under environmental or safety laws.

Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

### **Section 111-429. Records of Maintenance Activities.**

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Director of Utilities.

### **Sec. 111-430. Failure to Maintain; Repairs**

If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the City, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24

hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. It shall be the responsibility of the Owner to repair deficiencies in a timely manner. Failure on the part of the owner to repair deficient storm water detention facilities shall be a violation and will be punishable according to this division. If the owner of a facility does not make repairs in a time allowed by the City of Cumming, and the condition of the facility poses a threat to the public health, safety, and welfare and warrants immediate action, the City may determine that it is necessary to make an emergency repair as allowed in this division. In such case of emergency repairs, the City may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property, and may be placed on the utility bill for such property and collected in the ordinary manner for such utility fees.

### **Sections 111-431—111-458. Reserved.**

## **DIVISION 8. UNLAWFUL DISCHARGES AND CONNECTIONS.**

### **Section 111-459. Unlawful Discharges and Connections - Findings.**

It is hereby determined that:

- (1) Discharges to the municipal separate storm sewer system that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving waters;
- (2) These non-stormwater discharges occur due to spills, dumping and improper connections to the municipal separate storm sewer system from residential, industrial, commercial or institutional establishments;
- (3) These non-stormwater discharges not only impact waterways individually, but geographically dispersed, small volume non-stormwater discharges can have cumulative impacts on receiving waters;
- (4) The impacts of these discharges adversely affect public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;
- (5) These impacts can be minimized through the regulation of spills, dumping and discharges into the municipal separate storm sewer system; and
- (6) Localities in the State of Georgia are required to comply with a number of State and Federal laws, regulations and permits which require a locality to address

the impacts of stormwater runoff quality and nonpoint source pollution due to improper non-stormwater discharges to the municipal/county separate storm sewer system.

### **Section 111-460. Purpose.**

- (a) This article is adopted to prohibit non-stormwater discharges to the municipal separate storm sewer system. It is determined that the regulation of spills, improper dumping and discharges to the municipal separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.
- (b) The purpose of this article is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the municipal separate storm sewer system to the maximum extent practicable as required by Federal law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

### **Section 111-461. Objectives.**

The objectives of this article are to:

- (1) Regulate the contribution of pollutants to the (municipal/county) separate storm sewer system by any person;
- (2) Prohibit illicit discharges and illegal connections to the (municipal/county) separate storm sewer system;
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the (municipal/county) separate storm sewer system; and,
- (4) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this division.

### **Section 111-462. Prohibitions of Illicit Discharges.**

- (a) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the municipal separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater.

- (b)** Pursuant to General Permit (No. GAR100000), it shall be unlawful to discharge stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained. It shall be unlawful to allow discharge of storm water runoff that results in the turbidity of receiving water(s) being increased by more than 25 Nephelometric Turbidity Units for waters supporting warm water fisheries.
- (c)** Upon notice from the Director of Utilities, work on any project that is being done contrary to the provisions of this division or in a dangerous or unsafe manner shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his authorized agent, or the person or persons in charge of the activity on the property, and shall state the conditions under which work may resume. Where an emergency exists, no written notice shall be required. Until the stop order has been rescinded, only work that is necessary to achieve compliance is allowed. No inspection shall be conducted on the property by the building inspection department while a stop-work order is in effect.

### **Section 111-463. Exemptions.**

The following discharges are exempt from the prohibition of this article:

- (1)** Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and other water source not containing pollutants as approved by the City.
- (2)** Discharges or flows from fire fighting, and other discharges specified in writing by the City of Cumming as being necessary to protect public health and safety;
- (3)** Any non-storm water discharge permitted under an NPDES permit or order issued to the Federal Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

### **Section 111-464. Prohibition of Illegal Connections.**

The construction, connection, use, maintenance or continued existence of any illegal connection to the municipal separate storm sewer system is prohibited.

- (1)** The construction, connection, use, maintenance or continued existence of any illegal connection to the municipal separate storm sewer system is prohibited.



This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (2) A person violates this article if the person connects a line conveying sewage to the municipal separate storm sewer system, or allows such a connection to continue.
- (3) Improper connections in violation of this article must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City of Cumming Director of Utilities.
- (4) Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City of Cumming requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City of Cumming.

### **Section 111-465. Industrial or Construction Activity Discharges.**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Cumming Director of Utilities prior to allowing discharges to the municipal separate storm sewer system.

### **Section 111-466. Access and Inspection of Properties and Facilities.**

The City of Cumming's administrative and enforcement officials shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this article.

- (1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the City's enforcement official.
- (2) The owner or operator shall allow the City's enforcement official ready access to all parts of the premises for the purposes of inspection, sampling, photography,

videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

- (3) The City's enforcement official shall have the right to set up on any property or facility such devices as are necessary in the opinion of the City's enforcement official to conduct monitoring and/or sampling of flow discharges.
- (4) The City's enforcement official may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the City's enforcement official. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the (local enforcement authority) and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the City's enforcement official access to a facility is a violation of this division.
- (7) If the City's enforcement official has been refused access to any part of the premises from which stormwater is discharged, and the City's enforcement official is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the City's enforcement official may seek issuance of a search warrant from any court of competent jurisdiction.

### **Section 111-467. Reporting, Remediation and Corrective Action Requirements.**

- (a) In the event of an illicit discharge or illicit connection to the city municipal separate storm sewer system, the discharger shall immediately inform the Director of Utilities of the nature, quantity and time of occurrence of the discharge or connection. The initial report shall be followed up by a written report to the Director of Utilities, describing the exact location, nature and events of the illicit discharge or illicit connection, as well as describing details on corrective procedures which have been taken or scheduled to prevent recurrence of the illicit discharge or illicit connection. This written report shall be submitted within 15 days from the

initial report. The failure to report an illicit discharge or illicit connection as required by this Code section shall constitute a separate violation of this division.

- (b)** The discharger shall take immediate action to remediate, correct, contain, treat, and minimize the effects of the illicit discharge or illicit connection on the city municipal separate storm sewer system and receiving streams and to ensure no recurrence of the illicit discharge or illicit connection, including corrective and preventive procedures, and implementation of best management practices, where necessary to prevent recurrence. The failure to remediate the effects of an illicit discharge or illicit connection as required by this Code section shall constitute a separate violation of this division.
- (c)** The requirement to report and remediate with respect to an illicit discharge or illicit connection shall be supplemental to any other violation, penalty, remedy or other action taken with respect to the illicit discharge or illicit connection.

### **Section 111-468. Cooperation with Other Governments.**

The city may enter into agreements with other local governments to carry out the purposes of this division, to comply with the provisions of the city's stormwater permit, and to implement the city stormwater management program. These agreements may include, but are not limited to, agreements regarding enforcement of provisions, resolution of disputes, cooperative stormwater management programs and cooperative monitoring, maintenance, enforcement and management of municipal separate storm sewer systems, or other actions as may be needed to control the contribution of pollutants from and between any municipal system and the city municipal separate storm sewer system.

### **Section 111-469. Emergency Powers.**

- (a)** If, after inspection, the condition of a stormwater conveyance or discharge presents an immediate danger to the public health, safety or general welfare because of unsafe conditions or improper maintenance, the city shall have the right to take action as may be necessary to protect the public health, safety and general welfare and make the stormwater conveyance safe.
- (b)** The Director of Utilities may conduct emergency maintenance or remediation operations on private property and on private stormwater conveyances. Emergency maintenance or remediation operations shall constitute actions to remedy conditions that in the opinion of the city engineer create a condition potentially injurious to life, property or the city municipal separate storm sewer system.
- (c)** Emergency maintenance conducted on any stormwater conveyance shall not be construed as constituting a continuing obligation on the part of the city.

- (d)** All costs incurred from any emergency work performed by the city shall be the responsibility of the owner and such costs shall constitute a lien on the property, which shall be recorded in the records of Forsyth County.