

CHAPTER 111

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AN ORDINANCE TO REPEAL THE CURRENT CUMMING UTILITIES ORDINANCE AND SUBSTITUTE IN PLACE A NEW UTILITIES ORDINANCE; TO PROVIDE FOR AN IDENTITY THEFT PREVENTION (RED FLAG) PROGRAM FOR UTILITIES; TO PROVIDE FOR AND REGULATE WATER, SEWER, AND GARBAGE SERVICE, TO PROVIDE FOR CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION; TO PROVIDE FOR AND REGULATE SEWER USE; TO PROVIDE FOR SOLID WASTE MANAGEMENT; TO PROVIDE FOR LITTER CONTROL; TO PROVIDE FOR STORMWATER MANAGEMENT; TO PROVIDE AN EFFECTIVE DATE, AND FOR OTHER PURPOSES AS SET FORTH HEREIN.

WHEREAS, the Mayor and Council of the City of Cumming, Georgia determine it is in the best interests of the health, safety, and welfare of the citizens of the City to amend the City’s Utilities Ordinance;

WHEREAS, the Mayor and Council of the City of Cumming, Georgia desire to have a comprehensive, consolidated, and updated Utilities Ordinance by replacing the City’s current ordinance, thus

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cumming, Georgia, and it is now, therefore, hereby ordained by the authority of the City Charter and the above-referenced authority, as follows:

CUMMING UTILITIES ORDINANCE

ARTICLE I. IN GENERAL

SECTION 111-1. REPEAL OF PREVIOUS ORDINANCE AND TITLE

A) The Utilities Ordinance of the City of Cumming, Georgia, Codified at Chapter 111 of the Code of the City of Cumming, along with all amendments thereto, is deleted in its entirety, and the following is substituted in place thereof, effective as hereinafter provided upon being approved by the City Council, as follows:

B) The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed.

C) This Ordinance shall be known as the "City of Cumming Utilities Ordinance."

Sections. 111-2 – 111-18. Reserved.

ARTICLE II. IDENTITY THEFT PREVENTION (RED FLAG) PROGRAM

Section 111-19. Purpose.

The purpose of this Article is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and responding to such red flags in a manner that will prevent identity theft.

Section 111-20. Definitions.

For purposes of this Article, the following definitions apply:

City means the City of Cumming, Georgia.

Covered account means

- (1) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and

- (2) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and therefore defer payment.

Creditor means:

- (1) Any person who regularly extends, renews, or continues credit; or
- (2) Any person who regularly arranges for the extension, renewal, or continuation of credit; or
- (3) Any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.

Customer (Consumer) means a person that has a covered account with a creditor.

Identity theft means a fraud committed or attempted using identifying information of another person without authority.

Notice of address discrepancy means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(c)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer

Person means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

Personal Identifying Information means a person's credit card account information, debit card information, bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.

Red flag means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

Service provider means a person that provides a service directly to the City.

Section 111-21. Findings.

- (a) The City may be a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
- (b) Covered accounts offered to customers for the provision of City services include water, sewer and garbage services.
- (c) The City has had no negative experience with identity theft related to covered accounts.

- (d) The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts, and closing an account have been identified as potential processes in which identity theft could occur.
- (e) The City limits access to personal identifying information to those employees responsible for or otherwise involved in opening, closing or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the City's computer system and is not otherwise recorded.
- (f) The City determines that there is a low risk of identity theft occurring in the following ways (*if any*):
 - (1) Use by an applicant of another person's personal identifying information to establish a new covered account;
 - (2) Use of a previous customer's personal identifying information by another person, in an effort to have service restored in the previous customer's name;
 - (3) Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts;
 - (4) Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment; and
 - (5) Use by another of a customer's personal identifying information to close a customer's account.

Section 111-22. Process of Establishing a Covered Account.

As a precondition to opening a covered account in the City, each applicant shall provide the City with personal identifying information of the customer consisting of either a valid government issued identification card containing a photograph of the customer or, for customers who are not natural persons (corporations, etc.), a valid government issued identification card containing a photograph of the customer's agent opening the account. Upon verification of the customer's identity, the identification card shall be scanned or otherwise entered into the City's computer system and then returned to the customer.

Section 111-23. Access to Covered Account Information.

- (a) Access to customer accounts shall be password protected and shall be limited to authorized City personnel. Such password(s) shall be changed by the director of information technology or his designee on a regular basis, shall be at least 6 characters in length. Any unauthorized access to or other breach of customer accounts is to be reported immediately to the City Manager and the password changed immediately.
- (b) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the City Manager and the City Attorney.

Section 111-24. Credit Card Payments.

- (a) In the event that credit card payments that are made over the Internet are processed through a third-party service provider, such third-party service provider shall certify

that it has an adequate identity theft prevention program in place that is applicable to such payments.

- (b) All credit card payments made over the telephone or the City's website shall be entered directly into the customer's account information in the computer data base.
- (c) Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Section 111-25. Sources and Types of Red Flags.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

- (1) *Alerts from consumer reporting agencies, fraud detection agencies or service providers that may be received in the future by the City.* The City does not subscribe to or contract with any consumer reporting agency at this time.
- (2) *Suspicious documents.* Examples of suspicious documents include:
 - (a) Documents provided for identification that appear to be altered or forged;
 - (b) Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 - (c) Identification on which the information is inconsistent with information provided by the applicant or customer; or
 - (d) An application that appears to have been altered or forged or appears to have been destroyed and reassembled.
- (3) *Suspicious personal identification, such as suspicious address change.* Examples of suspicious identifying information include:
 - (a) Personal identifying information or a phone number that is inconsistent with external or internal information sources used by the City.
 - (b) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer.
 - (c) Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or external sources used by the City.
 - (d) Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, or answering services, is associated with fraudulent activity.
 - (e) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
 - (f) The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

- (g) Personal identifying information is not consistent with personal identifying information that is on file with the City.
- (4) *Unusual use of or suspicious activity relating to a covered account.* Examples of suspicious activity include:
- (1) Shortly following the notice of a change of address for an account, City receives a request for the addition of authorized users on the account.
 - (2) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example: The customer fails to make the first payment or makes an initial payment but no subsequent payments.
 - (3) An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
 - (1) Nonpayment when there is no history of late or missed payments;
 - (2) A material change in purchasing or spending patterns;
 - (4) An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
 - (5) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
 - (6) The City is notified that the customer is not receiving paper account statements.
 - (7) The City is notified of unauthorized charges or transactions in connection with a customer's account.
 - (8) The City is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
- (5) *Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.*

Section 111-26. Prevention and Mitigation of Identity Theft.

- (a) In the event that any City employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Director of the Department of Utilities ("DDU"). If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to Executive Assistant to the Director of the Department of Utilities ("EA"), who may in his or her discretion determine that no further action is necessary. If the EA in his or her discretion determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the EA:
- (1) Contact the customer;

- (2) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
 - a. change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
 - b. close the account;
 - (3) Cease attempts to collect additional charges from the customer;
 - (4) Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
 - (5) Take other appropriate action to prevent or mitigate identity theft.
- (b) In the event that any City employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the DDU. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the EA, who may in his or her discretion determine that no further action is necessary. If the EA in his or her discretion determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the EA:
- (1) Request additional identifying information from the applicant;
 - (2) Deny the application for the new account;
 - (3) Notify law enforcement of possible identity theft; or
 - (4) Take other appropriate action to prevent or mitigate identity theft.

Section 111-27. Updating the Program.

The Mayor and City Council shall annually review and, as deemed necessary by the Council, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the City and its covered accounts from identity theft. In so doing, the City Council shall consider the following factors and exercise its discretion in amending the program:

- (1) The City's experiences with identity theft;

- (2) Updates in methods of identity theft;
- (3) Updates in customary methods used to detect, prevent, and mitigate identity theft;
- (4) Updates in the types of accounts that the City offers or maintains; and
- (5) Updates in service provider arrangements.

Section 111-28. Program Administration.

The DDU is responsible for oversight of the program and for program implementation. The City Manager is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the City Manager, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the Mayor and City Council for consideration by the Council.

- (1) The DDU will report to the City Manager at least annually, on compliance with the red flag requirements.
- (2) The DDU and the EA are responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The DDU and the EA shall exercise their discretion in determining the amount and substance of training necessary.

Section 111-29. Outside Service Providers.

In the event that the City engages a service provider to perform an activity in connection with one or more covered accounts the DDU shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

Section 111-30. Treatment of Address Discrepancies.

In the event that the City receives a notice of address discrepancy, the City employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

- (1) Compare the information in the consumer report with:

- (a) Information the City obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. § 5318(I);
- (b) Information the City maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
- (c) Information the City obtains from third-party sources that are deemed reliable by the relevant City employee; or

(2) Verify the information in the consumer report with the consumer.

Section 111-31. Furnishing Consumer's Address to Consumer Reporting Agency.

In the event that the City uses the services of a consumer reporting agency and the City reasonably confirms that an address provided by a consumer to the City is accurate, the City is required to provide such address to the consumer reporting agency from which the City received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:

- (1) The City is able to form a reasonable belief that the consumer report relates to the consumer about whom the City requested the report;
- (2) The City establishes a continuing relation with the consumer; and
- (3) The City regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.

Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the City to such agency for the reporting period in which the City establishes a relationship with the customer.

Section 111-32. Methods of Confirming Consumer Addresses.

The City employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

- (1) Verifying the address with the consumer;
- (2) Reviewing the City's records to verify the consumer's address;
- (3) Verifying the address through third party sources; or
- (4) Using other reasonable processes.

Section 111-33 – 111-54. Reserved.

ARTICLE III. WATER, SEWER, AND GARBAGE SERVICE

SECTION 111-55. Water and Sewer Service Area.

The City of Cumming Water and Sewer Service Area shall be established by the Mayor and Council. The rules and regulations established by the City shall be enforceable to all portions of the Water and Sewer Service Area. No properties within the Water and Sewer Service Area shall be served by any other municipality or government entity, county government, or private water and/or sewer entity.

SECTION 111-56. Definitions.

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

Increasing Block or Tiered Rate Structure means a cost rate that increases as the utility usage increases. The City's tiered water rate structure consists of three tiers according to the Metropolitan North Georgia Water Planning District Water Supply and Water Conservation Management Plan. The City's tiered water rate structure applies to all residential

Uniform Rate Structure means a cost rate that neither increases nor decreases with increased utility usage. Under this rate structure, the City will charge a uniform rate for every thousand gallons of water or sewer purchased by a customer. The City's uniform water rate structure applies to commercial customers and residential irrigation use. The City's uniform sewer rate structure applies to all customers.

Wholesale Water User's Agreement means an agreement entered into by the Mayor and Council with a customer who uses a large volume of water that provides the customer with a wholesale water rate. This agreement may define a minimum annual water volume to be purchased by the customer and the methodology to be used by the City to raise the rate during the term of the contract such as but not limited to the Consumer Price Index (CPI-U) for the Atlanta region or the Municipal Cost Index (MCI) as published in the American City and County Magazine.

SECTION 111-57. Rate and Fee Schedule and Additional Fees.

- (a) Rates, service fees, deposits and surcharges for water, sewer, and garbage provided by the City of Cumming shall be as set forth in Section 12-111 and may be adjusted periodically by resolution of the Mayor and Council and changed without other notice. Each individual unit whether residential, commercial or industrial, and whether a single user or multi user

sub-metered customer, shall incur a minimum monthly base fee plus charges for water and sewer usage by amounts per 1000 gallons of usage above established minimums.

(1) The Utility Rate and Fee Schedule considers a single user of the system to be a one-family dwelling or a single business or commercial unit. Each individual residential or commercial unit shall be metered. For example, an apartment complex or a commercial strip-mall with 7 individual units shall have 7 individual water meters.

(2) Multi-unit users and Master meters for new multi-unit residential, retail and light industrial buildings, each unit shall measure the quantity of water used by individual metering to each unit. Each individual residential or commercial unit within a complex shall be charged a minimum monthly water, sewer, and garbage fee plus the additional charges for water and sewer per 1000 gallons of usage above established minimums. In cases where the City deems that individual meters for each unit are not feasible, a master meter may be permitted, and each individual unit shall be sub-metered by the owner. The owner shall be responsible for any costs associated with providing sub-meters and billing of individual units.

(3) Rate Structure; Residential water rates shall be based on an increasing block or tiered rate structure. Commercial and industrial water rates shall be based on a uniform rate. All customer classes irrigation water rates shall be based on a uniform rate structure. Sewer use for all customer classes shall be based on a uniform rate structure.

(4) Intergovernmental wholesale water and sewer rates will be equal to that set by the City of Cumming for sale of water to (or acceptance of sewer from) neighboring jurisdictions. The rate may change as the City of Cumming adjusts its rates to reflect changes in production, treatment and variable costs. A Wholesale User's Agreement is required.

(b) Sewer users discharging pollutants into the City's sewer system will incur an additional surcharge as stated in Section 12-111 if these pollutants have a concentration greater than those listed in Article V of the Cumming Utilities Ordinance regarding sewer use. Surcharges are established by the City and are charged per pound of each pollutant that is discharged into the City's sewer system above established "domestic wastewater" levels. The City levies fines against sewer users in violation of the established maximum allowable concentrations of these pollutants.

SECTION 111-58. Application for Water, Sewer, and Garbage Service.

(a) Each customer shall make application for water, sewer, and garbage service, in person at the Department of Utilities at City Hall or via the telephone with a Department of Utilities customer representative.

(b) A cash security deposit for water service as established in Section 12-111 shall be charged to both commercial and residential customers. The residential security deposit shall be a flat rate. The commercial security deposit shall be based on two-months average annual water usage with the minimum not less than the established residential security deposit.

(c) The customer shall complete an approved service application form and submit the completed form to the city.

(d) If a customer fails to pay a utility bill in a timely manner which results in service disconnection by the City and the Director determines the customer to be a “high water user”, the Director may require the customer make a cash security deposit equal to two months of the customer’s estimated utility bill before the customer’s service will be restored.

SECTION 111-59. Charges for Initial Water and Sewer Connections.

(a) *Water Connections:* Each single-unit customer subscribing to use water service shall pay a Single User water meter fee to be connected to the City’s water system. The water meter fee is assessed according to the meter size as stated in Section 12-111. Property owners with multiple tenant use shall be required to install sub-meters for water use by each such tenant. The cost of sub-metering shall be borne by the property owner. For a multi-unit residential customer given permission by the Department of Utilities to utilize a master meter, a water capacity fee shall be paid as calculated by and according to that stated in Section 12-111, which may include an additional cost of the master meter components and installation. Once a water meter is assigned to a specific piece of property, the meter runs with the property and must be transferred with the property to any subsequent purchaser.

(b) *Sewer Connections:* Each customer subscribing to use sewer service shall pay a sewer capacity fee as stated in Section 12-111 plus the cost of connecting to the sewer system. For single-family and multifamily residential, the fee shall be per residential unit; for commercial, the fee shall be per gallon of estimated monthly water usage, and for industrial including hospitals, the fee shall be per gallon per day of maximum daily water usage. The minimum usage per residential, commercial, or industrial unit shall not be considered less than 250 gallons per day. As set forth in the Sewer Capacity Purchase Agreement, once sewer capacity is assigned to a specific piece of property, the capacity runs with the property and must be transferred with the property to any subsequent purchaser. Sewer capacity cannot at any time be transferred from one parcel of land to another parcel of land. The City reserves the right to deny a request for sewer capacity based on the availability of the capacity in the treatment facilities and the sewage conveyance system.

(1) *Sewer Capacity Purchase Agreement.* The Sewer Capacity Purchase Agreement is an Agreement that describes the name of the property owner requesting sewer capacity, the quantity of capacity in gallons per day sold by the City to the property owner, the cost of the capacity, and the land to which the sewer capacity is assigned. The Agreement must be accompanied by a legal description of the property for which the sewer capacity is to be purchased and a perimeter survey of the property.

- (2) *Sewer Capacity Assignment Document.* The Sewer Capacity Assignment document is an agreement that describes the name of the sewer capacity/property owner, the quantity of capacity originally purchased from the City, the quantity of capacity available to the property owner for assignment, and the quantity of capacity to be used or assigned (in essence subdivided with the land). The Sewer Capacity Assignment must be accompanied by a legal description of the property to which the sewer capacity is to be assigned and a perimeter survey of the property.
- (3) *Sewer Capacity Repurchase Agreement.* The sewer capacity repurchase agreement is an agreement used by the City to repurchase sewer capacity from a sewer capacity/property owner who purchases more capacity than was needed for development of the subject parcel of real property. Once capacity has been assigned to a parcel of property and that parcel has been fully developed, a repurchase of sewer capacity will be denied. However, if the parcel remains less than fully developed due to economic conditions, zoning constraints, or if the quantity of subparcels/lots is reduced from the original City approved site plan to a new City approved site plan, the City may consider a repurchase or a partial repurchase upon application by the property owner on a form provided by the City Utilities Department. The City will determine whether or not the sewer capacity/property owner is eligible for repurchase and the amount of capacity subject to repurchase based upon the following factors: the need for sewer capacity for the subject parcel based upon anticipated present and future use, engineering factors, the Sewer Master Plan, best management practices (including, but not limited to the existing sewage conveyance system and Waste Water Treatment Plant capacity), whether the proposed repurchase will be followed by a resale of sewer capacity in the City service area to the same or a related entity and any other factors that are reasonably related to the sewer system in making its decision to grant or deny the repurchase. If the City makes the decision to repurchase any sewer capacity, the repurchase will be at no more than the original sales price paid to the City by sewer capacity/property owner or its predecessor(s) in title less administrative costs of \$500.00 and title search fees of \$300.00 or such other amounts as may be set by the Council by resolution from time to time. All repurchase decisions shall require the written approval of the Mayor, City Administrator and the Utilities Director.

SECTION 111-60. Maximum Service Height Elevations.

(a) Individuals requesting water service at elevations in excess of 1,280 feet MSL shall be responsible for designing and constructing pumping systems and water storage facilities for their development that meets fire flow requirements for all system conditions and the as per city requirements.

(b) The design, construction, and maintenance costs of such pumping systems and water storage facilities will be the responsibility of the developer, home owner's association, and shall not be the responsibility of the city.

SECTION 111-61. Minimum Monthly Charges.

The minimum monthly charge, as provided in Section 12-111, shall be made for such connection or service subscribed for. Water, sewer, or garbage service furnished for a given lot shall be used on that lot only, and except for fire protection, the City shall not under any condition furnish water, sewer, or garbage services free of charge to anyone. Each individual residential or commercial unit shall be metered. Un-metered water taken without permission from the City shall be considered theft of services and punishable under applicable law.

SECTION 111-62. City's Responsibility and Liability.

(a) The City shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served.

(b) The City may make connections to service other properties not adjacent to its lines upon payment of reasonable costs for the extension of its distribution lines as may be required to render such service.

(c) The City may install its meter at or near the property line or, at the City's option, on the customer's property within three feet of the property line.

(d) The City reserves the right to refuse service unless the customer's lines or piping are installed in such a manner as to prevent cross connections or backflow.

(e) Under normal conditions the customer will be notified of any anticipated interruptions of service by the City.

SECTION 111-63. Customer's Responsibility and Liability.

(a) Water furnished by the City shall be used for consumption by the customer, members of the customer's household, household guests, and employees only. The customer shall not sell water to any other person or permit any other person to use their water. Water shall not be used for irrigation, fire protection or other purposes except when water is available in sufficient quantity without interfering with the regular domestic consumption in the service area. Disregard for this rule shall be sufficient cause for refusal and/or discontinuance of service.

(b) The Mayor and Council shall establish outdoor watering bans and watering schedules at times and intervals deemed necessary to protect the public water supply and encourage water conservation practices, or under emergency situations which threatens the public water supply. Failure to comply with watering bans or watering schedules and times shall constitute

a violation of this section and is punishable by fines of up to \$1,000.00 per day per offense or loss of water and sewer service.

(c) *Location of Water Meters.* All water meters shall be installed at an easily accessible location on or near the property line of the premises being served adjacent to the public right-of-way. Water meters shall not be installed behind enclosed fences, within concrete or paved driveways, parking areas or in sidewalks.

(d) *Obstruction of Meter Box.* The city personnel must have access to all water appurtenances. These include, but are not limited to water meters, water valves, sample stations, flush stations and fire hydrants. The water utility customer is responsible to trim and remove any bushes, trees, plants, sod, landscaping, fencing, etc. that may cover or obstruct access to a water appurtenance, such as a water meter or valve. A three-foot (914mm) clear space shall be maintained at all times around the circumference of the water appurtenance except as otherwise required or approved by the Director of Utilities or his/her designee.

(e) The customer shall furnish and maintain a private cutoff valve on the customer's side of the meter.

(f) The customer's piping and apparatus shall be installed and maintained by the customer at the customer's expense, in a safe and efficient manner, and in accordance with the sanitary regulations of the state health department. All water leaks on the customer's side of the meter are the responsibility of the customer.

(g) In order to be received as a customer and entitled to receive water from the City's water system, all applicants must offer proof that any private wells located on their property are not physically connected to the lines of the City's water system; and all applicants, by becoming customers of the City, covenant and agree that so long as they continue to be customers of the City they will not permit the connection of any private wells on their property to the City's water system.

(h) All disposal of septic tank waste by septic tank contractors in the City sewer system is absolutely prohibited, except as provided for in section 111-132. Anyone who violates this provision may be fined a maximum of \$1,000.00 for each occurrence, as determined by the City council.

(i) All sewer use is governed by Article V of this chapter.

SECTION 111-64. Access to Premises and Extensions of System.

(a) Duly authorized agents of the City shall have access at all hours to the premises of the customer for the purpose of installing or removing City property, inspecting piping, reading and testing meters, or for any other purpose in connection with water service and its facilities, and sewer service and its facilities.

- (b) Extensions to the system shall be made only when the customer shall grant or convey, or shall cause to be granted or conveyed, to the City an easement of right-of-way across any property traversed by the water and sewer lines.

SECTION 111-65. Change of Occupancy and Other Customer Service Provisions.

- (a) Termination of Service: The customer shall alert the City of the customer's intent to terminate service by submitting a Service Termination form to the City via facsimile, email, or in person at City Hall along with a copy of an acceptable form of picture identification. The outgoing party shall be responsible for all water consumed, sewer used, and garbage service utilized up to the time of departure or the time specified for departure, whichever period is longer.
- (b) Establishing Service: A new occupant shall apply for water service immediately upon occupying the premises. Failure to do so will make the new occupant liable for paying for the water consumed since the last meter reading. The City shall not be held liable for damage incurred by turning a water meter on to a residence or commercial unit. The owner shall be responsible for ensuring that all fixtures are in the "off" position before requesting that a water meter be turned on. Each customer shall complete and submit to the city, either a Residential or Commercial Water Service form, a copy of an acceptable form of picture identification, and proof of ownership of the premise (deed) or a lease or rental agreement. A deposit must be submitted to the city in the amount established in Section 12-111.
- (c) Suspension of Service: A customer's service can be suspended by the customer upon the customer submitting a completed Service Suspension or "Snowbird" Status Form to the Department of Utilities. During the time the account is suspended, the water meter will be turned off and locked and the customer will not receive a bill. The customer should contact the city to restore service.
- (d) Change of address: a customer's mailing address may be changed by submitted a change of address form along with an acceptable form of picture identification.
- (e) Auto-draft of Bank Accounts: The city provides auto-draft services to customers upon request. An Automatic Payment Authorization form must be completed and submitted to the city along with an acceptable form of picture identification.
- (f) The City will perform a special water meter reading or testing of the water meter when requested by the customer and shall incur charges as provided in section 12-111 and the Utilities Rate and Fee Schedule. Charges may be waived under conditions of section 111-68.

SECTION 111-66. Billings; Delinquent Accounts and Collections.

- (a) Bills to customers for water, sewer, and garbage service shall be mailed out on such day of each month as may be determined as desirable by the City. Bills shall be paid to the Department of Utilities at City Hall. Failure on the customer's part to receive bills or notices

shall not prevent such bills from becoming delinquent nor relieve the customer from payment of the bill. The failure of water, sewer, and garbage users to pay charges duly imposed shall result in the automatic imposition of the following penalties:

- (1) Failure to pay a bill before or by the due date will subject the customer's account to a late charge established by the City in Section 12-111.
- (2) Once a bill becomes delinquent and is 60 days or more past due, water service to the customer's premise will be shut off. Balances over the maximum allowed in Section 12-111 on delinquent accounts will result in loss of water service until the balance is paid in full and a reconnection fee is paid.
- (3) Nonpayment for 60 days after original due date will allow the City, in addition to all other rights and remedies, to terminate agreement; and if so, the water user shall not be entitled to receive, nor the City obligated to supply, any water under this agreement.
- (4) A returned check fee shall be added to the customer's account as established in Section 12-111.
- (5) An internet service charge shall be added to payments made through the City's on-line payment system.
- (6) A credit card usage fee shall be added to all credit card payments.
- (7) An automatic draft charge shall be added to all automatic credit card and automatic checking account drafts.

(b) Service disconnected for nonpayment of bills will be restored only after bills are paid in full, such security deposit as may be required by the mayor and council is made, and a reconnection fee as stated in Section 12-111 is paid for each meter reconnected.

SECTION 111-67. Discontinuance of Service.

(a) When a customer who is renting or leasing property vacates the premises and has paid a security deposit, and once water, sewer, and garbage service is discontinued and all bills paid in full, the security deposit shall be refunded to the customer by the City. Typically, the deposit is applied to the final bill before a refund is made to the customer.

(b) Upon discontinuance of service for nonpayment of bills, the security deposit will be applied by the City toward settlement of the account. Any balance will be refunded to the customer; however, if the security deposit is insufficient to cover the bill, the City shall proceed to collect the balance in the usual way provided by law for collection of debts.

(c) The City reserves a right to discontinue its service without notice for the following additional reasons:

- (1) Customer failure to pay a water, sewer, or garbage bill.
- (2) Customer failure to comply with pretreatment requirements, standards, or permits or an Order from the Director.
- (3) Customer failure to properly install and maintain a grease interceptor according to City regulations and as directed under the City Ordinances.
- (4) To prevent fraud or abuse.
- (5) Customer's willful disregard of the City's rules and regulations including but not limited to watering bans, sewer discharge limitations, and maintenance requirements.
- (6) Emergency conditions and emergency repairs.
- (7) Insufficiency of water supply due to circumstances beyond the City's control.
- (8) Legal processes.
- (9) Direction of public authorities.
- (10) Strike, riot, fire, flood, unavoidable accident.

SECTION 111-68. Billing Appeals and Adjustments.

(a) If the customer believes their bill to be in error, a claim may be made, in person or via the telephone, to the Department of Utilities at City Hall before the bill becomes delinquent. Such claims, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service. The customer may pay such bill under protest, and the payment shall not prejudice their claim.

(b) The City will make a special water meter reading at the request of a customer for a fee as provided in section 12-111; however, if such special reading discloses that the meter was over read, no fee will be incurred.

(c) Water meters will be tested and calibrated at the request of the customer upon payment to the City for the test fee as established in the Fee Schedule; however, if the meter is found to over-register beyond three percent of the correct volume, no test fee will be charged.

(d) If the meter fails to register correctly or is stopped for any cause, the customer shall pay an amount estimated from the City's record of their previous bill(s) and/or from other proper data.

(e) A customer may request an adjustment to an unusually high water bill that has resulted from a leak. The customer must, at a minimum, provide a receipt for the repair work

performed. Alternately, if the customer performs the work himself, the customer must provide receipts for parts and fixtures purchased to perform the required repair. In either case, the customer must show that the leak has been repaired before an adjustment can be given.

(f) Adjustments are limited to one adjustment per year and are given at the discretion of the city.

(g) Typically, an adjustment consists of forgiving half of that portion of the customer's water bill total which is above the customer's average monthly bill. Only one adjustment per year will be allowed.

(h) The customer may appeal to the Director of Utilities in writing, for a decision made by the billing division regarding water leak adjustments.

SECTION 111-69. Prohibited Uses.

(a) Fraudulent Use. Evidence of the existence of a bypass, the bypassing of water around meters, or the unauthorized piping or selling of water, or any other use of un-metered water except for the fire extinguishing purposes shall be deemed fraudulent use.

(b) Tampering. All curb stop/curb shut-off valves, hydrants, meters, valves, or other property of the City shall not be opened, closed, or tampered with in any way by any person not authorized to do so by the City. Moving meters from lot to lot is strictly prohibited and punishable by fine or loss of water service. When the City determines that the serial number on the meter at a specific address does not match the serial number on the meter assigned to that address, the City will consider that the meter was stolen and will require the owner to purchase a new meter at the then current new meter cost. Stolen, damaged or moved meters will result in the owner being charged 100% of the cost of a new meter of the same size and type.

(c) *No person except (1) one legally authorized by Cumming Utilities will be allowed to turn water on or off at the meter box. No person shall, by the use of a false key or otherwise, after the water has been turned off from any premises, cause said premises to be supplied with water, except through the Director of Utilities, or his/her designee, under orders of the mayor and council.*

(d) Cross-Connections. No Cross Connection shall be permitted between the public water supply and any other water supply, or between the public water supply and any plumbing fixture, device, or appliance capable of contaminating the public water supply unless the connection is protected at the metering point by a Backflow prevention device as required by this article. The connection shall be approved by the Department of Utilities and shall satisfy the laws of the State of Georgia and applicable building and plumbing codes.

(e) Electrical Ground Wires. No ground wires from any source whatsoever shall be attached to any water pipe inside or outside the premises served that does not meet the requirements of the building code.

(f) Penalty and Fines.

(1) Tampering. Any damage to the Curb Stop/Curb Shut off valve, hydrants, meters, meter boxes, radio-read equipment, or other property of the City which the City determines is caused by tampering caused by the Customer, Customer's employees, contractors, or agents or other utilities shall be repaired by the City at the Customer's expense. Such tampering may result in the City charging the customer the full cost of a new meter. Tampering or threatening to tamper with any water or sewer facility or any appurtenance may be considered an act of terrorism which is punishable under applicable federal law.

(2) Fraudulent Use. Upon discovery by the Department of Utilities of fraudulent use by a Customer, the Customer shall be charged not less than double rates for such quantities of service as the City shall estimate to have been fraudulently used.

(3) Accidents. City property (hydrants, meters, manholes, valves, water lines, sewer lines, force mains, pumping stations, or any utility system related appurtenances) damaged by automobile accidents, construction accidents, or other types of accidents shall be repaired by the City at the perpetrator's expense.

(4) Water Meter Construction Damage. In the case of new construction, water meters damaged by construction activity shall be the sole responsibility of the purchaser of the water meter. If the water meter is damaged, the City will charge the purchaser 100% of the cost of a new meter at the then current rate.

(5) Stolen Water Meters. In the case of new construction sites, a stolen water meter shall be the sole responsibility of the developer and not the City. If a water meter is stolen from a construction site, the developer shall be responsible for purchasing a new water meter at the then current City rate for new water meter(s). Water meters that are moved or relocated from one lot to another lot within the development without written permission from the City will be considered a stolen meter and the owner shall be responsible for purchasing a new meter at the then current new meter price. This requirement shall not apply to an individual home owner.

SECTION 111-70. Theft of Services.

Taking water from the City of Cumming water system without prior written consent from the City constitutes theft of services and shall be punishable under applicable law.

SECTION 111-71. Hydrants.

(a) Prohibited Use. Public or private hydrants shall not be used for any purpose other than to extinguish fires or for such other purposes as may be authorized by the City. In no cases shall hydrants or any adaptor installed on a hydrant be operated by any person other than the City or its duly authorized agent.

(b) Permitted Use. Hydrant Permits may be issued by the City on a case-by case basis for such activities as road construction, filling swimming pools, dust control, and other activities permitted by the City. All water used by the permittee must flow through a City-issued hydrant meter with backflow prevention device and the permittee must pay the City for water used at the most current commercial water rates published in the Rate and Fee Schedule. A deposit for the City-issued hydrant meter will be required, and which is partially refundable according to section 12-111.

(c) Fire Flow Tests. The City requires fire flow tests be performed prior to approval of a proposed development for the City to confirm adequate fire flow protection for the development and if system improvements are needed. The fire flow test results must be reviewed and signed by a licensed professional engineer. As-built fire flow tests at post development are also required from the developer to certify adequate fire flow protection has been achieved for the development before a certificate of occupancy will be authorized. No building wood or combustible materials will be permitted on-site until system improvements are completed including fire hydrants and available fire flows are deemed to be adequate for the site or development.

SECTION 111-72. Construction Improvements and System Expansion.

(a) Minimum Requirements. All construction improvements and system expansion projects must meet the minimum requirements of the following City design manuals:

(1) All water system improvements must meet the requirements of the most current version of the Cumming Utilities Water System Technical Standards Manual and must be reviewed by the Director of Utilities or his designee. In addition, certain larger system expansions and improvements may require review and approval by the City engineer and Georgia EPD.

(2) All sewer system improvements must meet the requirements of the most current version of the Cumming Utilities Sanitary Sewer and Pump Station Technical Standards Manual and must be reviewed by the Director of Utilities or his designee. In addition, certain larger system expansions and improvements may require review and approval by the City engineer and Georgia EPD.

(3) Water lines proposed along road frontage shall be located from property line to property line and outside of the road right of way. Sewer lines installed in a

development within a given drainage basin(s) shall be installed so that sewer generated by properties higher in the basin can flow through property lower in the basin. Development plans must be verified by the Director of Utilities and in accordance with the latest City of Cumming Utilities Water Master Plan and Sewer Master Plan.

(b) Detailed Plan Submission. Detailed plans for all proposed construction improvements and system expansion projects must be submitted to the Department of Utilities for review. Larger water mains and larger sewage collection system improvements shall be submitted to the City engineer for review per Georgia EPD requirements for Delegation of Authority for plan review. All water main sizes shall be approved by the City.

(c) Development. No development shall impact the quality, quantity, pressure, or flow of water available to existing users. If the City determines that a development will or has negatively impacted the water system, the owner of that development shall make such system improvements that adequate pressure and flow is restored to all users of the system. All proposed developments must demonstrate that they will meet the minimum fire flow requirements of the City while maintaining adequate pressures in all other segments of the system.

(d) Funding. Unless otherwise funded by the Mayor and Council, all water and sewer system improvements must be designed and constructed at no cost to the City and such system improvements must be dedicated to the City upon completion and acceptance by the Mayor and Council.

(e) Existing Developments. In cases where existing developments require connection to the City's water supply or require a larger water main with fire hydrants, the City may work on a case-by-case basis with the property owners on a payment plan.

(f) Connection Requirements. In general, no proposed or new development within the City's Water and Sewer Service Area shall be connected to a private well or septic system. All proposed developments shall connect to the public water and sewer system and shall make all necessary system improvements required to provide water and sewer service to the development at no cost to the City.

(1) Extreme Cases. In extreme cases, the City may determine that a proposed development or single-family structure is too small to justify infrastructure improvement costs. In extreme cases, the City may permit the use of septic tanks and/or wells, but only for small developments and with the understanding that the development or single-family unit will be connected to City water and sewer once facilities become available.

(2) City-Metered Water Required. No development or individual unit shall be connected to sanitary sewer unless the development or individual unit is also connected to the public water system with a viable City-approved water meter.

(g) *Private Wastewater Systems.* No development shall be connected to a private wastewater treatment facility other than those owned and operated by the City of Cumming. If a development refuses to connect to the City's sewage system and plans to connect to a private wastewater treatment facility, the City will not allow that development to connect to the public water system.

(h) *Master Plans.* All proposed developments within the City of Cumming Water and Sewer Service Area shall comply with the most current version of the City of Cumming Water and Sewer Master Plans.

(1) All owners of proposed developments shall design water and sewer infrastructure so that the components provide maximum benefit to the basin in which they are installed.

(2) In cases where sanitary sewer is not feasible, and to satisfy the requirements of the Georgia EPD and other regulatory agencies, dry sewer lines will be required in new developments so that the development can be easily converted to sanitary sewer once it becomes available in the basin.

(i) *Adjoining Properties.* All proposed developments must provide water and sewer easements to all adjoining properties at no cost to the City. In some cases, the City may require that a line or lines be installed in the easement up to the common property line with adjoining properties.

(j) *Easements.* Typical permanent water and sewer easements are twenty (20) feet wide and are dedicated to the City of Cumming. Typical temporary construction easements are an additional twenty (20) feet wide, usually configured ten (10) feet on either side of the twenty (20) ft permanent easement. All water and sewer easements must be conveyed to the City using City-approved easement documents. All easements that are proposed to be conveyed to the City must be accepted by the Mayor and Council.

(k) *Minimum Pipe Sizes.* The minimum allowable water main size with fire hydrants shall be 8-inches. The minimum allowable gravity sewer line size shall be 8-inches.

Section 111-73. Standards For Outdoor Watering of Landscape and Potable Water Waste

(1) *Scope.* This section shall apply to customers of the City of Cumming water or sewer service. Customer is defined as any person, association, corporation, or other entity receiving City of Cumming water or sewer service in the Service Area.

(2) *Restriction on Outdoor Watering of Landscape.* Persons may irrigate outdoors daily for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants only between the hours of 4:00 p.m. and 10:00 a.m.; provided, however, that this limitation shall not create any limitation upon the following outdoor water uses:

- (a) Commercial raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; the commercial production or storing of feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, or animals; or the commercial production of aquacultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products or as otherwise defined in O.C.G.A. § 1-3-3;
- (b) Capture and reuse of cooling system condensate or storm water in compliance with applicable City of Cumming ordinances and state guidelines;
- (c) Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations;
- (d) Use of reclaimed waste water by a designated user from a system permitted by the Environmental Protection Division of the Georgia Department of Natural Resources to provide reclaimed waste water;
- (e) Irrigation of personal food gardens;
- (f) Irrigation of new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;
- (g) Drip irrigation or irrigation using soaker hoses;
- (h) Hand watering with a hose with automatic cutoff or handheld container;
- (i) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- (j) Irrigation of horticultural crops held for sale, resale, or installation;
- (k) Irrigation of athletic fields, golf courses, or public turf grass recreational areas;
- (l) Installation, maintenance, or calibration of irrigation systems; or
- (m) Hydroseeding.

(3) *Prohibition on Potable Water Waste.* Other than as set forth in Subsection (4) below, the following uses are a waste or unreasonable use or method of use of potable water and are prohibited:

- (a) Intentionally allowing potable water to escape from any premises onto a public right-of-way such as streets and sidewalks, or upon any other person's property.
- (b) Operating an irrigation system or other lawn or landscaping watering device during any form of precipitation.
- (c) Operating an irrigation system or other lawn or landscaping watering device that has any broken or missing sprinkler heads.

- (d) Failing to repair a controllable leak, including a broken sprinkler head, or a leaking valve, or a leaking outdoor faucet, or a service line leak, or any other visible outside water leaks, on premises owned, leased, or managed by that person, within 30 days or sooner if deemed necessary by the Director.
- (e) Any new irrigation system proposed for a large landscape (irrigation system serving one acre or more) shall include a pressure regulator, master shut-off valving and rain-sensored shut-off valving. The system shall also provide flow sensors that detect and report high flow conditions due to broken pipes and/or dislodged sprinkler heads.

(4) Exceptions on Potable Water Waste. The restrictions in subsection (3) do not apply to the following:

- (a) Flow resulting from firefighting or routine inspection of fire hydrants or from fire training activities;
- (b) Water applied as a dust control measure
- (c) Water applied to abate spills of flammable or otherwise hazardous materials, where water is the appropriate methodology;
- (c) Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available;
- (d) Flow resulting from routine inspection, operation, or maintenance of traffic flow control devices;
- (e) Water used for construction or maintenance activities where the application of water is appropriate methodology and where no other practical alternative exists;
- (f) Unintentional or de minimums overspray of an irrigation system or landscape watering devises whether hand held or a temporary or permanent sprinkler system.

(5) *Car Washes.*

- (a) *Definitions.* The following words and phrases, whenever used in this section, have the meaning defined in this section:

In-bay automatic car wash means a commercial car wash where the driver pulls into the bay and parks the car. The vehicle remains stationary while a machine moves back and forth over the vehicle to clean it, instead of the vehicle moving through the tunnel.

Conveyor car wash means a commercial car wash where the car moves on a conveyor belt during the wash. The driver of the vehicle can remain in the vehicle or wait outside of the vehicle.

Recycled water system means a water system that captures, and reuses water previously used in wash or rinse cycles.

Self-service car wash means a commercial car wash where the customers wash their cars themselves with spray wands and brushes.

- (b) All commercial conveyor car washes must install operational recycled water systems. A minimum of 50% of water utilized will be recycled.
- (c) The provisions of sub-paragraph (b) above do not apply to self-service car washes or in-bay car washes.

(6) *Enforcement.*

- (a) No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in this article.
- (b) The City of Cumming Department of Utilities shall be the enforcement authority for this section. The Mayor may also authorize other departments as may be deemed necessary to support enforcement.
- (c) Criminal and alternative penalties. Any violation of this section may also be enforced by a citation returnable to the City Court or by any other legal means as set forth by City Code.

SECTION 111-74—111-102. Reserved.

**ARTICLE IV. CROSS CONNECTION CONTROL
AND BACKFLOW PREVENTION**

SECTION 111-103. Definitions.

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

Acceptable entry conditions refer to the conditions that must exist in a permitted space to allow entry and to ensure that employees involved with a permit required confined space entry can safely enter into and work with the space.

Approved means accepted by the director of utilities or his designee as meeting an applicable specification stated or cited in this regulation, or as suitable for the purpose used.

Auxiliary Water Supply means any water supply, on or available, to the premise other than the purveyor's approved public potable water supply.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution piping of the potable water supply.

Backflow Preventer means a device or means designed to prevent backflow or back siphonage. Backflow preventers are most commonly categorized as air gap, reduced pressure zone (RPZ) principal device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bib vacuum breaker, residential dual check valve, double check valve with atmospheric vent, and barometric loop.

- (1) **Air Gap** means a physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system; physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one inch.
- (2) **Atmospheric Vacuum Breaker** means a device which prevents back siphonage by creating an atmospheric vent when there is either a negative pressure or sub atmospheric pressure in a water system.
- (3) **Barometric Loop** means a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against back siphonage.
- (4) **Double Check Valve Assembly** means an assembly of two independently operating spring-loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located cocks for the testing of each check valve.
- (5) **Double Check Valve With Intermediate Atmospheric Vent** means a device having two spring loaded check valves separated by an atmospheric vent chamber.
- (6) **Hose Bib Vacuum Breaker** means a device which is permanently attached to a hose bib and which acts as an atmospheric vacuum breaker.
- (7) **Pressure Vacuum Breaker** means a device containing one or two independently operated spring-loaded check valves and an independently operated spring-loaded air inlet valve located on the discharge side of the check or checks. Such device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves.
- (8) **Reduced Pressure Principle Backflow Preventer** means an assembly consisting of two independently operating approved check valves with automatically operating differential relief valve located between the two check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.
- (9) **Residential Dual Check Valve** means an assembly of two spring-loaded, independently operating check valves without tightly closing shut-off valves and test cocks. Such assembly is generally employed immediately downstream of the water meter to act as a containment device.

Back-pressure means a condition in which the owner's system pressure is greater than the City's system pressure.

Back siphonage means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

City-owned and Operated Backflow Preventer means a backflow preventer that may also be installed by the City on a water service line that is owned and operated by the City. The presence of a City-owned and operated backflow preventer does not excuse a customer from meeting the requirements of the City to install a separate back flow preventer that must be maintained by the customer.

Confined space means a space that:

- (1) Is large enough and so configured that an employee can bodily enter and perform assigned work;
- (2) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults and pits are spaces that may have limited means of entry); and
- (3) Is not designed for continuous employee occupancy.

Containment means a method of backflow prevention which requires a backflow preventer at the at the water service entrance.

Contaminant means a substance that will impair the quality of a water supply to a degree that it creates a serious health hazard to the public leading to poisoning, the spread of disease, or death if ingested.

Cross connection means any actual or potential connection between the public water supply and a source of contamination or pollution. Potential contaminants include but are not limited to industrial fluid; chemicals; gas; sewage; well water; irrigation water; reuse water; lawn chemicals; or other substances.

Customer means the owner, renter, or lessee of residential, commercial, industrial or government facilities receiving water service from the City water system.

Degree of Hazard means the inherent ability of a substance to do harm, cause illness, spread disease, or cause death due to its toxicity, corrosiveness, flammability, or other characteristic, and the potential for that substance to come into contact with persons or the environment. The city determines the degree of hazard posed by a connection to the City water system based on the potential of substances on the customer's premises to contaminate the City's water system due to a backflow situation and affect the health and welfare of its customers.

Department means the City Department of Utilities.

Director means the Director of the City of Cumming Department of Utilities, or a duly authorized representative invested with the authority for the implementation of a cross connection control program and for the enforcement of the provisions of this article.

Fixture Isolation means a method of backflow prevention in which a backflow preventer is located to correct a cross connection at an in-plant location rather than at a water service entrance.

Health Hazard means an actual or potential threat of contamination to the public potable water system that would be a danger to health.

Owner means any person who has legal title to, or license to operate or inhabit a property upon which a cross connection inspection is to be made or upon which a cross connection is present.

Permit means a document issued by the Department which allows the use of a backflow preventer.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

Pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water, which will degrade its quality so as to constitute a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or injurious to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Purveyor means a water supplier.

Service Connection means the point of delivery of water to a premise, normally at the location of the water meter. It is the end of the water purveyor's jurisdiction and the beginning of the customer's responsibility.

SECTION 111-104. Purpose.

The purpose of this article shall be to:

(a) Protect the public from potential hazards that could jeopardize health, safety and welfare.

(b) Protect the public potable water supply provided by the City of Cumming Department of Utilities from the possibility of contamination or pollution by requiring City customers to isolate, within the customers' internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public water system.

(c) Eliminate or control existing and potential cross connections between the City's potable water system and other potable water systems or non-potable systems.

(d) Create and maintain an ongoing cross connection control program by requiring the proper installation and on-going maintenance of appropriate backflow prevention devices.

SECTION 111-105. Authority.

(a) In accordance with the Federal Safe Drinking Water Act of 1974, the statutes of the state, and chapter 391-3-5.13 of the Georgia Rules for Safe Drinking Water, the water purveyor has the primary responsibility for preventing water from unapproved sources or any other substances, from entering the public potable water system.

(b) The City is responsible for inspecting existing buildings for un-protected or improperly protected cross-connections, as well as reviewing and approving plans for new facilities within its service area to ensure compliance with this article.

(c) This article is adopted under the authority of the City Department of Utilities rules and regulations.

SECTION 111-106. General Responsibility.

(a) Thermal Expansion. It shall be the responsibility of the owner of any premise to provide necessary protection against thermal expansion as needed and specified by relevant standards enforced by the city.

(b) Confined space. Customers shall comply with OSHA regulations codified at 29 CFR 1910.146, regarding permit-confined spaces.

SECTION 111-107. Department Responsibility.

(a) The City shall provide an on-site evaluation in order to determine if a backflow preventer or if multiple backflow preventers will be required, and if so, which type.

(b) A plan must be submitted to the City by the customer for all new installations of backflow preventers and the plan must be approved by the City prior to installation by the customer.

(c) All backflow preventers shall be installed according to and meet the requirements of the *Cumming Utilities Water System Technical Standards Manual* and the corresponding Water Standard Details.

(d) The customer shall have all backflow preventers on their premises installed by a licensed plumber who is qualified in the State of Georgia to install backflow prevention devices.

(e) Once the backflow device has been installed and tested, the customer must contact the Department of Utilities for an inspection of the device before it can be placed into operation.

(f) The City will not allow any service connection to remain unless it is protected by an approved backflow preventer which will be tested regularly to ensure satisfactory operation.

(g) The City shall inspect a customer's premise to determine compliance with this Ordinance and will provide written notice of violations and resulting fines to the customer. If a violation is discovered, the City will allow an additional 7 days for the required corrective action to be completed. If the owner fails to complete the required corrective action at the time of the second inspection, the water service to the premises will be terminated. If the owner demonstrates to the City that extenuating circumstances existed which prevented completion of the corrective action(s), a time extension may be granted by the City. However, in no case shall the extension exceed an additional 24 hours.

(h) If the City determines at any time that a serious threat to the public health and safety exists, the water service will be terminated immediately.

(i) The Director of Utilities shall be responsible for administering the city cross connection control program for the city to protect the public potable water distribution system from contamination due to the backflow or back siphonage of contaminants through a water service connection. If, in the judgment of the Director of Utilities, an approved backflow device is required, the director, or his delegated agent, shall give notice in writing to such customer to install an approved backflow prevention device at each service connection. The customer shall, within 90 days, install such approved device, or devices, at his own expense, and failure or refusal, or inability on the part of the customer, to install such device or devices within 90 days shall result in the loss of water service to the premises until such device or devices have been properly installed.

SECTION 111-108. Commercial Customer Responsibility

(a) All new water customers applying for service shall bring their premise into compliance with this ordinance before the City will allow water service to be established.

(b) In general, all commercial customers shall install and maintain an RPZ backflow preventer on each water service line and the RPZ shall be installed prior to the point on the service line where water usage occurs including but not limited to a service line branch that supplies water to an irrigation system. RPZ devices must be installed above grade in a hot box. Steps should be taken to ensure that the device does not freeze during the winter months.

(c) In some cases, where the City determines that the degree of hazard or the potential for the customer to contaminate the public water supply is extremely low, the City may determine that a testable double check valve will suffice as the customer's backflow preventer. In either case, the responsibility for installing, testing, repairing, and reporting requirements lies with the customer.

(d) All commercial irrigation meters must be equipped with a City-approved RPZ backflow device and a rain sensor shut off valve, both of which shall be installed, tested and maintained, and kept in good working condition by the customer and at no cost to the City.

(e) The commercial customer shall be responsible for the elimination of and protection from all internal cross connections on his/her premises. This requirement is for all internal processes that have the potential to cause contamination of the potable water supply inside a building (i.e. to keep chemicals used by the customer from contaminating the customer's drinking water).

(f) The commercial customer shall be responsible for ensuring that all water hoses, hose bibs, and sinks and other devices connected to their internal water system both inside and outside of their facility are equipped with a proper vacuum breaker.

SECTION 111-109. Residential Customer Responsibility

(a) The residential customer shall be responsible for ensuring that all water hoses, hose bibs, and sinks or other devices connected to their water system both inside and outside of their residence are equipped with a proper vacuum breaker.

(b) In most cases, the City will be responsible for the installation and periodic replacement of residential double check type backflow preventers at the meter. In most cases, residential backflow preventers will be installed or replaced by the City simultaneously with the water meter. The City's replaces water meters and backflow preventers typically once every 10 to 15 years.

(c) All residential irrigation meters must be equipped with a City-approved RPZ backflow device and a rain sensor shut off valve, both of which shall be installed, tested and maintained, and kept in good working condition by the customer and at no cost to the City.

SECTION 111-110. Fire Vault and Fire Line Backflow Prevention.

The purpose of this section is to protect the potable water supply line from possible contamination or pollution from a fire system, backpressure from fire line booster pumps, stagnant "black water" that sits in fire lines over extended periods of time, the addition of non-potable water through any outside fire district connections, and the detection of any water use in the fire line due to fire line leakage or deliberate water theft.

(a) All fire lines shall be equipped with an appropriately sized fire line meter and double detector check valve (DDC) assembly on all fire service systems having fire hydrants attached to them. and in accordance with to the *Cumming Utilities Water System Technical Standards Manual and Water Standard Details*.

(b) Effective date; As of the adoption of this section, all persons making application for new *fire* service connections with private *fire* hydrant or hydrants will be required to have a factory mutual *fire* line *meter* installed as a part of the *fire* service system. All fire line DDC assemblies and DDC vault must be maintained by the customer at no expense to the City.

(c) All dedicated fire line meters shall be tested at least once annually by the City. The fire line DDC assembly shall be tested at least once annually by the customer and test results reported to the City on a city-approved form.

(d) Each fire vault must be locked at all times with a square keyed lock and keyed the same as the City's standard locks.

(e) Private fire lines supplying all new commercial buildings shall be required to have full flow meters or double detector checks.

(f) Private fire lines supplying any commercial building that is undergoing a substantial renovation shall be required to have full flow meters or double detector checks.

(g) Metering of private fire lines or dedicated fire service shall be required for the development review process.

SECTION 111-111. Testing, Reporting, and Inspections.

(a) All backflow testing and re-testing shall be performed at no cost to the City. If a customer fails to have a device tested in a timely manner, the city may at its discretion, test the device and charge the customer for the cost of the test plus administrative costs and all needed repairs.

(b) The customer shall have all backflow prevention devices on his/her premises tested by a Georgia-certified backflow tester at least once annually, if not more frequently as

required by the City. The results of such test(s) must be reported in writing to the City within 7 business days of the customer receiving favorable results.

(c) If a backflow prevention device is found to be defective or if the device fails a test, the customer must report the failure to the City within 24 hours of the test and must have the device repaired or replaced immediately. A subsequent test must be conducted by the customer and the test results must be submitted to the City within 48 hours of the initial device failure.

(d) Test results shall be made to the City on a City-approved backflow test report form. All tests and repair records must be kept on-site and made available to City inspectors upon request.

(e) The customer's premises shall be open for inspection at all reasonable times to authorized representatives of the City to determine the existence of cross connection, other structural or sanitary hazards, or violations of this Article.

(f) Records of testing and repairs must be kept on the premises by the customer at all times and made available to the City upon request.

SECTION 111-112. Enforcement and Penalties.

(a) A written notice of noncompliance will be given, including a recommendation that will bring the customer into compliance within a specific time period. The time period will be determined based on the degree of hazard.

(b) Failure of compliance at the expiration of the specified time period may be subject to:

- (1) Assessment of a fine not to exceed \$1,000.00 per day per offense and/or termination of water, sewer, and garbage service;
- (2) Issuance of a citation and summons to appear in court for each violation; and/or
- (3) Termination of water, sewer, and garbage service until compliance has been achieved and all fines have been satisfied.

SECTIONS 111-113—111-127. Reserved.

ARTICLE V. SEWER USE

SECTION 111-128. Definitions.

(a) Abbreviations. The following abbreviations, when used in this article, shall have the following designated meanings:

Al₂(SO₄)₃ -----	Aluminum Sulfate
AWRF -----	Advanced Water Reclamation Facility
BAT -----	Best Available Technology
BMR -----	Baseline Monitoring Report
BOD₅ -----	Biochemical Oxygen Demand (five day)
BPT -----	Best Practicable Technology
CBI -----	Compliance Bio-monitoring Inspection
CERCLA -----	Comprehensive Environmental Response, Compensation, and Liabilities Act of 1980
CFR -----	Code of Federal Regulation
Cl₂ -----	Chlorine
COD -----	Chemical Oxygen Demand
CSI -----	Compliance Sampling Inspection
DNR -----	Department of Natural Resources of the State of Georgia
DMR -----	Discharge Monitoring Report
D.O. -----	Dissolved Oxygen
EPA -----	United States Environmental Protection Agency
EPCRA -----	Emergency Planning and Community Right-To- Know Act of 1986
EPD -----	Environmental Protection Division of the Dept. of Natural Resources of the State of Georgia
ERP -----	Enforcement Response Plan
FeCl₃ -----	Ferric Chloride
Fe₂(SO₄)₃ -----	Ferric Sulfate
F/M Ratio -----	Food to Microorganism Ratio for the City's WPCP
FOG -----	Fats, Oils, and Grease (and Wax)
GA129 -----	Georgia 129 Priority Pollutants
GAIWQS -----	Georgia In-stream Water Quality Standards
gpd -----	gallons per day
gpm -----	gallons per minute
H₂S -----	Hydrogen Sulfide
H.M. # -----	Hach Method number for certain laboratory procedures (see Hach Water Analysis Handbook)
IPP -----	Industrial Pretreatment Program
IU -----	Industrial User
MGD -----	Million Gallons per Day
MPN -----	Most Probable No. of coliform group organisms
mg/L -----	milligrams per Liter
MSDS -----	Material Data Safety Sheet

NH₃ -----	Ammonia (as N)
NO₃ -----	Nitrate
NPDES -----	National Pollutant Discharge Elimination System
NRDC -----	National Resource Defense Council
NSPS -----	New Source Performance Standards
O&M Manual -----	Operations and Maintenance Manual
OMR -----	Operations Monitoring Report
PO₄ -----	Phosphorous (as P)
POTW -----	Public Owned Treatment Works
ppm -----	parts per million (same as mg/L)
ppb -----	parts per billion (same as µg per liter)
PSES -----	Pretreatment Standards for Existing Sources
PSNS -----	Pretreatment Standards for New Sources
RCRA -----	Resource Conservation and Recovery Act
SARA -----	Superfund Amendment Reauthorization Act
SCADA -----	Supervisory Control And Data Acquisition system
SIC -----	Standard Industrial Classification
SIU -----	Significant Industrial User
S.M.# -----	Standard Methods number for certain laboratory procedures (see Standard methods for the Examination of Water and Waste Water)
TKN -----	Total Kjeldahl Nitrogen
TOMP -----	Toxic Organic Management Plan
TSCA -----	Toxic Substance Control Act
TSS -----	Total Suspended Solids
TTO -----	Total Toxic Organics
µg/L -----	micrograms per liter (same as parts per billion)
U.S.C. -----	United States Code
WPCP -----	Water Pollution Control Plant (Waste Water Treatment Plant), (Advanced Water Reclamation Facility)
WWTP -----	Waste Water Treatment Plant (Water Pollution Control Plant), (Advanced Water Reclamation Facility)

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Aluminum Sulfate (Alum) means an aluminum salt that is used as a coagulant in water treatment. Also used to remove phosphorous in wastewater treatment. Al₂(SO₄)₃•14H₂O

Ammonia (NH₃) means a colorless gaseous alkaline compound of nitrogen and hydrogen that is very soluble in water.

Authorized Representative of the User

- (1) If the user is a corporation the term “authorized representative of the user” means:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authorized to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship, the term “authorized representative of the user” means a general partner or proprietor, respectively.
- (3) If the user is a Federal, State, or local government facility, the term “authorized representative of the user” means a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs (1) through (3) above, may designate another authorized representative if:
 - a. the authorization is in writing,
 - b. the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company; and
 - c. the written authorization is submitted to the City.

Biochemical Oxygen Demand (BOD₅) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at twenty (20) degrees Celsius, expressed in milligrams per liter.

Building Drain means the part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

Building Sewer means the extension from the building drain to the public sewer or other place of disposal.

Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollution discharge limits promulgated by EPA in accordance with sections 307 (b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N. Parts 405-471.

Chemical Oxygen Demand (COD) means a measure of the oxygen consuming capacity of inorganic and organic matter present in water and wastewater. It is expressed as the amount of oxygen in milligrams per liter by weight consumed from a chemical oxidant in a specific test.

Chlorine means a chemical used to disinfect water and wastewater. Cl₂ in gaseous form, chlorine dioxide, sodium hypochlorite (bleach), or calcium hypochlorite (HTH).

City means the governmental body having jurisdiction over the maintenance and operations of the sewer system within the City of Cumming Water and Sewer Service Area which includes those areas within the corporate city limits of Cumming, Georgia, and adjacent areas within unincorporated Forsyth County, Georgia.

Code of Federal Regulations (CFRs) means those environmental regulations compiled by the federal government and found in 40 CFR.

Combined Sewer means a sewer receiving both surface runoff and sewage.

Composite Sample means the accumulation of a number of individual samples over a period of time, so taken as to represent the nature of the wastewater.

Control Authority means the City of Cumming and/or the City's POTW, which issues, oversees, and enforces industrial pretreatment permits within its service area and any industrial flows received by the AWRP.

Council means the city council, which has jurisdiction over the maintenance and operations of the sewer system within the City of Cumming Water and Sewer Service Area which includes those areas within the corporate city limits of Cumming, Georgia, and adjacent areas within unincorporated Forsyth County, Georgia

Customer means every person who is responsible for contracting (expressly or implicitly) with the City of Cumming in obtaining, having, or using sewer connections with, or sewer tap to, the sewer system of the City of Cumming and in obtaining, having, or using water and other related services furnished by the City of Cumming for the purpose of disposing of wastewater and sewage through said system. Said term shall include the occupants of each unit of a multiple-family dwelling unit building as a separate and distinct customer.

Department of Natural Resources (DNR) means the department of State government that is responsible for environmental protection and executes this responsibility through the Environmental Protection Division (EPD).

Director of Utilities (Director) means the Director of the Department of Utilities of the City of Cumming, Georgia or his representative.

Director means the Director of the City of Cumming Department of Utilities, or a duly authorized representative.

Discharge means the introduction of pollutants into the City's sewerage system from any non-domestic source regulated under Section 307 of the Clean Water Act (the Federal Water Pollution Control Act).

Dissolved Oxygen (DO) means the molecular (atmospheric) oxygen dissolved in water or wastewater.

Easement means an acquired legal right for the specific use of land owned by others. Generally, permanent water and sewer easements are 20-ft wide and temporary easements are 40-ft wide.

Environmental Protection Agency (USEPA) means the federal agency responsible for protecting the environment of the United States of America.

Environmental Protection Division (Georgia EPD) means the division of the Department of Natural Resources of the State of Georgia that is responsible for the protection of the State of Georgia's environment.

Existing Source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Fats, Oils and Grease (FOG) and Wax means fats, oils, grease, or wax, whether emulsified or not and substances which may solidify or become viscous at temperatures between 32°- and 150°-degrees F (0° - 65° degrees C). FOG also includes any fats, oil and grease, whether petroleum-based, mineral-oil-based, animal-based or vegetable based.

Ferric Chloride means an iron salt that is used as a coagulant in water and wastewater treatment. $\text{Fe}(\text{Cl})_3$

Ferric Sulfate means an iron salt that is used as a coagulant in water and wastewater treatment. $\text{Fe}_2(\text{SO}_4)_3$

Floatable Oil means oil, fat, or grease in a physical state such that it will separate from wastewater by treatment in an American Petroleum Institute (API) type of oil/water gravity separator. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

Flush Toilet means the common sanitary flush commode in general use for the disposal of human excrement.

Food Service Establishment means any restaurant, eatery, food caterer, cafeteria, or other institution processing and serving food such as motels, hotels, prisons, or schools.

Food to Microorganism Ratio means a measure of food provided to bacteria in an aeration tank $F/M = [(Biochemical\ Oxygen\ Demand\ in\ lb/day) \div (Mixed\ Liquor\ Volatile\ Suspended\ Solids\ in\ lbs)]$

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, serving, and sale of food or produce.

Georgia 129 Priority Pollutants (GA129) means the list of 129 pollutants made up of volatiles, acids, base/neutrals, pesticides, metals, and others that are of concern to the State of Georgia in regard to the environment.

Georgia In-stream Water Quality Standards (GAIWQS) means a listing of pollutants that may be present in waterways for which the State of Georgia has set concentration limitations.

Grab Sample means a sample which is taken from a waste stream without regard to the flow in the waste stream.

Grease and Oil means the group of substances with similar physical characteristics, which include fatty acids, soaps, fats, oils and any other material that can be solvent extracted and is not volatilized during evaporation of the solvent.

Grease Trap or Grease Interceptor means a device primarily used in the food services industry for removal of oils, greases, and food solids from a process waste stream. In addition, the City may require a grease/oil/sand interceptor for other dischargers such as car washes.

Hach Water Analysis Handbook means a water and wastewater laboratory analysis handbook that is published by the Hach Company, Loveland Colorado. Many of the specialized Hach analytical methods for the examination of water and wastewater are approved by the EPA. Hach Methods are designated by a Hach method Number (H.M.#).

Health Officer means the director of the Forsyth County Board of Health or other person designated by the Forsyth County Board of Commissioners and their duly appointed assistants.

Hydrogen Sulfide H₂S means a corrosive, explosive, flammable and colorless gas that is formed in anaerobic or septic wastewater and that occurs to some degree in all sewer systems. This gas smells like rotten eggs and is very poisonous to the human respiratory system.

Industrial User means any source or non-domestic customer of the water and sewer department who produces industrial waste and discharges into the Water Pollution Control Facilities.

Industrial Wastewater means wastewater in which the solid, liquid, and gaseous wastes from process of industry, manufacture, trade, or business, or from the development or recovery of any natural resource (as distinct from domestic or sanitary wastes) is found.

Infiltration/Inflow means groundwater and surface water which leaks into the sewers through cracked pipes, joints, manholes, or other openings.

Interference means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes, operations, or its sludge processes, use, or disposal; and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder, or any more stringent State or local regulations; Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act, (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

Mass Emissions Rate means the weight of material discharged to the POTW during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.

Material Safety Data Sheets (MSDS) means a document which provides the pertinent chemical makeup and characteristics of a substance or mixture. These documents are required to be made available to personnel that may come into contact with them.

Maximum Acceptable Concentration means the maximum pollutant concentration(s) that is accepted under Federal and State Regulations for discharge, independent of the flow rate and the duration of the sampling event.

Maximum Allowable Concentration means the maximum pollutant concentration(s) above typical domestic wastewater concentrations and characteristics allowed to be discharged at any time.

May is permissive (see "shall").

Medical Waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, cultures and dialysis wastes.

Micrograms per Liter ($\mu\text{g/L}$) means a measurement of concentration (same as parts per billion - ppb)

Milligrams per Liter (mg/L) means a measurement of concentration (same as parts per million - ppm)

Million Gallons per Day (MGD) means the quantity of gallons of water used or wastewater treated divided by 1,000,000 (e.g. 75,000 gallons per day ÷ 1,000,000 = 0.75 MGD).

National Categorical Pretreatment Standards means any National Pretreatment Standard specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a water pollution control facility by existing or new industrial users in specific industrial subcategories.

National Pollutant Discharge Elimination Systems Permit (NPDES Permit) means the National Pollution Discharge Elimination System permit issued to the City authorizing the discharge of Advanced Water Reclamation Facility effluent to the waters of the State.

Natural outlet means any outlet including storm sewers and combined sewer overflows, into a water-course, pond, ditch, lake, or other body of surface water or groundwater.

New source

- (1) The term “new source” means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307 (c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting criteria of Subsection (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- a. Begun, or caused to begin as part of a continuous on-site construction program
 1. Any placement, assembly, or installation of facilities or equipment, or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for placement, assembly, or installation of new source facilities or equipment.
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Nitrates (NO₃) means a pollutant that is found in water and is a derivative of nitrogen ammonia. This pollutant is harmful to humans and especially to infants. In infants this pollutant can cause methemoglobinemia or "blue baby syndrome"

Normal Strength Discharge or Normal Wastewater means wastewater discharged into the sanitary sewer system which has a Biochemical Oxygen Demand (BOD) concentration less than or equal to 200 mg/L, an average concentration of Total Suspended Solids (TSS) of not more than 220 mg/L, a Chemical Oxygen Demand (COD) of not more than 500 mg/L, Total Phosphorus not more than 8 mg/L, and Total Kjeldahl Nitrogen (TKN) of not more than 40 mg/L.

Parts Per Billion (ppb) means a measurement of concentration (same as micrograms per Liter - µg/L). Since a liter of water weighs essentially 1,000,000,000 micrograms, a concentration of 1 µg/L is equal to one part per billion.

Parts Per Million (ppm) means a measurement of concentration (same as milligrams per Liter - mg/L). Since a liter of water weighs essentially 1,000,000 milligrams, a concentration of 1 mg/L is equal to one part per million.

Pass Through means the discharge from an industrial pretreatment facility which exits the City POTW and enters the waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in Standard Units (S.U.).

Phosphorus (PO₄) means total phosphorus expressed in terms of milligrams per liter.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, TKN, Phosphorous, Oil and Grease, Toxicity, odor, etc.).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of the pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment Requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment Standard means prohibited discharge standards, categorical pretreatment standards, and local limits.

Privy or Pit means a shored, vertical pit in the earth completely covered with a fly-tight slab on which is securely located a fly-tight riser covered with hinged fly-tight seat and lid.

Properly Shredded Garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Public Sewer means a sewer in which all owners of abutting properties have equal rights, and which is controlled by a public authority.

Public Owned Treatment Works, POTW or Sewage Works means a "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Sanitary Sewer means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not intentionally admitted.

Septic Tank means a subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes together with:

- (1) A sewer line constructed with solid pipe, with the joints sealed, connecting the impervious tank with a plumbing stub out: and
- (2) A subsurface system of trenches, piping, and other materials constructed to drain the clarified discharge from the tank and distribute it underground to be absorbed or filtered.

Severe Property Damage means substantial physical damage to property, damage to the treatment facilities which causes them to be inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwater, surface water, and stormwater as may be inadvertently present.

Sewer means a pipe or conduit for carrying wastewater.

Shall is mandatory (see also "may").

Significant Industrial User (SIU) means:

- (1) Except as provided in paragraph (2) of this section, below:
 - a. All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR Chapter I, Subchapter N;
 - b. Any Industrial User that discharges an average of 25, 000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blow-down wastewater). Any Industrial User that contributes a process waste-stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant. Any Industrial User that is designated as such by the City on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
- (2) Upon finding that an Industrial User meeting the criteria in paragraph (1)(b) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Significant Non-Compliance (SNC) means a violation by an industrial user which meets one (1) or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits defined here as those in which sixty-six (66) percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the City determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public)
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(b) of 40 CFR 403.8 to halt or prevent such a discharge
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism, in a permit or enforcement order for starting construction, completing construction, or attaining final compliance
- (6) Failure to provide within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules
- (7) Failure to accurately report noncompliance
- (8) Any other violation or group of violations that the Control Authority determines will adversely affect the operation or implementation of the City's Industrial Pretreatment Program.

Slug means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen minutes more than five times the average twenty-four hour concentration of flows during normal operation and which may, in the opinion of the Director, adversely affect the collection system and/or performance of the wastewater facilities.

Storm Drain or Storm Sewer means a sewer which carries storm and surface waters and drainage, but excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.

Surcharge means a fee associated with discharges in excess of established Maximum Allowable Concentrations to the POTW. The fee is calculated by the pounds of pollutant discharged to the POTW. Any sample found to be in excess of permit limits or Maximum Allowable Concentrations, may be assessed a fine in addition to being surcharged.

Suspended Solids means total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtration as approved by EPA and referred to as nonfilterable residue.

Total Kjeldahl Nitrogen (TKN) means the total nitrogen as measured by the Kjeldahl technique, expressed in milligrams per liter by weight.

Total Toxic Organics (TTO) means the list of regulated organic chemicals as specified by the USEPA

Toxic means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPD under the provision of the Clean Water Act, Section 307 (a) or other Acts.

Typical Domestic Wastewater means those characteristics of the sewerage as established by local historical sewer data and industry standards as published by State and Federal Agencies.

Unpolluted Water means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and Advanced Water Reclamation Facility.

User or Industrial User means a source of indirect discharge.

Waste Hauler means any individual, association, partnership, corporation, municipality, state, federal agency, or any agent or employee thereof that transports waste by vehicle.

Wastewater means liquid and water carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Treatment Plant (WWTP) means any arrangement of devices and structures used for treating sewage (see also "Water Pollution Control Facility" or "Advanced Water Reclamation Facility").

Water Pollution Control Facility (WPCF) means any arrangement of devices and structures used for treating sewage (see also "Wastewater Treatment Facility" or "Advanced Water Reclamation Facility").

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently.

SECTION 111-129. Purpose and Policy.

This article sets forth uniform requirements for users of the sewage works for the City of Cumming and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code 1251 et. seq.) and the General Pretreatment Regulations (40 Code of Regulations Part 403). The objectives of this ordinance are:

- (1) To prevent the introduction of pollutants into the sewage works that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the sewage works that will pass through the sewage works inadequately treated into receiving waters or otherwise be incompatible with the sewage works;
- (3) To protect sewage works personnel who may be affected by wastewater in the course of their employment and the general public;
- (4) To promote reuse and recycling of industrial wastewater and biosolids from the sewage works;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the sewage works; and
- (6) To enable the City of Cumming to comply with its National Pollution Discharge Elimination System Permit conditions, biosolids use and disposal requirements, and any other applicable Federal or State laws.

This ordinance shall apply to all users of the City of Cumming Sanitary Sewer System. The ordinance authorizes the issuance of wastewater discharge permits, provides for monitoring, compliance, and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

SECTION 111-130. Administration.

Except as otherwise provided herein, the Director of the Department of Utilities shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the Director of Utilities may be delegated to other City personnel.

SECTION 111-131. Use of Public Sewers Required.

(a) All premises shall be provided, by the owner thereof, with at least one (1) toilet. All toilets shall be kept clean and in a sanitary working condition.

(b) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within any area under the jurisdiction of the City of Cumming any human or animal excrement, garbage, or other objectionable wastes. No person shall dispose of human waste except in an approved toilet.

(c) It shall be unlawful to discharge to any natural outlet within the City of Cumming, or in any area under the jurisdiction of the City of Cumming, any wastewater or other polluted waters, including septic tank effluent or cesspool overflow to any open drain or well-penetrating, water-bearing formation, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

(d) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(e) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City of Cumming's jurisdiction and abutting on any street, alley, or right-of-way, in which there is now located or may in the future be located a public sanitary sewer of the City of Cumming, is hereby required at the owner(s) expense to install suitable toilet facilities herein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within thirty (30) days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

(f) All sinks, dishwashing machines, lavatories, basins, shower baths, bathtubs, laundry tubs, washing machines, and similar plumbing fixtures or appliances shall be connected to the public sewer as may be permitted under this Ordinance; provided, that where no sewer is available, septic tanks or other private subsurface disposal facilities approved by the health officer may be used.

SECTION 111-132. Private Wastewater Disposal.

The following septic tank regulations for private sewer disposal shall apply:

- (1) All new construction commenced after the date of this Ordinance, shall be connected to the Public Sewer when it is deemed available by the Mayor and Council. Subject to sewer availability, no on-site system (septic tank system) shall be permitted for new construction. Existing homes and other existing facilities served by septic tank systems at the date of this Ordinance, may remain being serviced by septic tank as long as it is not causing a public health problem as determined either by the City or the Forsyth County Health Department.
- (2) Any premises that has a septic tank, privy, or any other sewage, industrial waste, or liquid waste disposal system, located thereon that does not function in a sanitary manner, as determined by the City or the Forsyth County Health Department, shall be corrected within thirty (30) days from the receipt of written notification from the City or the Forsyth County Health Department. The City or the Forsyth County Health Department may, at its discretion, require said facility to be connected to the Public Sewer, in which case, the connection shall be made within thirty (30) days after receiving such notice. The septic tank must then be cleaned and filled with a suitable material at the owner's expense.
- (3) All private wastewater disposal systems shall be permitted by the Forsyth County Public Health Department.
- (4) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.

- (5) Discharge of septic tanks in sewer system is regulated as follows.
- a. *Restricted.* It shall be unlawful to empty, dump, throw or otherwise discharge into any manhole, catch basin or other opening into the city sewerage system, or any system connected with and discharging into the sewerage system, the contents of any septic tank, sludge, sewage, or other similar matter or material, except as provided in subsection b.
 - b. *Permits.* The Director is authorized to grant permits to discharge the contents of septic tanks at locations specified by the Director and under his supervision. Septic tank pumpage will not be accepted from areas outside the boundaries of the City of Cumming Water and Sewer Service Area. Such permits may be revoked at any time if, in the opinion of the Director, continued dumping of such matter into the sewers will be injurious to the sewer system or treatment process.
 - c. *Charges.* A charge shall be made for the privilege of dumping the contents of septic tanks into the City's POTW and the total amount is due at the time of discharge.
- (6) Premises with private water systems shall not be connected with the public sewerage system. The purchase of a City water meter and connection to the City's water system sewer system is requisite to connection to the City's sewer system.
- (7) Those developers who wish to connect their development to a private wastewater treatment facility shall not be permitted to connect onto the City of Cumming Water System.
- (8) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer.
- (9) All proposed developments shall comply with the City of Cumming Wastewater Service Policy.
- (10) Grease Interceptor Regulations for private sewage disposal systems- *see section 111-134(f)*

SECTION 111-133. Building Sewers and Connection.

- (a) There shall be two classes of building sewer permits: one for residential service and another for commercial and industrial service. For both classes, the owner or his agent shall make permit application for sewer service and as supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director. Sewer capacity fees shall be as specified in the City of Cumming Utility Rate and Fee Schedule and shall be paid at the time the application is filed. In addition to such building sewer permits, all significant industrial users shall obtain a wastewater discharge permit in accordance with the Utilities Ordinances and as applicable under the Industrial Pretreatment Program.

(b) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City of Cumming.

(c) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City of Cumming from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building may be extended to the rear building and the whole considered as one building sewer, but the City of Cumming does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(e) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director, to meet all requirements of this ordinance and the *Sanitary Sewer and Pump Station Technical Standards Manual* and Sanitary Sewer Standard Details.

(f) The size, slope, alignment, materials of construction for building sewers, and the methods to be used in construction shall all conform to the requirements of the latest building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and the latest edition of the **Gravity Sanitary Sewer Design and Construction Manual of Practice as published by the American Society of Civil Engineers** shall apply.

- (1) The size and slope of the building sewer lateral(s) shall not be less than 4 inches in diameter and sized according to projected quantity of flow, and subject to the approval of the Director.
- (2) The depth shall be below the frost line and sufficient to afford protection from freezing, and the building sewer shall be laid at uniform grade and with straight alignment. Changes in direction shall be made only by fittings and percent of deflection allowed for the pipe material used, and clean outs provided. Building sewers shall not be placed in the same trench with water service lines.
- (3) An excavation required for the installation of a building sewer shall be open trench work unless otherwise approved by the Director. Pipe laying and backfill shall be performed in accordance with the City's Sanitary Sewer Standard Details. No backfill shall be placed until the work has been inspected and approved.

(g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall which might thereby be weakened. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(h) No person shall make connection of roof down spouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved for purposes of disposal of polluted surface drainage.

(i) The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Director or his representative.

(j) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City of Cumming.

(k) The City of Cumming will define the availability of sewers and any costs associated with sewer permits or construction.

(l) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City of Cumming or the procedures set forth in appropriate specifications of the ASTM and the **Design and Construction of Sanitary and Storm Sewers: WPCF Manual of Practice No. 9, latest edition.**

All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Director before installation.

(m) All Pump Stations in or contributing to the City's sewer system must comply with the requirements of the most current edition of the Sanitary Sewer and Pump Station Technical Standards Manual and Sanitary Sewer Standard Details.

(n) If any house sewer permits the entrance of infiltration or inflow, the City of Cumming may:

- (1) Require the owner to repair the house sewer.
- (2) Charge the owner a sewer rate that reflects the costs of the additional expense of wastewater treatment from the owner's property.
- (3) Require the owner to disconnect his sewer from the City of Cumming sewer system.

SECTION 111-134. Restricted Use of the Public Sewers.

(a) ***Discharge of Unpolluted Waters.*** No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Director. The discharge of cooling or condensing water will be allowed into a storm sewer system provided an NPDES permit by the Georgia Environmental Protection Division is obtained from the Georgia Environmental Protection Division.

(b) ***Discharge of Sanitary Wastewater.*** No person shall discharge or cause to be discharged any sanitary wastewater into a storm sewer system. All sanitary sewage and industrial process wastewaters shall be properly pretreated, if deemed necessary by the Director, and discharged to an approved sanitary sewer system.

(c) ***Prohibited Discharges.*** No person shall introduce or cause to be introduced into the sewage works any of the following described waters, wastes, pollutants, substances, or wastewaters if it appears likely, in the opinion of the Director, that such wastes can harm the sewers, wastewater treatment process, or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb, or public property or constitute a nuisance.

(1) Any pollutant or wastewater which causes pass through the POTW or interference with the operation of the POTW. These general prohibitions apply to all users of the sewage works whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

(2) Any pollutants which create a fire or explosive hazard in the sewage works, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using test methods specified in 40 CFR 261.21.

(3) Any pollutants, including oxygen-demanding pollutants such as BOD₅ released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the sewage works.

(4) Any water or wastes having a pH lower than 5.5 or more than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

(5) Any solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or resulting in interference; but in no case solids greater than one half inch (1.27 centimeters) in any dimension.

(6) Any wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

- (7) Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through; but in no case wastewater that contains 25 mg/L or more of the above-mentioned oils or products.
- (8) Any pollutants which result in the presence of toxic gases, vapors, or fumes within the sewage works in a quantity that may cause acute worker health and safety problems;
- (9) Any septage, chemical toilet contents, industrial sludges or similar matter or materials, unless specifically authorized by the Director through issuance of a permit pursuant to this Article.
- (10) Any medical wastes, except as specifically authorized by the Director in a wastewater discharge permit.
- (11) Any substance that will cause the City's wastewater facilities to violate its NPDES permit or cause a violation of the water quality standards of the receiving waters.
- (12) Any quantities of flow, concentrations, or both which constitute a "slug"
- (13) Any noxious or malodorous liquids, gases, solids, or other wastewater which either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
- (14) Any water or waste containing fats, wax, grease, or oils, (FOG) whether emulsified or not in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between 32- and 150-degrees F (0 - 65 degrees C).
- (15) Any garbage that has not been properly shredded. The installation and operation of a garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the Director.
- (16) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.
- (17) Any waters or wastes containing iron, other objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the Advanced Water Reclamation Facility impacts the treatment works.
- (18) Any waters or wastes containing phenols or other taste or odor-producing substances in concentrations which exceed limits that may be established by the Director to protect the treatment works, protect the quality of sludge produced and/or meet the requirements of State, Federal, or other public agencies or jurisdictions for such discharge to the receiving waters.

(19) Any radioactive waste or isotopes of such half-life concentration as may exceed limits established by the Director in compliance with applicable State or Federal Regulations.

(20) Any unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, any textile fibers, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate.)

(21) Any wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, that consequently imparts color to the treatment plant's effluent.

(22) Any waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such a degree that the Advanced Water Reclamation Facility effluent cannot meet the requirements of the City's NPDES Permit.

(23) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.

(24) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a Whole Effluent Toxicity Test or Georgia 129 Priority Pollutant Scan.

(25) Any detergents, surface-active agents, or other substances which may cause excessive foaming in the sewage works.

(26) Any stormwater, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Director.

(27) Any pollutants, substances, or wastewater prohibited by sections of this ordinance shall not be processed or stored in such a manner that they could be accidentally discharged to the sewage works.

(d) ***National Categorical Pretreatment Standards/Local Limits.*** The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6 (c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6 (e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that

factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with CFR 403.15.

(5) Upon the promulgation of a national categorical pretreatment standard for a particular pretreatment standard for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The Director shall notify all affected significant industrial users of the applicable reporting requirements under 40 CFR 403.12.

(e) **Local Limits.** The following Table lists the local limits as derived by the City of Cumming. These limits were based on the maximum head works loading acceptable to protect the receiving stream, activated sludge process, nitrification and denitrification processes, NPDES permit requirements, and “clean sludge” requirements of 40 CFR Part 503. User discharge concentrations apply at the point where the industrial waste is discharged to the City’s publicly owned treatment works and sewage system. Sewer users discharging non-domestic wastewater to the POTW shall control their discharges and meet limits established by EPA, the State of Georgia and the local municipality (Control Authority) on the amount of pollutants allowed to be discharged. Control of the pollutants may necessitate treatment prior to discharge to the POTW (pretreated) and may require an industrial pretreatment permit.

No person shall discharge wastewater containing in excess of the following maximum acceptable discharge local limits:

(1) Maximum Discharge Local Limits: Maximum acceptable daily concentrations (mg/L, 24-hour composite) are as follows:

Parameter	¹ Maximum Local Limit (mg/L)
BOD ₅	500
COD (Chemical Oxygen Demand)	1500
TKN (Total Kjeldahl Nitrogen)	100
P (Total Phosphorous)	8.0
TSS (Total Suspended Solids)	500
FOG (Fats, Oils & Grease)	100
Ammonia (as Nitrogen)	20

Chloride	1200
Arsenic	0.090
Cadmium	0.008
Chromium (total)	1.446
Copper	0.109
Cyanide	0.082
Iodine	67
Lead	0.116
Mercury	0.002
Molybdenum	0.618
Nickel	0.061
Selenium	0.075
Silver	1.547
Zinc	0.212

¹As reflected in state and local permits. Some parameters' allowable levels less than these limits may incur a surcharge fee

The concentration limitations listed in the local limits above were developed from the EPA uniform concentration method and based on a specific mass balance limitation for each pollutant. This method dictates that all industries be granted the same allocation for each pollutant regardless of the level of pollutants in each industry's discharge. The City may impose limitations in addition to, or in place of, the concentration limitations above. The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the sewage works. In addition, the City may enter into special agreements with industrial dischargers whereby the City allows higher discharge concentrations of the above described local limits as long as the maximum headworks loading to the POTW for any pollutant is not exceeded.

(2) **Maximum Allowable Wastewater Concentrations, Surcharge Ranges for Conventional Pollutants, and Maximum Acceptable Concentrations (Local Limits).** The following table lists concentrations for domestic wastewater, parameters and associated concentrations accepted at the City's wastewater publicly owned treatment works (POTW). Any sewer system User sending flows to the POTW that exceed the maximum

allowable concentrations may be surcharged according to the following ranges. The associated surcharge tier fees shall be as described in the Utilities Rate and Fee Schedule as published and amended periodically by the Mayor and Council of the City of Cumming under section 12-111.

Parameter	¹ Maximum allowable concentration (mg/L)	Surcharge Tier 1 (mg/L)	Surcharge Tier 2 (mg/L)	Surcharge Tier 3 (mg/L)	Maximum acceptable concentration (mg/L)
BOD ₅ (Biochemical Oxygen Demand)	200	201-300	301-400	401-500	500
COD (Chemical Oxygen Demand)	500	501-800	801-1100	1101-1500	1500
TKN (Total Kjeldahl Nitrogen)	40	41-60	61-80	81-100	100
P (Total Phosphorous)	4.0	4.1-5.0	5.1-7.0	7.1-8.0	8.0
TSS (Total Suspended Solids)	220	221-300	301-400	401-500	500
FOG (Fats, Oils & Grease)	50	51-65	66-80	81-100	100
Ammonia (as Nitrogen)	15.0	15.1-17.0	17.1-19.0	19.1-20.0	20.0
Chloride	100	101-600	601-999	1000-1200	1200

¹Allowable concentrations derived from published data for typical composition of domestic wastewater (Metcalf and Eddy, Inc., 1991 Wastewater engineering, 3rd ed. - New York: McGraw-Hill) and historical AWRP flow characteristics

(3) More Stringent Standards or Requirements Established by the City.

The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the sewage works for the above-mentioned parameters or any other pollutant discharged by a user.

(4) Authority of Director. If any waters or wastes are discharged or are proposed to be discharged to the public sewer and contain the substances or possess the characteristics enumerated above and, in the judgment of the Director, have the potential to have a deleterious effect upon the sewage works, processes, equipment, sludge, or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Director may:

- a. Reject the wastes.
- b. Require pretreatment to an acceptable condition for discharge to the public sewers.
- c. Require control over the quantities and rates of discharge.
- d. Designate that certain wastewater be discharged only into specific sewers.
- e. Require industrial users to relocate and/or consolidate points of discharge.

- f. Require industrial users to separate sewage waste streams from industrial waste streams.
- g. Require any person discharging into the sewage works to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- h. Require surcharge payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this document and such other conditions as may be necessary to protect the sewage works and determine the industrial user's compliance with the requirements of this ordinance.

If the Director permits the pretreatment or equalization of waste flows, the design and installation of the facilities and equipment shall be subject to review and approval by same and shall be subject to the requirements of all applicable codes, ordinances, and laws.

(f) Grease Interceptor (Grease Trap) Regulations

(1) **Grease Interceptor Required:** All food service establishments discharging to the City's sewerage system (or to a private septic system when deemed necessary by the City) shall install, operate, and maintain a sufficiently sized grease and oil, water and solids separator (hereinafter called a grease interceptor) in order to achieve and maintain compliance with requirements set forth in this Ordinance. All interceptors shall be of a type and capacity approved by the Director and shall be so located as to be readily and easily accessible for cleaning and inspection.

(2) **Sizing:** All grease interceptors required in this section shall be sized according to the following formulas. No single grease interceptor shall be smaller than 1000 gallons or larger than 3000 gallons. In certain cases, multiple grease interceptors may be utilized. More detailed design considerations are contained in the City's Grease Interceptor Design Manual.

- a. **Formula for Restaurants:** $(S) \times (GS) \times (HR/12) \times (LF) = \text{Grease Interceptor Capacity, in gallons}$ where: S = Numbers of seats in dining area, GS = Gallons of wastewater per seat (use 15 gallons per seat); HR = Numbers of hours open; LF = Loading Factor = 2.0 for Interstate freeways, 1.5 for other freeways, 1.25 for recreational areas, 1.0 for other highways.
- b. **Formula for Hospitals, Schools, Nursing Homes, Other Types of Commercial Kitchens with Varied Seating Capacities:** $(M) \times (GM) \times (SC) \times (LF) = \text{Grease Interceptor Capacity, in gallons}$ where M = Meals per day; GM, Gallons of Wastewater per meal (Use 5 gallons per meal); LF = Loading factor – 1.0 with dishwashing or 0.5 without dishwashing; SC = storage capacity factor – 1.0 for Public sewer, 2.5 for on-site septic disposal

(3) **Maintenance:** All grease interceptors shall be maintained by the user at the user's expense to be in continuously efficient operation. Maintenance shall include the complete removal of all contents, including floating materials, wastewater, sludges, and

solids. Decanting or back-flushing of the grease interceptor of its contents for the purpose of reducing the volume to be hauled is prohibited. Practices such as “blow-and-go”, “pump-and-dump”, skimming, recycling, or other similar practices are also prohibited. Each food service establishment must have a maintenance contract with a private grease interceptor maintenance company, if required by the Director.

(4) **Frequency of Maintenance:** All grease interceptors must be pumped out completely once every ninety (90) days. The Director may, in writing, increase pumping frequency on a case-by-case basis based on actual observance. The Director may issue a variance to the ninety (90) day maintenance requirement and allow up to 365 days for certain low-volume grease producing establishments. In general, the establishments that qualify for a variance are limited to Daycare Centers, Sandwich Shops, Coffee Chops, Churches, and Ice Cream Shops.

(5) **Additives:** The use of any additive, such as enzymes, chemicals, or bacteria, prior to or in any grease interceptor is prohibited.

(6) **Legal Disposal:** The user shall be responsible for the proper removal and legal disposal of the grease interceptor waste. All waste removed from each grease interceptor must be disposed of at a facility permitted by the Georgia Environmental Protection Division to receive such waste. In no manner shall any grease interceptor waste be discharged to the City’s sewerage system, AWRP, or in a manner that would endanger the waters of the State of Georgia.

(7) **Manifests:** The user shall be responsible for maintaining records (manifests) detailing the dates of service and quantity of waste removed. The manifest shall include the waste hauler company name, address, and telephone number and the driver’s name. The manifest shall include the ultimate disposal facility company name, address, and telephone number and the person receiving the waste and the quantity of waste received. These records shall be subject to the City’s review without prior notification. The City may require that these records be mailed or faxed to the City at the owner’s expense.

(8) **Grease Interceptor Maintenance Company Permits:** All grease trap maintenance and waste hauling companies must obtain a permit from the City of Cumming prior to conducting such activities in the City’s sewer system. A permit fee set by the City of Cumming must be paid and a background check on the grease interceptor maintenance company must be conducted before a permit can be issued.

(9) **Grease, Sand and Oil Separators:** Grease, Oil, and Sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, any flammable wastes, sand, or other harmful ingredients. The grease, oil and sand separators shall be sized for proper operation at all times and shall be approved by the Director.

(10) **Car Washes, Equipment Washes, and Related Facilities:** All car washes, heavy equipment washing facilities and related facilities shall install a sand and oil

separator as described above. In addition, if required by the Director, all such facilities shall install a gray water recycling system as approved by the City.

(g) *Industrial Pretreatment Facilities Required.*

(1) Industrial users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in this document within the time limitations specified by EPA, the State, or the City of Cumming, whichever is more stringent. All facilities necessary for compliance with this Article shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City for review and shall be acceptable to the Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this article. Any commercial or industrial User, whether permitted or not under the industrial pretreatment program, shall notify the City of any potential "slug" upset, pretreatment bypass, hazardous waste discharge, or changes in the volume or character of their facilities' discharge in writing and by submission of a Discharge Notification Form.

(2) ***Prohibition of Bypass.*** Upon reduction of efficiency of operation or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. In some cases, it may be necessary for the Industrial User to halt production at the production facility until the problem is corrected.

(3) ***Acceptable Reasons for a Bypass Event.*** The Director may approve an anticipated bypass event if he determines that the bypass event will not affect the City's sewer conveyance system, the wastewater treatment process at the POTW, the sludge or biosolids generated by the POTW, or the receiving stream. In addition, the Director must determine whether or not the bypass will meet the four conditions (a., b., c., and d.) listed below. In most cases, bypass events are prohibited, and the City will take enforcement action against a user unless the following conditions are met:

- a. The bypass event did not adversely affect the City's sewer conveyance system, the wastewater treatment process at the POTW, the sludge or biosolids generated by the POTW, or the receiving stream.
- b. The bypass event was unavoidable to prevent loss of life, personal injury, or severe property damage;
- c. There were no feasible alternatives to the bypass event, such as the use of auxiliary treatment facilities, retention of untreated wastes, or scheduling maintenance during normal periods of equipment down time. This condition is not satisfied if adequate backup equipment should have been

installed to prevent a bypass which occurred during normal periods of equipment down time or preventive maintenance; and

- d. The industrial user submitted notices as required under subsection (5) of this section listed below regarding notification.

(4) ***Permitted Bypass Event.*** If approved by the Director, a user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, and which does not adversely affect the City's sewer conveyance system, the wastewater treatment process at the POTW, the sludge or biosolids generated by the POTW, or the receiving stream. Permission for a bypass event will only be granted if it is deemed by the Director that it is necessary for essential maintenance to assure efficient operation of the pretreatment facility

(5) ***Notice of Bypass.***

- a. If an industrial user knows in advance of the need for a bypass, the user shall submit written notification to the City at least ten (10) days before the date of the bypass and receive approval prior to the bypass.
- b. An industrial user shall submit oral notice to the City of an unanticipated bypass that exceeds applicable pretreatment standards immediately upon becoming aware of the bypass.
- c. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass, including:
 - 1. the exact dates and times of the bypass,
 - 2. the exact cause and a description of the bypass,
 - 3. the anticipated time the bypass is expected to continue, if it has not been corrected; and,
 - 4. steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass in the future.

(h) ***Mandatory Certification***

The operator in responsible charge of a wastewater treatment system and laboratory analysts performing laboratory tests in conjunction with the operation of a wastewater treatment system required by this document, must be certified in accordance with the rules of the Georgia State Board of Examiners for Certification of Water and Wastewater Operators and Laboratory Analysts.

(i) ***Control / Observation Manholes (See Section 111-138)***

(j) ***Accidental Discharge/Slug Control Plans***

At least once every two (2) years, the Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Director may require any user to develop, submit for approval, and implement such a plan. Alternately, the Director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the City of any accidental or slug discharge, as required by this document, and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection of maintenance and storage areas for handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (5) Posted notices required: Posted notice of procedures to be followed in the event of an accidental discharge or slug loading shall be provided by the user in the location of potential discharge problem areas, sewer drains, pretreatment facilities, or other areas required by the City.

(k) ***Hauled Wastewater***

- (1) **Restricted.** It shall be unlawful to empty, dump, throw or otherwise discharge, into any manhole, catch basin or other opening, into the City of Cumming sewer system, or any system connected with and discharging into the sewer system, the contents of any septic tank, sludge, sewage, or other similar matter or material, except as provided in Subsection (2) hereof.
- (2) **Permits.** The Director is hereby authorized to grant permits to discharge the contents of septic tanks at locations specified by the Director and under his supervision. Septic tank pumpage will not be accepted from areas outside the boundaries of the City of Cumming Water/Sewer Service Area. A map showing this service area is available from the City. Such permits may be revoked at any time if, in the opinion of the Director, continued dumping of such matter into the sewers will be injurious to the sewer system or treatment processes. In conjunction with permits, the hauler shall be required to pay an annual hauling permit fee set by the City of Cumming.
- (3) Waste haulers will be required to carry liability insurance, and provide evidence of same to the City, in such amounts and forms as determined by the City of Cumming. Such insurance shall afford compensation for taking corrective action and for bodily

injury, and for property damage to third persons caused by hauler negligence and/or accidents.

(4) The Director may prohibit the disposal of hauled waste of unusual strength or character. No hauled waste shall be accepted that violates federal, state, or local regulations or threatens to cause the City's AWRP to violate its NPDES permit, violate Georgia water quality standards, or contaminate the AWRP sludge processes.

(5) Samples of hauled waste are to be provided to ensure compliance with applicable standards. The Director may require industrial waste haulers to provide a waste analysis of any load prior to acceptance and discharge of the load.

(6) Waste haulers must provide a waste tracking form (manifest) for every load. Forms shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names, addresses, and signature of each waste generator, and volume and characteristics of waste. For hauled industrial or commercial waste, the form shall identify the type of industrial or commercial establishment, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(7) Waste haulers must provide prior notification to the Director of the intent to discharge, and the actual discharge must be performed while supervised by wastewater treatment plant personnel.

(8) Waste haulers shall pay a Septic Waste Dump Fee as established in the City of Cumming Utilities Rate and Fee Schedule.

(1) *Authority to Accept Industrial Wastes*

No statement contained in this ordinance shall be construed as preventing any special agreement or arrangement between the City of Cumming and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Director for treatment. The industrial waste would be subject to surcharges levied on the industrial concern. No waiver of National Categorical Pretreatment Standards shall be given for any reason.

SECTION 111-135. Wastewater Discharge Permits.

(a) Wastewater Discharge Permits Required

(1) All significant industrial users connected to, proposing to be connected to, or otherwise contributing to the sewage works shall obtain a wastewater discharge permit. No significant industrial user shall discharge wastewater into the POTW without first obtaining a discharge permit from the City of Cumming. Existing Significant Industrial Users that have filed a timely application pursuant to this ordinance may continue to discharge pursuant to Section 7.2 below.

(2) The Director may require other sewer users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance and to comply with State and Federal regulations.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the permittee to the sanctions set out in this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements of Federal, State, or local law.

(b) *Wastewater Discharge Permitting: Existing Connections*

Any user required to obtain a discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future shall, within thirty (30) days after said date, apply to the Director for a wastewater discharge permit in accordance with Section 111-135 (c) of this ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with the wastewater discharge permit issued by the Director.

(c) *Wastewater Discharge Permitting: New Connections*

(1) REQUIRED: –Wastewater Discharge Permit Application Fee. Proposed new significant industrial users shall apply, at least 90 days prior to connection to the sewage works, and shall obtain the permit prior to contributing to the system. All users required to obtain a wastewater discharge permit must submit a permit application and application fee as determined in the Rate and Fee Schedule and on the form prescribed and furnished by the City. The Director may require all users to submit as part of an application the following:

(a) All information required by section 111-136(a) (2) a. – h.

(b) A description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility.

(c) Number and type of employees, hours of operation, and proposed or actual hours of operation. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.

(d) Each product produced by type, amount, process or processes, and rate of production.

(e) Type and amount of raw materials processed (average and maximum per day).

(f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge. Plans must include detailed drawings of the pretreatment facility, a

detailed description of the treatment process, and the exact location(s) of the treatment facility(ies).

(g) Time and duration of discharges: and

(h) Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge application.

(i) Details of systems and plans to prevent and control the loss of materials through spills to the public sewer system.

(2) A Wastewater Discharge Permit fee based on the amount of wastewater discharged to the system. This fee must be paid at the time the permit application is submitted and must be paid in full. At the time the permit expires, a new application and industrial pretreatment permit fee may be required by the City of Cumming.

(3) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(4) The permit application should be completed and returned within thirty (30) days of receipt of the permit application

(d) *Application Signatories and Certification*

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations."

(e) *Wastewater Discharge Permit Decisions*

(1) The Director will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Director will determine whether or not to issue a discharge permit. The Director may deny any application for a wastewater discharge permit.

(2) The City of Cumming reserves the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment

Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit.

(f) *Wastewater Discharge Permit Duration*

A wastewater discharge permit shall be issued for a specified time period not to exceed three (3) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than three (3) years at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire. In addition, a wastewater discharge permit can be modified at any time by the Director with 30 days written notice to the Permittee.

(g) *Wastewater Discharge Permit Contents*

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

- a. A statement that indicates wastewater discharge permit duration, which duration shall not exceed more than three (3) years.
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the Director in accordance with this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- c. Effluent limits based on applicable pretreatment standards.
- d. Self-monitoring, sampling, reporting, notification, and record keeping requirements. These shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such a schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

- b. Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- g. A statement that compliance with the wastewater discharge permit does not relieve a permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
- h. Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance and Federal and State laws, rules and regulations.

(h) *Wastewater Discharge Permit Appeals and Modifications*

- (1) The Director shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Director to reconsider the terms of a wastewater discharge permit within thirty (30) days' notice of its issuance.
 - a. Failure to submit a petition for review, within the 30-day period, shall be deemed to be a waiver of the administrative appeal.
 - b. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
 - c. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

- d. If the Director fails to act within fifteen (15) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (2) The Director may modify a wastewater discharge permit for good cause including, but not limited to, the following reasons;
- a. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
 - b. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of permit issuance;
 - c. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge such as but not limited to a more restrictive NPDES Permit;
 - d. Information indicating that the permitted discharge poses a threat to the POTW, City personnel, or the receiving water;
 - e. Violation of any terms or conditions of the wastewater discharge permit;
 - f. Misrepresentations or failure to fully disclose all relevant facts in the permit application or in any required reporting;
 - g. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR Part 403.03;
 - h. To correct typographical or other errors in the wastewater discharge permit; or
 - i. To reflect a transfer of the facility ownership or operation to a new owner or operator.

(i) **Wastewater Discharge Permit Transfer.** Wastewater discharge permits may be transferred to a new owner or operator only if a permittee gives at least thirty (30) days advance notice to the Director and the transfer is approved. The notice to the Director must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing discharge permit.

(j) *Wastewater Discharge Permit Revocation*

- (1) The Director may revoke a discharge permit for good cause including, but not limited to, the following reasons:
 - a. Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;
 - b. Failure to provide prior notification to the Director of changed conditions pursuant to Section 111-136 (e) of this ordinance;
 - c. Misrepresentation or failure to fully disclose all relevant facts in the discharge permit application;
 - d. Falsifying self-monitoring reports;
 - e. Tampering with monitoring equipment;
 - f. Refusing to allow the Director timely access to the facility premises and records;
 - g. Failure to meet effluent limitations;
 - h. Failure to pay fines;
 - i. Failure to pay sewer charges;
 - j. Failure to meet compliance schedules;
 - k. Failure to complete a wastewater survey or a discharge permit application.
 - l. Failure to provide advance notice of the transfer of business ownership of permitted facility.
 - m. Violation of any pretreatment standard or requirement, or any terms of the discharge permit or this ordinance.

(2) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All discharge permits issued to a particular user are void upon the issuance of a new discharge permit to that user.

(k) **Wastewater Discharge Permit Re-issuance.** A user with an expiring discharge permit shall apply for a discharge permit re-issuance by submitting a complete permit application in accordance with subsection (c) of this section, not more than ninety (90) days and not less than sixty (60) days prior to the expiration of current permits.

(l) Regulation of Waste Received from Other Jurisdictions

- (1) If another municipality or government entity, or user located within another municipality or government entity, contributes wastewater to the POTW, the City shall enter into a multi-jurisdictional agreement with the contributing municipality or government entity. If at any time the City deems a discharge from a user, municipality, or other government entity to be harmful to the City's sewer system, Advanced Water Reclamation Facility, wastewater treatment facilities, or human health, the City shall have the power to terminate the discharge and/or plug the discharge line coming from the user, municipality, or other government entity.
- (2) Prior to entering into an agreement required by subsection (l) (1) of this section, the Director shall request the following information from the contributing municipality or government entity:
 - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality or government entity;
 - b. An inventory of all users located within the contributing municipality or government entity that are discharging to the POTW; and
 - c. Such other information as the Director may deem necessary.
- (3) A multi-jurisdictional agreement, as required by subsection (l) (1) above, shall contain the following conditions:
 - a. A requirement for the contributing municipality or government entity to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in section 111-134 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits.
 - b. A requirement for the contributing government entity to submit a revised user inventory on at least an annual basis;
 - c. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing government entity; which of these activities will be conducted by the City,

and which will be conducted jointly by the contributing government entity and the City.

- d. A requirement for the contributing government entity to provide the City with access to all information that the contributing government entity obtains as part of its pretreatment activities;
- e. Limits on the nature, quality, and volume of the contributing government entity 's discharge;
- f. A provision ensuring the Director access to the facilities of users located within the contributing government entity 's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director; and
- g. A provision specifying remedies available for breach of the terms of the multi-jurisdictional agreement.

(m) Substitution for adequate treatment prohibited.

The Significant Industrial User shall not increase the use of potable or process water or in any way attempt to dilute an effluent as a partial or complete substitute for adequate treatment to achieve compliance with the limitations of this ordinance or the user's permit. The City may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is applicable.

SECTION 111-136. Reporting Requirements.

(a) Baseline Monitoring Reports

(1) **Baseline Report of User.** Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6 (a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in subsection (a)(2) of this section. At least ninety (90) days prior to commencement of discharge, new sources, and sources that have become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director a report which contains the information listed in subsection (a)(2) a. through e. of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) **Submission of Required Information.** Users described above shall submit the information described in subsection (a)(1) of this section shall submit the information set forth as follows:

- a. **Identifying information** - The name and address of the facility, including the name of the operator and owner.
- b. **Environmental permits** - A list of any environmental control permits held by or for the facility.
- c. **Description of operations** - A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from regulated processes.
- d. **Flow measurement** - Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6 (e).
- e. **Measurement of pollutants:**
 1. The categorical pretreatment standards applicable to each regulated process
 2. The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous daily maximum, and long-term average concentration or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (j) of this section.
 3. Sampling must be analyzed in accordance with procedures set forth in subsection (j) of this section.
- f. **Certification** - A statement reviewed by the user's authorized representative and certified by a qualified professional indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional **operation and maintenance (O&M)** and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- g. **Compliance schedule** - If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance

schedule pursuant to this section must meet the requirements set out in subsection (b) of this section.

- h. **Signature and certification** - All base line monitoring reports must be signed by an authorized representative and certified in accordance with Section 111-135 (d).

(b) **Compliance Schedule Progress Reports.** The following conditions shall apply to the compliance schedule required by this article:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and conducting operation).
- (2) No increment referred to above shall exceed nine (9) months;
- (3) The user shall submit a progress report to the City no later than fourteen (14) days following each date in the schedule and the final date of compliance including as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.
- (4) In no event shall more than nine months elapse between such progress reports to the City.

(c) **Reports on Compliance with Categorical Pretreatment Standard Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in subsections (a) (1) d. through f. of this section. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (d) of this section.

(d) **Periodic Compliance Reports**

- (1) All significant industrial users shall, at a frequency determined by the Director, but in no case less than twice per year (in June and December) submit a report indicating the nature and concentration of pollutants in the discharge which are

limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with this ordinance. All monthly reports must be post marked no later than the 15th day of the month following the reporting period. Failure to collect samples, test, or furnish information in a timely manner shall be a violation of this article.

- (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that results are unrepresentative of its discharge.
- (3) If a user subject to the reporting requirements in this section monitors any pollutant more frequently than required by the Director, using the procedures prescribed in subsection (k) of this section, the results of this monitoring shall be included in the report.

(e) **Reports of Changed Conditions.** Each user must notify the Director of any planned changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

- (1) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 111-135 (c).
- (2) The Director may issue a wastewater discharge permit under section 111-135 (e) of this ordinance or modify an existing wastewater discharge permit under section 111-135(h) of this ordinance in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) percent or greater and the discharge of any previously unreported pollutants.

(f) **Reports of Potential Problems**

- (1) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste concentration and volume, if known, and corrective actions taken by the user.

- (2) Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the occurrence. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to persons or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of whom to call in the event of a discharge described in subsection (f)(1) of this section. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(g) *Reports from Non-permitted Users*

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

(h) *Notice of Violation/Repeat Sampling and Reporting*

If the sampling performed by the user indicates a violation the user must notify the Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. The user is not required to re-sample if the Director monitors at the user's facility at least once a month, or if the Director samples between the user's initial sampling and when the user receives the results of this sampling.

(i) *Notification of the Discharge of Hazardous Waste*

- (1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste under 40 CFR Part 261, EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user; an identification of the constituents contained in the wastes, an estimation of the mass of constituents expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph needs to be submitted only once for each hazardous waste discharged. However, notification of changed conditions must be submitted under subsection (e) of this section. The notification requirement in this section does not apply to

pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (a), (c), and (d) of this section.

- (2) Dischargers are exempt from the requirements of subsection (i)(1) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous waste, unless the wastes are acute hazardous wastes, as specified in 40 CFR 261.30(d) and 261.33(e). Discharges of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 - (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 - (4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 - (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.
- (j) **Analytical Requirements.** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. Timesheet1
- (1) If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(k) **Sampling Collection**

- (1) Except as indicated in subsection (k)(2) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

- (2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

(l) **Timing.** Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(m) **Record Keeping**

- (1) Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements.
- (2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all data used to complete the permittee's application, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by the request of the Director at any time. All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by the City shall be retained and preserved by the permittee until enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.
- (3) Records of sampling and analyses shall include: The date, exact place, time, and methods of sampling or measurements, and sample preservation techniques or procedure, who performed the sampling or measurements, the date (s) analyses were performed, who performed the analyses, the analytical techniques or methods used, and the results of such analyses.

SECTION 111-137. Powers and Authorities of Inspectors.

- (a) Duly authorized employees or agents of the City of Cumming bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, independent sampling, testing, record review, and copying pertinent to discharge to the public sewerage system in accordance with the provisions of this ordinance.
- (b) While performing the necessary work on private properties referred to herein, the authorized employees or agents of the City of Cumming shall observe all safety rules applicable to the premises established by the company.

- (c) Duly authorized employees or agents of the City of Cumming bearing proper credentials and identification shall be permitted to enter all private properties through which the City of Cumming holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

SECTION 111-138. Inspection, Monitoring and Entry.

(a) Inspection, Monitoring, and Entry

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director and all other duly authorized City personnel, employees, or agents will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) *Manhole to observe, sample, and measure Industrial Wastewaters:* All significant industrial users shall install a suitable control manhole or other suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures shall be easily accessible, safely located and constructed in accordance with plans approved by the Director. The structure shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times. Plans and/or drawings of this structure shall be approved by the Director. The requirement for this structure may be waived if it is deemed by the Director to be unnecessary.
- (3) The Director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling, metering, and/or observation of the user's discharges and operations. It shall be a violation of this ordinance for any person or industrial user to tamper with, remove, adjust, disconnect, or otherwise interfere with the operation of these devices.
- (4) The Director may require the user to install monitoring equipment as necessary to conduct sampling, metering, and/or observation of the user's discharges and operations. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at a frequency deemed necessary by the Director, to ensure accuracy. Records of this calibration must be submitted to the Director upon request.

- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (6) Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this ordinance.

(b) **Search Warrants.** If the Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek issuance of a search warrant from the City of Cumming Municipal Court or the Forsyth County Magistrate Court.

SECTION 111-139. Confidential Information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Director's inspection and sampling activities, shall be available to the public without restriction unless the user specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data.

- (1) When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES Program or Pretreatment Program, and in enforcement proceedings involving the person furnishing the report.
- (2) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 403.14(b) will not be recognized as confidential information and will be available to the public without restriction.
- (3) All other information which is submitted to the State or POTW shall be available to the public at least to the extent provided by 40 CFR 2.302.

SECTION 111-140. Publication of Users in Significant Noncompliance.

The Director shall publish annually in the City's legal organ a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable

pretreatment standards and requirements. In addition, this list shall be publicized on the City of Cumming's website. The term significant noncompliance shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, and Oil and Grease, and 1.2 for all other pollutants [including TKN, Phosphorous, and COD] but does not include pH);
- (3) Any other discharge violation the Director believes has caused, alone or in combination with other discharges, interference or pass through including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment of the public or to the environment, or has resulted in the Director exercising his emergency authority under paragraph (f)(1)(vi)(b) of 40 CFR 403.8 to halt or prevent such a discharge;
- (5) Failure to meet within ninety (90) days of the schedule date a compliance schedule milestone contained in a local control mechanism, in a wastewater discharge permit or enforcement order for starting or completing construction, or attaining final compliance;
- (6) Failure to provide within thirty (30) days after the due date any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations that the Control Authority determines will adversely affect the operation or implementation of the City's Industrial Pretreatment Program.

Section 111-141. Administrative Enforcement Remedies.

(a) **Notification of Violation.** When the Director finds that a customer or user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that customer or user a written Notice of Violation. Within seven (7) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory

correction and prevention thereof to include specific required actions shall be submitted by the customer or user to the Director. Submission of this plan in no way relieves the customer or user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in the section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(b) **Consent Orders.** The City is hereby empowered to enter into Consent Agreements, Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any customer or user responsible for noncompliance. Such documents will include specific action to be taken by the customer or user to correct the noncompliance with a time period specified by the document. Such documents shall have the force and effect as the administrative orders issued pursuant to subsections (d) and (e) of this section and shall be judicially enforceable.

(c) **Show Cause Hearing.** The City may order a customer or user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the customer or user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the customer or user show cause why the proposed enforcement should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the customer or user. A show-cause hearing shall not be a bar against, or prerequisite for, taking other action against the customer or user.

(d) **Compliance Orders.** When the City finds that a customer or user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the customer or user responsible for the discharge directing that the customer or user come into compliance within a specified time. If the customer or user does not come into compliance within the time provided, water and sewer service may be discontinued unless adequate treatment facilities, device or other related appurtenances are installed and properly operated and maintained. Compliance orders also may contain other requirements to address noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the customer or user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the customer or user.

(e) **Cease and Desist Order**

(1) When the City finds that a customer or user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the customer or

user's past violations are likely to recur, the Director may issue an order to the customer or user directing it to cease and desist all such violations and directing the customer or user to:

- a. Immediately comply with all requirements; and
 - b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including, but not limited to halting operations and/or terminating the discharge.
- (2) Issuance of a cease and desist order shall not be a bar against, or prerequisite for taking any other action against the customer or user.

(f) *Administrative Fines*

- (1) When the City finds that a customer or user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may fine such customer or user in an amount not to exceed \$ 1000.00. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average wastewater discharge limits, fines shall be assessed for each day during the period of violation.
- (2) Unpaid charges, fines, and penalties shall, after fifteen (15) days be assessed an additional penalty of 12% of the unpaid balance, and interest shall accrue thereafter at a rate of 2% per month. A lien against the customer or user's property will be sought for unpaid charges, fines, and penalties.
- (3) Customer or users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the customer or user's appeal is successful, the payment shall be returned to the customer or user. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (4) Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action against the customer or user.

(g) *Emergency Suspensions of Wastewater Discharge Permits.* The Director may take whatever action may be deemed necessary and appropriate, including immediately suspending a customer or user's discharge, after informal notice to the customer or user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a customer or user's discharge, after notice and opportunity to respond, that threatens to interfere with the

operation of the POTW, or which presents, or may present, an endangerment to the environment.

- (1) Any customer or user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a customer or user's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City may allow the customer or user to recommence its discharge when the customer or user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in (h) of this Section are initiated against the customer or user.
- (2) A customer or user responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrences, to the Director prior to the date of any show cause or termination hearing under subsection (c) of this section.
- (3) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(h) *Termination of Discharge and / or Potable Water Supply*

In addition to the provisions in section 111-135 (j), any customer or user who violates the following conditions is subject to discharge and/or potable water supply:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
- (5) Violation of the pretreatment standards in section 111-134.
- (6) Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment process;
- (7) Fails to pay monthly bills for sanitary sewer service when due.
- (8) Repeats a discharge of prohibited wastes into public sewers.

- (9) Releases acids or chemicals into the public sewers that cause damage to or rapid deterioration of sewer lines, interfere with the treatment process, or interfere with the proper conveyance and treatment of wastewater.
- (10) A governmental agency informs the City of Cumming that the effluent from the City's wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the customer is discharging wastewater into the public sewer that cannot be sufficiently treated or requires treatment that is not provided by the City of Cumming as normal domestic treatment.

Such user will be notified of the proposed termination of its discharge and/or potable water supply and be offered an opportunity to show cause under subsection (c) of this section as to why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or prerequisite for, taking any other action against the user.

(i) ***Recovery of Costs Incurred.*** In addition to civil and criminal liability, any person, customer, or permittee violating any of the provisions of their permit or the City of Cumming Utilities Ordinance or causing damage to or otherwise inhibiting the City's wastewater disposal systems shall be liable to the City for any expense, loss, or damage caused by such violation or discharge. The City of Cumming shall bill the customer or user for the costs incurred by the City for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed cost shall constitute a separate violation of subsection (f)(2) of this section. All cost of any additional or supplemental sampling or analyses required as a result of any customer's or user's excessive pollutant loadings such as BOD, suspended solids, floating oil and grease, Coliform bacteria, heavy metals, or priority pollutants as determined by the Director or resulting from a user's suspected, regular or frequent violation of this Ordinance or a pretreatment permit shall be paid for by that user.

Section 111-142. Judicial Enforcement Remedies.

(a) ***Injunctive Relief.*** When the City finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition a Court of competent jurisdiction, through the City Attorney for the issuance of temporary or permanent injunction, as appropriate. Said temporary or permanent injunction shall restrain or compel the specific performance of the wastewater discharge permit, order, or other requirement for the user to conduct environmental rededication. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) Civil Penalties

- (1) A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of \$1000.00 per violation per day. In the case of monthly or other

long-term average discharge limit violations, penalties shall accrue for each day during the period of the violation.

- (2) The City may recover reasonable attorney's fees, court costs, court recorder fees, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules, regulations, and permits issued hereunder.
- (3) In determining the amount of civil liability, the Court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (5) All ordinance violations inside the City limits will be prosecuted in the City of Cumming Municipal Court. All ordinance violations occurring outside the City limits shall be prosecuted in the Forsyth County Magistrate Court or other Court of competent jurisdiction.

(c) *Criminal Prosecution*

- (1) A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, shall be punished as provided in section 1-11.
- (2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, shall be punished as provided in section 1-11. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- (3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall be punished as provided in section 1-11
- (4) In the event of a second conviction, a user shall be punished as provided in section 1-11

- (5) All ordinance violations inside the City limits will be prosecuted in the City of Cumming Municipal Court. All ordinance violations occurring outside the City limits shall be prosecuted in the Forsyth County Magistrate Court or other Court of competent jurisdiction.

SECTION 111-143. Service Charges.

(a) Sewer Service Charge

- (1) **Established:** It is hereby determined to be necessary, in order to provide facilities for the protection of the public health, safety, welfare, and to comply with State and Federal water quality laws and regulations for the protection of the quality of the waters of the state, to fix and collect charges upon all premises or facilities served by the water pollution control facilities of the City.
- (2) **Uses of Proceeds:** The revenue received from the collection of these charges, as hereinafter authorized, together with other revenue derived from the operation of the system and from the sale of water, shall be deposited with the chief financial officer and credited to the water and sewer revenue fund and shall be used for the operation and maintenance of the water pollution control and water purification systems and incidental expenses connected therewith: to pay debt requirements on revenue bonds issued; to provide funds for the planning, design, construction, improvement, repair and extension of the water pollution control and water purification systems, facilities and appurtenances used in connection with the operation of the systems; to acquire necessary easements or the purchase of land; and to provide funds for the necessary reserves for debt and improvements.
- (3) **Determination of Amounts:** For the purposes provided in (2) above, there is hereby charged and assessed to each premises or facility served by the water pollution control facilities (POTW) of the City, or otherwise discharging wastewater, industrial wastes, water or liquids, either directly or indirectly into the water pollution control facilities, a sewer service charge and assessment payable as hereinafter provided, and in accordance with Chapter 12, Section 12-111 Utilities.
 - a. The sewer service charge shall be based upon the quantity of water used by the premises or facility therein or thereon as measured by a water meter or meters there in use, or as otherwise currently established.
 - b. The sewer service rate shall consist of a charge per thousand gallons of water consumed, including adjustments thereto, plus the fixed costs. Rates shall be established for each customer class.

c. Water supplied from private/independent sources shall be metered as required under this section and shall be figured at prevailing City rates and sewer service charges shall be billed accordingly.

(4) **Independent Water Supply:** Installation of Meter: In the event a lot, parcel of land, premises or facility discharging wastewater, industrial waste, water or other liquids, which either directly or indirectly enters into the City's water pollution control facilities, or ultimately enters the facilities, is supplied either in whole or in part with water from wells or any source other than the City, those wells or other source of supply shall be registered with the City on or before the effective date of this Article, and if not measured by a water meter, the owner or occupant shall, at his own cost, install and maintain a meter on the supplies in such a location and in such a manner as is satisfactory to the City. These meters shall serve as a control for the establishment of the sewer service charge and shall be read monthly or bi-monthly by employees of the City.

(5) **Additional Meters:** Where it can be shown to the satisfaction of the Director that a significant portion of the water used by customers, as measured by the water meter or meters does not enter the water pollution control facilities, then that portion of water shall not be used for billing of the sewer service charge. The Director may require or permit the installation of additional meters or other devices as may be deemed necessary to establish that portion which does not enter the system.

(b) **Sewer System Surcharges:**

(1) **Established:** All persons discharging commercial and industrial type wastes into the public sewers shall be charged and assessed a surcharge fee in addition to sewer service charges, if these wastes have a concentration greater than the typical allowable maximum concentrations established in section 111-134. Pollutant concentrations will be determined by laboratory analysis in accordance with procedures prescribed in subsection (b)(2) of this section.

The amount of the surcharge, which is hereby charged and assessed against all persons discharging industrial wastewater into the public sewers, shall reflect the cost incurred by the City in handling the excess concentrations. This surcharge shall include a proportionate share of charges for maintenance and operation of the water pollution control facilities including depreciation and other incidental expenses.

(2) **Formula Determining Surcharge:** When wastewater or waste concentrations discharged to the City's water pollution control facilities exceed the values of the constituents set forth in Section 111-134, the excess allowable concentrations shall be evaluated in terms of these values and subject to a surcharge on those amounts exceeding the Maximum Allowable concentrations. For concentration amounts exceeding the Maximum Acceptable Local Limits established, an additional fine and penalty may be incurred in conjunction with

the surcharge fees assessed. The formula established for determining the surcharge tier fees is given by:

$(\text{Flow in MGD}) \times (\text{Concentration in mg/L}) \times (8.34 \text{ conversion factor}) = \text{lbs of Usage}$

and,

$(\text{lbs of Usage}) \times (\text{surcharge cost}) = (\text{cost per pound received at POTW})$

- (3) **Determination of Amounts:** The rates of the surcharge tiers shall be as established in the Cumming Utilities Rate and Fee Schedule as established in Section 12-111 and as adopted by resolution of the Mayor and Council. The tier costs may be revised periodically and without notice other than resolution by the Mayor and Council to correctly represent current treatment costs.
- (4) **Changing Industrial Waste Surcharge:** The industrial waste surcharge cost factors (cost per pound of removal) may be revised periodically by the Mayor and Council without notice other than adoption by resolution.
- (5) **Schedule of Fees, Surcharges, and Fines:** Waste hauler permit fees, grease hauler permit fees, industrial user permit fees, and wastewater surcharges and fines shall be established in section 12-111.

(c) **Billing Procedure.** Industrial wastes surcharges provided for in this Article shall be prepared and rendered to the address supplied by the Director. The volume of flow used in billing the industrial waste surcharges shall be based upon metered, estimated, or prorated water consumption as shown in the records of meter reading maintained by the City.

(d) **Payment of Bills.** Sewer service charges and surcharges provided in this article shall be payable at City Hall or at other authorized locations, at the same time as the water bills for a lot, parcel of land, building, premise or facility are payable and payments for water shall not be accepted unless payment of the sewer service charge or surcharge is made at the same time, provided however, that sewer service and/or surcharge is applicable.

(e) **Annual Analysis:**

- (1) **Frequency of Analysis:** The industrial wastewater of each industrial user subject to the surcharge tiers in the Sewer System Industrial Fees and discharging into the City sewers shall be subject to periodic inspection and a determination of character and concentration of the wastewater shall be made annually, or more frequently, as may be deemed necessary by the Director.
- (2) **Sampling and Analysis Procedures:** Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 as amended. The samples shall be 24-hour composite samples. At a minimum, three (3) 24-hour composite samples shall be made. Sample results shall be averaged using a flow

weighted average to determine the overall average concentration for use in billing the industrial surcharge. Grab samples taken in accordance with 40 CFR 136 shall be taken for those constituents as required by the IPP and current local limits.

(f) **Permit Fees.** The City may establish a fee for industrial pretreatment permits. Such fee shall be as stated in section 12-111. This fee will be collected prior to the issuance or re-issuance of an industrial pretreatment permit. These fees will be used to offset the costs of implementing the City's pretreatment program. Other permit and permit fees associated with (septic) waste haulers, grease trap maintenance companies, and port-a-john haulers will be assessed. These permits and permit fees will be issued by the Director to each company doing business in the City's service area. In addition, a dollar amount per thousand gallons of (septic or port-a-john) waste discharged to the City's sewer system by waste haulers will also be assessed. This fee will be set by the City and will be used to offset the costs of treatment at the POTW.

SECTION 111-144. Compliance With Regulatory Requirements.

The provisions of this article shall not be deemed as alleviating compliance with applicable state and federal regulations. Specific user charge and industrial cost recovery requirements, promulgated pursuant to Public Law 92-500, shall be considered as a part of this ordinance upon official adoption. All nonresidential users will be required to comply with pretreatment standards as outlined in Title 40 of the Code of Federal Regulation, Part 403 (40 CFR 403).

SECTION 111-145. Conflict With Other Ordinances.

In the event a wastewater discharge permit is made to a publicly owned treatment works (POTW) under the jurisdiction of an approved sewer use ordinance for another governing authority, the more restrictive requirement shall prevail.

SECTION 111-146—111-173. Reserved.

ARTICLE VI. SOLID WASTE MANAGEMENT

SECTION 111-174. Definitions.

The following words, term and phrases, when used in this article, shall have the following meanings:

Biomedical waste means pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials which have not been decontaminated and other such wastes. See O.C.G.A. § 12-8-22.

Commercial purpose means for the purpose of economic gain.

Dump means to throw, discard, place, deposit, discharge, burn, or dispose of a substance.

Hazardous substance means any substance listed on the List of Hazardous Substances and Reportable Quantities, codified as 40 C.F.R., Part 302, Table 302.4, or any substance listed on the List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 C.F.R., part 355, Appendix A. See O.C.G.A. § 12-8-92.

Hazardous waste means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act and codified as 40 C.F.R. Section 261.3 and any designated hazardous waste. See O.C.G.A. § 12-8-62.

Household garbage means animal, vegetable, and fruit refuse matter and other refuse matter ordinarily generated as by-products of a household or restaurant, such as tin cans, bottles, paper, cardboard, plastics, and wrapping or packaging materials.

Landfill means an area of land on which or an excavation in which solid waste is placed for permanent disposal and which is not a land application unit, surface impoundment, injection well, or compost pile

Public or private property means the right of way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

Department of Utilities means the City of Cumming department responsible for water treatment, wastewater treatment, water distribution, wastewater collection, utility billing, storm water, utility engineering, solid waste management, and sanitation.

User means a customer who utilizes City services.

Solid Waste means any waste derived from commercial establishments, households, single-family residences, multi-family residences, hotels, motels, bunkhouses, campgrounds, picnic grounds, and recreation areas. The term includes household garbage, trash, and similar refuse, but does not include solid waste from mining, agricultural, or silvicultural operations, septic tank waste, or industrial processes or operations.

Yard Trimmings means leaves, brush, grass, clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting

from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

SECTION 111-175. Purpose.

The purpose of this article is to protect the public health, safety, environment, and general welfare through the proper disposal of solid waste.

SECTION 111-176. City Responsible for Sanitation Services Generally.

(a) All garbage, trash and refuse accumulated in the City shall be collected, conveyed, and disposed of by the City through agents of the City or through its designated contractor(s), except as expressly provided in this chapter. No person shall collect and dispose of garbage, trash and refuse as a commercial enterprise in the City without express permission from the Mayor and Council.

(1) To facilitate this collection process, the City is empowered to enter into contractual agreements for the provision of residential and/or commercial solid waste disposal services, as well as for the disposal of recyclable materials.

(2) In the event the city enters into contractual relationships for solid waste and/or recyclable services, it may, in its discretion, contract with a single entity for the provision of said services or may enter into agreements with multiple entities.

(b) No person shall operate a landfill, an inert waste landfill, or a construction/demolition waste landfill without permission from the Mayor and Council. All such landfills shall at a minimum comply with the rules of the Georgia Department of Natural Resources Environmental Protection Division, Chapter 391-3-4, Solid Waste Management.

(c) All persons and/or entities seeking to enter into a contract with the City for the purpose of providing any service under this ordinance shall grant access to the their solid waste collection facilities for the purpose of conducting all actions necessary to inspect such facilities to ensure compliance with all applicable local, state, and federal rules and regulations; and to ensure that such solid waste collection practices do not pose a threat to the health, safety and welfare of the public. "Solid waste collection facilities" shall include solid waste and recycling receptacles, dumpsters, transfer stations and other machinery or equipment necessary in the solid waste collection process.

SECTION 111-177. Collection Days Assigned.

The City or its designated contractor will collect solid waste in accordance with a schedule as established from time to time by the City and kept on file in the Department of Utilities and

the office of the City Clerk. All solid waste collection, including common household garbage and commercial trash and refuse, shall be performed in a timely and responsible manner to prevent the spread of disease; to prevent a public nuisance; to avoid any unnecessary danger to children or the general public, and to prevent any serious threat to the public health and safety.

SECTION 111-178. Preparation and Storage of Solid Waste For Collection

Solid waste shall be placed in plastic bags with the tops securely tied. Solid waste, garbage and refuse placed in containers that are not bagged in plastic bags with the tops securely tied will not be collected and customer will be notified of noncompliance with this section.

SECTION 111-179. Design and Construction of Dumpster Storage Areas.

- (a) All dumpster storage areas shall be enclosed and provided with a reinforced concrete pad that is sloped to a drain which shall be plumbed to the sanitary sewer system. No dumpster pad shall be connected to the storm sewer system. All dumpster storage areas shall be elevated and/or constructed in such a way as to prevent stormwater runoff from flowing into the storage area.
- (b) All dumpster storage areas shall be covered with a roof to prevent stormwater from entering the sanitary sewer system via the dumpster pad drain.
- (c) All dumpster storage structures shall have three solid sides and be constructed of City-approved masonry materials. These structures shall contain doors that cover the opening to the structure and that limit visibility and contain loose debris and litter.
- (d) All dumpster storage areas shall be equipped with a hose bib and an above-ground heated RPZ backflow prevention device. The hose bib and water hose storage area shall be located inside the dumpster storage structure and installed in such a way as to prevent damage to the hose bib.
- (e) A properly designed reinforced concrete turn-around shall be provided for garbage truck turn around.
- (f) Maintenance – dumpster storage areas shall be properly maintained and cleaned. Maintenance includes but is not limited to doors, roof structure, drain, hose bib, concrete pad, and truck turn-around. All dumpster storage structures shall be cleaned regularly and shall be free of both solid and liquid wastes at all time.

SECTION 111-180. Unauthorized Use of Dumpsters and Prohibiting Scavenging.

(a) It shall be unlawful for any person to throw, deposit or otherwise leave trash in dumpsters that are leased and paid for private use, except by permission of the owner. This prohibition includes dumpsters on government property.

(b) It shall be unlawful for any person to scavenge or remove solid waste from dumpsters. Trash in these dumpsters is the property of the company providing the solid waste disposal service.

(c) Each dumpster shall display one (1) sign in easy to read printing, which sign shall contain the following information:

(1) Notice that the unauthorized and unlawful use of the dumpster is a violation of Section 111-180 of the Code of Ordinances of the City of Cumming.

(2) Warning that violators will be prosecuted.

(d) Any person found guilty of violating the provisions of this Section shall on conviction thereof be punished as prescribed **in Section 111-185 of this Code.**

SECTION 111-181. Placing of Solid Waste For Pickup.

(a) Solid waste shall be placed so as to be easily accessible to street pickup, and shall not be placed over or next to fixed items such as fire hydrants, telephone or electrical boxes, mail boxes or anything that could be damaged by equipment or personnel picking up said items, but not including the street, sidewalk, or properties other than the premises of the depositor. The City of Cumming will not be responsible for repairing or replacing items removed or damaged which was placed curbside in such a manner that it appeared to be intended for removal or was not visible because it was mixed with other items placed curbside.

(b) Solid Waste cans or containers shall be placed and made ready for pickup starting no later than 12:01 am on the designated day for pickup. Once solid waste is removed from the containers, they shall be removed from the street-side, said removal to occur no later than 11:59 p.m. on the day designated of pickup.

(c) The City will not collect the following materials or classes of materials:

(1) discarded building materials, broken concrete, bricks, rock, or debris resulting from repairs, major cleanups (this includes but is not limited to cleaning out of basements, attics, storage areas, or major cleanups from move ins or move outs), remodeling, or construction waste (plumbing fixtures, including but not limited to sinks, bath tubs, shower stalls, toilets, cabinets, doors, windows, roofing debris, lumber, siding). Such material must be disposed of by the contractor, tenant, or owner of the property.

(2) rubber tires, wheels, batteries, used oil, paint or paint cans, automotive parts, acid, explosive material, flammable liquids, inflammable liquids, dangerous or corrosive material of any kind, hazardous or bio-medical waste or any waste requiring special disposal procedures by the rules of solid waste management of the State of Georgia Department of Natural Resources Chapter 391-3-4.

(d) Large appliances and items such as washers, dryers, microwaves, stoves, refrigerators, air conditioners, trash compactors, water heaters, televisions, computers, monitors, stereos, furniture, appliances, and carpet will be picked up on a special fee basis only. The aforementioned list is not intended to be exhaustive, and all solid waste customers are encouraged to speak with the Director of Utilities if there are any questions regarding the need for a special fee pickup. Placement of such items curbside without making prior arrangements for pickup with the City shall be deemed a violation of this Code section.

SECTION 111-182. Yard Trimmings

(a) Yard Trimming disposal shall be restricted as follows:

(1) Yard Trimmings shall not be placed in or mixed with municipal solid waste, except at landfills restricted to construction or demolition waste;

(2) Yard Trimmings shall not be disposed of at municipal solid waste disposal facilities having liners and leachate collection systems or requiring vertical expansion within its jurisdiction;

(3) Before collection, Yard Trimmings shall be separated and stored for collection in a separate container from all other municipal solid waste.

(4) To the maximum extent feasible, Yard Trimmings must be sorted and stockpiled, chipped, composed, used as mulch or otherwise beneficially reused or recycled or delivered to a facility which will make such beneficial use of the Yard Trimmings.

(b) Each resident of the City is required to dispose of Yard Trimmings in accordance with the provisions of this Ordinance.

(c) Nothing in this Ordinance shall be construed so as to require a Solid waste Collector licensed by or contracted to the City to collect Yard Trimmings for disposal.

(d) Nothing in this Ordinance shall be construed so as to require the City to provide for the collection of, or a location for, the disposal of Yard Trimmings.

(e) Nothing in this Ordinance shall be construed so as to prevent an occupier of land from mulching or composting Yard Trimmings for use on the premises.

SECTION 111-183. Disposal of Dead Animals.

(a) Carcasses of cats, rats, chickens or other fowl shall be well buried by the occupant of any premises on which they may be.

(b) All other carcasses shall be reported to the Director of Utilities of the City of Cumming, or his designee, and shall not be disposed of otherwise. Such person or the Chief of Police shall have all carcasses in the streets or in private lots removed out of the City limits and then buried or otherwise disposed of so as not to create a nuisance. All such dead carcasses shall be removed at the expense of the owners of the animal, if known, and the City shall collect the fee for the same as provided by law.

SECTION 111-184. Billing Procedure.

Monthly solid waste management charges shall be billed and collected in the same manner and at the same time as charges for water service are billed and collected. The fee for solid waste management and disposal, including any special fees related to said service, shall be derived from the cost to the City in providing this service, plus a service charge, said service charge to be set by the Mayor and Council in a schedule of fees maintained by the Utilities Department.

SECTION 111-185. Enforcement and Penalties.

(a) *Violating article provisions.* Any person found guilty of violating the provisions of this article shall be punished as provided in section 1-11 of the Code of Cumming, Georgia.

(b) *Termination of Service.*

(1) Any person charged with a violation of any section or provision of this chapter, including failure or refusal to pay solid waste utility charges for 60 days, shall be given a written notice and instructions from the office of the director of utilities or his designee as to the required remedy for such violation, including but not limited to reimbursement for solid waste disposal undertaken or ordered by the City. Failure to comply with the requirements of such written notice and instructions of the director of utilities or his designee may result in the termination of all utility services by the director of utilities or his designee, said termination to be in addition to any and all fines or imprisonment described above.

(2) Reinstatement of city solid waste collection and other utilities shall only be provided after the person or entity has fully complied with all the provisions of this article and any remediation required by the director of utilities.

Section 111-186. Conflict With Other Ordinances.

- (a) All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- (b) The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

Section 111-187 – 111-208. Reserved.**ARTICLE VII. LITTER CONTROL****SECTION 111-209. Definitions.**

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

“*Litter*” means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "waste" as such term is defined in O.C.G.A., §16-7-51, paragraph 6.

“*Public or private property*” means the right of way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

SECTION 111-210. Penalties.

Any person found guilty of violating the provisions of this article shall on conviction thereof be punished as provided in section 1-11 of the Code of Cumming, Georgia. In addition to any fine, the violator shall reimburse the city for the reasonable cost of removing the litter when the litter is or is ordered removed by the city. In sound discretion of the court, additional penalties may be imposed, including:

- (1) The person may be directed to pick up and remove from any public street or highway or public right-of-way for a distance not to exceed one mile any litter he

has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or

- (2) The person may be directed to pick up and remove any and all litter from any public property, private right-of-way, or with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited litter. Pickup and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence; and
- (3) The court may publish or direct the publication of the names of persons convicted of violating this article.

SECTION 111-211. Enforcement.

All law enforcement agencies, officers and officials of this state or any public subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.

SECTION 111-212. Evidence.

- (a) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, it shall be prima facie evidence that the operator of the conveyance has violated this article.
- (b) Except as provided in this section, whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this article is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writing which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this article.

SECTION 111-213. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this article or may be restrained by injunction or otherwise sentenced in a manner provided by law.

SECTION 111-214. Purpose and Intent.

The purpose of this article is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter.

SECTION 111-215. Objectives.

The objectives of this article are to:

- (a) Provide for uniform prohibition throughout the (jurisdiction) of any and all littering on public or private property; and,
- (b) Prevent the desecration of the beauty and quality of life of the (jurisdiction) and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.

SECTION 111-216. Applicability.

This article shall apply to all public and private property within the City of Cumming, Georgia.

SECTION 111-217. Compatibility with Other Regulations.

This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other chapter, article, ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

SECTION 111-218. Prohibition Against Littering Public or Private Property or Waters.

It shall be unlawful for any person or persons to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in City of Cumming or any waters in the City of Cumming unless:

- (a) The property is designated by the State or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
- (b) The litter is placed into a receptacle or container installed on such property; or,
- (c) The person is the owner or tenant in lawful possession of such property or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

SECTION 111-219. Vehicle Loads Causing Litter.

No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.

SECTION 111-220. Proper Disposal.

All discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at constructions sites that may cause adverse impacts to water quality must be properly disposed of in a sanitary landfill.

SECTION 111-221. Conflict With Other Ordinances.

- (a) All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- (b) The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

SECTION 111-222. Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article.

SECTION 111-223 –111-247. Reserved.

**ARTICLE VIII. POST-CONSTRUCTION STORMWATER
MANAGEMENT FOR NEW DEVELOPMENT AND
REDEVELOPMENT**

DIVISION 1. GENERALLY.

SECTION 111-248. Purpose and Intent.

- (1) The purpose of this article is to protect, maintain, and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-construction stormwater runoff and non-point source pollution associated with new development and redevelopment.
- (2) Proper management of post-construction 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.
- (3) Additionally, the City of Cumming is required to comply with several State and Federal laws, regulations, and permits and the requirements of the Metropolitan North Georgia Water Planning District's regional water plan related to managing the water quality, velocity, and quality of post-construction stormwater runoff.

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.

Administrator means the person appointed to administer and implement this Article on Post-Construction Stormwater Management for New Development and Redevelopment in accordance with Section 111-255

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 land development application for approval.

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

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

Channel means a natural or artificial watercourse with a definite bed and banks that conveys 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.

Construction Sequencing Plan means a document noting the sequence of construction and identification of infiltration zones for protection during staged installation of permanent post-construction BMPs to ensure suitable site conditions such as avoiding soil compaction by heavy equipment in areas designated for infiltration BMPs.

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 detention facility for the purpose of controlling the peak discharge.

Detention Facility means a structure designed for the storage and gradual release of stormwater runoff at controlled rates.

Development means new development or redevelopment.

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 storage of stormwater runoff for an extended period of time.

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 exceeds the banks or walls of a BMP, or channel; and 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.

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

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

Hydrologic Soil Group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce 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 Surface means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into the soil.

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

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

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

Inspection and maintenance agreement means a written agreement providing for the long-term inspection, operation, and maintenance of the stormwater management system and its components on a site 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 Activities means those actions or activities which comprise, facilitate or result in land development.

Land Development Application means the application for a land development permit on a form provided by the City of Cumming along with the supporting documentation required in Section 111-316.

Land Development Permit means the authorization necessary to begin construction-related, land-disturbing activity.

Land Development Project means a discrete land development undertaking.

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

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

Maintenance means any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes, set forth in this 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.

MS4 Permit means the NPDES permit issued by Georgia Environmental Protection Division for discharges from the City of Cumming's municipal 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 land disturbing activities, structural development (construction, installation or expansion of a building or other structure), and/or creation of impervious surfaces on a previously undeveloped site.

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

Post-development 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.

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

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

Pre-development 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.

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

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

Project means a land development project.

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

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

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

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 Concept Plan means an initial plan for post-construction stormwater management at the site that provides the groundwork for the stormwater management plan including the natural resources inventory, site layout concept, initial runoff characterization, and first round stormwater management system design.

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 plan for post-construction stormwater management at the site that meets the requirements of Section 111-311(d) and is included as part of the land development application.

Stormwater Management Standards means those standards set forth in Section 111-258.

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

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

Stormwater Runoff 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.

Other terms used but not defined in this Article shall be interpreted based on how such terms are defined and used in the GSMM and the City of Cumming's MS4 permit.

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.

(1) ***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:

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

- (g) 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.
- (h) 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 solid requirement. Sites undergoing numerous small additions will require a storm water management facility when this threshold is met.
- (i) Any development activity for which the Storm Water Management Report indicates will result in adverse impacts to storm water quality and/or quantity.
- (j) Any development that discharges stormwater to a 303d listed body of water.

(2) ***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 from Stormwater Management Standards.

This Article does not apply to the following activities:

- (1) Land disturbing activity conducted by local, state, authority, or federal agencies, solely to respond to an emergency need to protect life, limb, or property or conduct emergency repairs;
- (2) Land disturbing activity that consists solely of cutting a trench for utility work and related pavement replacement;
- (3) Land disturbing activity conducted by local, state, authority, or federal

agencies, whose sole purpose is to implement stormwater management or environmental restoration;

- (4) Repairs to any stormwater management system deemed necessary by the Director of Utilities;
- (5) Agricultural practices as described O.C.G.A. 12-7-17(5) within areas zoned for these activities with the exception of buildings or permanent structures that exceed the threshold in Section 111-253 (a) or (b);
- (6) Silvicultural land management activities as described O.C.G.A. 12-7-17(6) within areas zoned for these activities with the exception of buildings or permanent structures that exceed the threshold in Section 111-253 (a) or (b);
- (7) Installations or modifications to existing structures solely to implement Americans with Disabilities Act (ADA) requirements, including but not limited to elevator shafts, handicapped access ramps and parking, and enlarged entrances or exits.

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. Adoption and Implementation of the GSMM; Conflicts and Inconsistencies.

- (a) In implementing this Article, the City of Cumming shall use and require compliance with all relevant design standards, calculations, formulas, methods, and other guidance from the Georgia Stormwater Management Manual (GSMM) as well as all related appendices.
- (b) This Article is not intended to modify or repeal any other Article, ordinance, rule, regulation or other provision of law, including but not limited to any applicable stream buffers under state and local laws, and the Georgia Safe Dams Act and Rules for Dam Safety.
 - (i) In the event of any conflict or inconsistency between any provision in the City of Cumming's MS4 permit and this Article, the provision from the MS4 permit shall control.
 - (ii) In the event of any conflict or inconsistency between any provision of this Article and the GSMM, the provision from this Article shall control.
 - (iii) In the event of any other conflict or inconsistency between any provision of this Article and any other ordinance, rule, regulation or other provision of law, the provision that is more restrictive or imposes higher protective standards for human health or the environment shall control.
- (c) Additions and repairs to the Cumming storm Sewer system shall comply with the latest version of the ***City of Cumming Department of Utilities Stormwater System Technical Standards Manual***.
- (d) If any provision of this Article is invalidated by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this Article.

SECTION 111-258. Stormwater Management Standards.

Subject to the applicability criteria in Section 111-253 and exemptions in Section 111-254, the following stormwater management standards apply. Additional details for each standard can be found in the GSMM Section 2.2.2.2:

- (a) Design of Stormwater Management System: The design of the stormwater management system shall be in accordance with the applicable sections of the GSMM as directed by the administrator. Any design which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.
- (b) Natural Resources Inventory: Site reconnaissance and surveying techniques

shall be used to complete a thorough assessment of existing natural resources, both terrestrial and aquatic, found on the site. Resources to be identified, mapped, and shown on the Stormwater Management Plan, shall include, at a minimum (as applicable):

- (i) Topography (minimum of 2-foot contours) and Steep Slopes (i.e., Areas with Slopes Greater Than 15%),
- (ii) Natural Drainage Divides and Patterns,
- (iii) Natural Drainage Features (e.g., swales, basins, depressional areas),
- (iv) Natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers, drinking water wellhead protection areas and river corridors,
- (v) Predominant soils (including erodible soils and karst areas), and
- (vi) Existing predominant vegetation including trees, high quality habitat and other existing vegetation.

(c) Better Site Design Practices for Stormwater Management: Stormwater management plans shall preserve the natural drainage and natural treatment systems and reduce the generation of additional stormwater runoff and pollutants to the maximum extent practicable. Additional details can be found in the GSMM Section 2.3.

(d) Stormwater Runoff Quality/Reduction: Stormwater Runoff Quality/Reduction shall be provided by using the following:

- (i) For development with a stormwater management plan submitted before July 1, 2021, the applicant may choose either (A) Runoff Reduction or (B) Water Quality.
- (ii) For development with a stormwater management plan submitted on or after July 1, 2021, the applicant shall choose (A) Runoff Reduction and additional water quality shall not be required. To the extent (A) Runoff Reduction has been determined to be infeasible for all or a portion of the site using the Practicability Policy, then (B) Water Quality shall apply for the remaining runoff from a 1.2 inch rainfall event and must be treated to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM.

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

(B) Water Quality – The stormwater management system shall be designed to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined

in the GSMM for runoff from a 1.2 inch rainfall event.

(iii) If a site is determined to be a hotspot as detailed in Section 111-253, the City of Cumming may require the use of specific or additional components for the stormwater management system to address pollutants of concern generated by that site.

(e) Stream Channel Protection: Stream channel protection shall be provided by using all of the following three approaches:

(i) 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event;

(ii) Erosion prevention measures, such as energy dissipation and velocity control; and

(iii) Preservation of any applicable stream buffer.

(f) Overbank Flood Protection: Downstream overbank flood protection shall be provided by controlling the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour storm event.

(g) Extreme Flood Protection: Extreme flood protection shall be provided by controlling the 100-year, 24-hour storm event such that flooding is not exacerbated.

(h) Downstream Analysis: Due to peak flow timing and runoff volume effects, some structural components of the stormwater management system fail to reduce discharge peaks to pre-development levels downstream from the site. A downstream peak flow analysis shall be provided to the point in the watershed downstream of the site or the stormwater management system where the area of the site comprises 10% of the total drainage area in accordance with Section 3.1.9 of the GSMM. This is to help ensure that there are minimal downstream impacts from development on the site. The downstream analysis may result in the need to resize structural components of the stormwater management system.

(i) Stormwater Management System Inspection and Maintenance: The components of the stormwater management system that will not be dedicated to and accepted by the City of Cumming, including all drainage facilities, best management practices, credited conservation spaces, and conveyance systems, shall have an inspection and maintenance agreement to ensure that they continue to function as designed. All new development and redevelopment sites are to prepare a comprehensive inspection and maintenance agreement for the on-site stormwater management system. This plan shall be written in accordance with the requirements in Section 111-148.

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. Pre-Submittal Meeting, Stormwater Concept Plan, and Stormwater Management Plan Requirements.

- (a) Before a land development permit application is submitted, an applicant may request a pre-submittal meeting with the City of Cumming. The pre-submittal meeting should take place based on an early step in the development process such as before site analysis and inventory (GSMM Section 2.4.2.4) or the stormwater concept plan (GSMM Section 2.4.2.5). The purpose of the pre-submittal meeting is to discuss opportunities, constraints, and ideas for the stormwater management system before formal site design engineering. To the extent applicable, local and regional watershed plans, greenspace plans, trails and greenway plans, and other resource protection plans should be consulted in the pre-submittal meeting. Applicants must request a pre-submittal meeting

with the City when applying for a Determination of Infeasibility through the Practicability Policy.

- (b) The stormwater concept plan shall be prepared using the minimum following steps:
 - (i) Develop the site layout using better site design techniques, as applicable (GSMM Section 2.3).
 - (ii) Calculate preliminary estimates of the unified stormwater sizing criteria requirements for stormwater runoff quality/reduction, channel protection, overbank flooding protection and extreme flood protection (GSMM Section 2.2).
 - (iii) Perform screening and preliminary selection of appropriate best management practices and identification of potential siting locations (GSMM Section 4.1).

- (c) The stormwater concept plan shall contain:
 - (i) Common address and legal description of the site,
 - (ii) Vicinity map, and
 - (iii) Existing conditions and proposed site layout mapping and plans (recommended scale of 1" = 50'), which illustrate at a minimum:
 - (A) Existing and proposed topography (minimum of 2-foot contours),
 - (B) Perennial and intermittent streams,
 - (C) Mapping of predominant soils from USDA soil surveys,
 - (D) Boundaries of existing predominant vegetation and proposed limits of clearing and grading,
 - (E) Location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.),
 - (F) Location of existing and proposed roads, buildings, parking areas and other impervious surfaces,
 - (G) Existing and proposed utilities (e.g., water, sewer, gas, electric)

and easements,

- (H) Preliminary estimates of unified stormwater sizing criteria requirements,
- (I) Preliminary selection and location, size, and limits of disturbance of proposed BMPs,
- (J) Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains,
- (K) Flow paths,
- (L) Location of the boundaries of the base flood floodplain, future-conditions floodplain, and the floodway (as applicable) and relationship of site to upstream and downstream properties and drainage, and
- (M) Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings.

(d) The stormwater management plan shall contain the items listed in this part and be prepared under the direct supervisory control of either a registered Professional Engineer or a registered Landscape Architect licensed in the state of Georgia. Items (iii), (iv), (v), and (vi) shall be sealed and signed by a registered Professional Engineer licensed in the State of Georgia. The overall site plan must be stamped by a design professional licensed in the State of Georgia for such purpose. (GSMM Section 2.4.2.7)

- (i) Natural Resources Inventory
- (ii) Stormwater Concept Plan
- (iii) Existing Conditions Hydrologic Analysis
- (iv) Post-Development Hydrologic Analysis
- (v) Stormwater Management System
- (vi) Downstream Analysis
- (vii) Erosion and Sedimentation Control Plan
- (viii) BMP Landscaping Plan
- (ix) Inspection and Maintenance Agreement

- (x) Evidence of Acquisition of Applicable Local and Non-Local Permits
 - (xi) Determination of Infeasibility (if applicable)
 - (xii) Construction Sequencing Plan
- (e) For redevelopment and to the extent existing stormwater management structures are being used to meet stormwater management standards the following must also be included in the stormwater management plan for existing stormwater management structures
- (i) As-built Drawings
 - (ii) Hydrology Reports
 - (iii) Current inspection of existing stormwater management structures with deficiencies noted
 - (iv) BMP Landscaping Plans

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 Procedures.

Land development applications are handled as part of the process to obtain the land disturbance permit pursuant to Section 113-25 or building permit Section 113-26 as applicable. Before any person begins development on a site, the owner of the site shall first obtain approval in accordance with the following procedure:

(a) File a land development application with the City of Cumming on the City's form of application with the following supporting materials:

(i) the stormwater management plan prepared in accordance with Section 111-311 (d),

(ii) a certification that the development will be performed in accordance with the stormwater management plan once approved,

(iii) A Preliminary Determination of Infeasibility, as applicable, prepared in accordance with the practicability policy, and

(iv) an acknowledgement that applicant has reviewed the City's form of inspection and maintenance agreement and that applicant agrees to sign and record such inspection and maintenance agreement before the final inspection.

(b) The administrator shall inform the applicant whether the application and supporting materials are approved or disapproved.

(c) If the application or supporting materials are disapproved, the 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 for the administrator to again consider and either approve or disapprove.

(d) If the application and supporting materials are approved, the City may issue the associated land disturbance permit or building permit, provided all other legal requirements for the issuance of such permits have been met. The stormwater management plan included in such applications becomes the approved stormwater management plan.

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.

- i. 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.
- ii. A stormwater management plan must be submitted to the City which shows the adequacy of the off-site or regional facility.
- iii. 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) No in stream storm water management facilities shall be allowed without approval from the United States Army Corps of Engineers. Such in-stream facilities shall not exclude requirements 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 the appropriate NPDES General Permit (No. GAR100001, GAR100002, or GAR100003), 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:

BMP	TSS Removal (%)
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:

Land use category	TSS Loading rate (lb/ac/yr)
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.

Section 111-320. Application Fee.

The fee for review of any land development application shall be based on the fee structure established by the City of Cumming, and payment shall be made before the issuance of any land disturbance permit or building permit for the development.

Section 111-321. Compliance with the Approved Stormwater Management Plan.

All development shall be:

- (a) consistent with the approved stormwater management plan and all applicable land disturbance and building permits, and

- (b) conducted only within the area specified in the approved stormwater management plan.

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

Section 111-322. Inspections to Ensure Plan Compliance During Construction.

Periodic inspections of the stormwater management system during construction shall be conducted by the staff of the City or conducted and certified by a professional engineer who has been approved by the City. Inspections shall use the approved stormwater management plan for establishing compliance. All inspections shall be documented with written reports that contain the following information:

- (a) The date and location of the inspection;
- (b) Whether the stormwater management system is in compliance with the approved stormwater management plan;
- (c) Variations from the approved stormwater management plan; and
- (d) Any other variations or violations of the conditions of the approved stormwater management plan.

SECTIONS 111-323 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 Rate and 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.
- (d) Any violation of the approved stormwater management plan during construction, failure to submit as-built drawings, failure to submit a final BMP landscaping plan, or

failure of the final inspection shall constitute and be addressed as violations of, or failures to comply with, the underlying land disturbance permit pursuant to Section 113-25 or the underlying building permit pursuant to Section 113-26.

- (e) To address a violation of this Article, the City shall have all the powers and remedies that are available to it for other violations of building and land disturbance permits, including without limitation the right to issue notices and orders to ensure compliance, stop work orders, and penalties as set forth in the applicable ordinances for such permits.

Section 111-376. Final Inspection; As-Built Drawings; Delivery of Inspection and Maintenance Agreement.

Upon completion of the development, and before a certificate of occupancy shall be granted, the applicant is responsible for:

- (a) Certifying that the stormwater management system is functioning properly and was constructed in conformance with the approved stormwater management plan and associated hydrologic analysis,
- (b) Submitting as-built drawings showing the final design specifications for all components of the stormwater management system as certified by a professional engineer,
- (c) Certifying that the landscaping is established and installed in conformance with the BMP landscaping plan, and
- (d) Delivering to City a signed inspection and maintenance agreement that has been recorded by the owner in the property record for all parcel(s) that make up the site.
- (e) The required certification under part (a) shall include a certification of volume, or other performance test applicable to the type of stormwater management system component, to ensure each component is functioning as designed and built according to the design specifications in the approved stormwater management plan.
- (f) This certification and the required performance tests shall be performed by a qualified person and submitted to the City with the request for a final inspection.
- (g) The City shall perform a final inspection with applicant to confirm applicant has fulfilled these responsibilities. This final inspection 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 rights-of-way. 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 111-425. Maintenance by Owner of Stormwater Management Systems Predating Current GSMM.

- (1) For any stormwater management systems approved and built based on

requirements predating the current GSMM and that is not otherwise subject to an inspection and maintenance agreement, such stormwater management systems shall be maintained by the owner so that the stormwater management systems perform as they were originally designed.

Section 111-426. Stormwater Conveyance Ownership; Authority of Director of Utilities; Right of Entry for Maintenance Inspections.

- (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 or his/her designee 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:
 - i. Clearing of all trees and vegetation from all stormwater structures as required by the City.
 - ii. Video inspecting all underground detention facilities and water quality structures at least once annually and providing a copy of the video to the City for review.
 - iii. Performing maintenance to storm water structures, conveyances, and facilities in a manner and at a frequency determined by the City and at no cost to the City.
- (5) The terms of the inspection and maintenance agreement shall provide for the City's right of entry for maintenance inspections and other specified purposes.
- (6) If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then the Director of Utilities or his or her designee shall have the right to enter and make inspections pursuant to this Division.
- (7) With respect to such stormwater facilities:

- (i) for stormwater facilities which are designed and intended to service only a single property, 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;
- (ii) for stormwater facilities which are designed and intended to service multiple properties which are part of a single development, the owner of the development shall, at its expense, inspect, repair, and maintain all stormwater facilities and keep such facilities in good working order at all times. In the event there is no single owner of the development, then the owners association if any, and if none then the individual property owners in the development, shall bear the costs of such inspection, repair and maintenance;
- (iii) in the event more than one development contributes stormwater to a single stormwater facility, the owner of the facility and the owners of property contributing stormwater shall be responsible at their expense to inspect, repair, and maintain all stormwater facilities and keep such facilities in good working order at all times. In the event the owners of the respective facility and contributing properties cannot reach an agreement as to the proper division of financial responsibility for the obligations set forth herein, then upon request the City will make a determination as to the appropriate division of financial responsibility, which decision shall be based on factors such as topography, impervious surface, acreage, and other factors which would reasonably contribute to stormwater contribution calculations. The appeal of any such decision shall be made pursuant to § 111-258.
- (iv) in the event the owners of properties contributing stormwater to a stormwater facility cannot determine which provision of this code section they fall within, then the Director of Utilities may analyze the situation and determine which situation applies to facility at issue. The appeal of any such decision shall be made pursuant to § 111-258.
- (8) Upon making a determination as to financial responsibility related to stormwater facility maintenance, the City of Cumming shall provide notice of that decision to all affected property owners and/or developments. Affected property owners and/or developments may submit any information they wish for the City to consider and they may request a hearing before the Utilities Director, which information and hearing request, if any, must be received within fifteen days of the date that the City sends the notice described herein. If no change in determination is made by the latter of five days after the period for providing notice expires, or after the hearing before the Utilities Director, then and in that event the decision of the City will be final, subject to any appeal rights under the City Code.
- (9) For the purpose of reading and interpreting this ordinance, any person or entity determined by the City of Cumming to bear financial responsibility in whole or

in part related to any stormwater facility is liable for and subject to all of the enforcement provisions and remedies contained in this ordinance that would apply to an Owner, a responsible person, or other like descriptors.

Section 111-427. Inspection and Maintenance Agreements.

- (1) The owner shall execute an inspection and maintenance agreement with the City obligating the owner to inspect, clean, maintain, and repair the stormwater management system; including vegetation in the final BMP landscaping plan. The form of the inspection and maintenance agreement shall be the form provided by the City. After the inspection and maintenance agreement has been signed by the owner and the City, the owner shall promptly record such agreement at the owner's cost in the property record for all parcel(s) that make up the site.
- (2) The inspection and maintenance agreement shall identify by name or official title the person(s) serving as the point of contact for carrying out the owner's obligations under the inspection and maintenance agreement.
- (3) The owner shall update the point of contact from time to time as needed and upon request by the City.
- (4) Upon any sale or transfer of the site, the new owner shall notify the City in writing within 30 days of the name or official title of new person(s) serving as the point of contact for the new owner.
- (5) Any failure of an owner to keep the point of contact up to date shall, following 30 days' notice, constitute a failure to maintain the stormwater management system.
- (6) The inspection and maintenance agreement shall run with the land and bind all future successors-in-title of the site. If there is a future sale or transfer of only a portion of the site, then:
 - (a) The parties to such sale or transfer may enter into and record an assignment agreement designating the owner responsible for each portion of the site and associated obligations under the inspection and maintenance agreement. The parties shall record and provide written notice and a copy of such assignment agreement to the City.
 - (b) In the absence of a recorded assignment agreement, all owners of the site shall be jointly and severally liable for all obligations under the inspection and maintenance agreement regardless of what portion of the site they own.

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:
 - i. routine inspections;
 - ii. random inspections;
 - iii. inspections based upon complaints or other notice of possible violations; and
 - iv. joint inspections with other agencies inspecting under environmental or safety laws.
- (d) 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. Owner's Failure to Maintain the Stormwater Management System.

- (a) The terms of the inspection and maintenance agreement shall provide for what constitutes a failure to maintain a stormwater management system and the enforcement options available to the City of Cumming.
- (b) If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then:
 - (i) An owner's failure to maintain the stormwater management system so that it performs as it was originally designed shall constitute and be addressed as a violation of, or failure to comply with, owner's property maintenance obligations pursuant to the local administration procedures for the Georgia Statewide Minimum Construction Codes and
 - (ii) To address such a failure to maintain the stormwater management system, the City of Cumming shall have all the powers and remedies that are available to it for other violations of an owner's property maintenance obligations, including without limitation prosecution, penalties, abatement, and emergency measures.
- (c) 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.
- (d) 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.
- (e) 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. ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS****Section 111-459. Unlawful Discharges and Connections - Findings.**

It is hereby determined that:

- (1) Discharges to the City of Cumming's 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 City's 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 City's municipal separate storm sewer system;
- (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 City's municipal separate storm sewer system.
- (7) The City hereby adopts this article to prohibit such non-stormwater discharges to the City's municipal separate storm sewer system. It is determined that the regulation of spills, improper dumping, and discharges to the City's separate storm sewer system is in the public interest and will prevent threats to public health and safety and the environment.

Section 111-460. Purpose and Intent.

- (1) 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 City's 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. The objectives of this Article are to:

Section 111-461. Objectives.

The objectives of this article are to:

- (1) Regulate the contribution of pollutants to the City's municipal separate storm sewer system by any person;
- (2) Prohibit illicit discharges and illegal connections to the City's municipal separate storm sewer system;
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the City's municipal 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.

- (1) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the City's municipal separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater.
- (2) Pursuant to General Permits (No. GAR100001, GAR100002, or GAR100003), 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.
- (3) 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.

ARTICLE IX.
EFFECTIVE DATE

The effective date of this Ordinance shall be the first calendar day of the month following its approval by the City Council of the City of Cumming, Georgia.

Adopted and Ordained this 20th day of July 2021

CITY OF CUMMING, GEORGIA

Troy Brumbalow
Mayor, City of Cumming

Chad Crane, Council Member

Jason Evans, Council Member

Joey Cochran, Council Member

Linda Ledbetter, Council Member

Christopher Light, Council Member

Attested to by:

City Clerk, Jeff Honea