
Newton County Water Resources Management Ordinance

- **Post –Construction Stormwater Management**
- **Illicit Discharge Detection and Elimination**
 - **Floodplain Management**
- **Erosion and Sedimentation Control**
- **Stormwater Local Design Manual**

September 5, 2006

**NEWTON COUNTY
WATER RESOURCES MANAGEMENT ORDINANCE**

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**Adopted September 5, 2006
Effective October 2, 2006**

**AN ORDINANCE TO REGULATE
POST-CONSTRUCTION STORMWATER MANAGEMENT; ILLICIT
DISCHARGE DETECTION AND ELIMINATION; FLOODPLAIN
MANAGEMENT; AND EROSION AND SEDIMENTATION CONTROL; TO
PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

BE IT ORDAINED by the Board of Commissioners, Newton County, Georgia, and by the authority of the same as follows:

ARTICLE 1 – GENERAL PROVISIONS

Sec. 100-010 SHORT TITLE

This Ordinance shall be known as the “Newton County Water Resources Management Ordinance”

Sec. 100-020 COMPATIBILITY WITH OTHER REGULATIONS

This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this Ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this Ordinance 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.

Sec. 100-030 SEVERABILITY

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

Sec. 100-040 ADOPTION AND EFFECTIVE DATE

This Ordinance shall take effect October 2, 2006.

ARTICLE 2 – DEFINITIONS

Sec. 200-010 INTERPRETATION OF CERTAIN TERMS AND WORDS

For the purpose of this Ordinance, certain words or terms used herein are interpreted as follows:

A. Words used in the present tense include the future tense. Words used in the singular include the plural; and words in the plural include the singular.

B. The word “shall” is always mandatory, and the word “may” is permissive.

C. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

D. The word “lot” includes the words “plot” or “parcel”.

E. The word “used” or “occupied”, as applied to any land or building, shall be construed to include the words “intended”, “arranged”, or “designed to be used or occupied”.

Sec. 200-020 DEFINITIONS

Access

A way or means of approach or entrance by which pedestrians, vehicles, or both shall have safe, adequate, and usable ingress/egress to a property or use. A private access is an access not in public ownership and controlled by means of deed, dedication, or easement.

Accidental Discharge

A discharge prohibited by this Ordinance which occurs by chance and without planning or thought prior to occurrence.

Addition

Any walled or roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled or roofed addition that is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.

Administrative Variance/Approval

A variance or administrative approval that is routine or too insignificant to require Board of Commissioner approval. Decisions of the staff maybe appealed as per this Ordinance.

Appeal

A request for a review of an administrative official’s interpretation of any provision of this Ordinance or a request for an exception.

Applicant

A person submitting a post-development stormwater management application and plan for approval.

Area of Shallow Flooding

A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard

The land in the flood plain within a community subject to a one (1) percent or greater chance of flooding in any given year.

Base Flood (100-Year Flood)

A flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement

That portion of the building having its floor sub-grade (below ground level).

Best Management Practices (BMP)

A collection of structural measures and vegetative practices which, when properly designed, installed, and maintained, mitigate the adverse effects of development activity on the environment. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6 subsection (b).

Buffer

That portion of a lot set aside with adequate natural or planted vegetation to accomplish visual and sound screening to separate residential zoning districts from other zoning districts, or to protect environmentally sensitive areas. In the event that insufficient existing vegetation or trees exist in the buffer zone, planting, fencing, or other supplemental screening shall be required, with a density or opacity to accomplish buffering as required by all approved ordinances. Roads, parking areas, above ground stormwater retention facilities, recreational facilities, or other above ground construction shall not be permitted within the required buffer area. Public rights-of-way and utility easements shall not be considered part of the buffer area. Required buffer areas are in addition to required yard areas.

Building, Elevated

A non-basement built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (post and piers), shear walls or break away walls.

Building Official

The person or persons designated by the Director to be responsible for the administrative functions required in connection with the enforcement of this Ordinance.

Building

Any structure attached to the ground which has a roof and which is designed for the shelter, housing, or enclosure of persons, animals, or property of any kind.

Channel

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clean Water Act

The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Comprehensive Plan

Any part or element of the overall plan for development adopted by the Planning Commission and the Board of Commissioners.

Concept Plan

A drawing which shows the overall concept (e.g., a concept plan) of a proposed development, and which may include lots and streets in a subdivision or the general location of buildings and improvements for a multi-family or non-residential project.

Conservation Easement

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

Construction Activity

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, New

Structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

County

Newton County, Georgia.

County Separate Storm Sewer System

Any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, County 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 County; b) Not a combined sewer; and c) Not part of a publicly-owned treatment works.

Cut

A portion of land surface or area from which earth has been removed or will be removed by excavation, the depth below original ground surface to excavated surface. Also known as excavation.

Dedication

A gift, by the owner, of a right to use land for a specified purpose(s). Because a transfer of property rights is entailed, dedication must be made by written instrument and is completed with an acceptance.

Department

The Planning and Development Department of Newton County.

Design Standards

The specifications to landowners or developers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements, and lots.

Detention

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

Detention Facility

A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

Developer

A person who undertakes land development activities.

Development

A land development or land development project.

Development Permit

An official authorization issued by the Building Official allowing grading or other alteration of the site that entails land disturbance related to construction activities.

Director

Director of Planning and Development of Newton County or his/her designee.

Disturbed Area

Disturbed area is defined as the entire limits of the site project activity, outside of the buffer area.

Drainage Area

That area contributing runoff to a single point; measured in a horizontal plane which is enclosed by a ridgeline.

Drainage Easement

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

Drainage Structure

A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control or flood control purposes.

Drainage Structure, Roadway

A device such as a bridge, culvert or ditch composed of virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water under a roadway by interception of the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Driveway

A vehicular access, other than a private street way, which is in private ownership and provides access primarily to one property.

Easement

A grant by a property owner for the use of a strip of land for the specified purpose of constructing and maintaining utilities; including, but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

Erosion

The process by which ground surface is worn away by the action of wind, water, ice or gravity.

Erosion and Sedimentation Control Measures, Structural

Measures 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.

Erosion and Sedimentation Control Measures, Vegetative

Practices for the stabilization of erodible or sediment-producing areas by covering the soil with:

1. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
2. Temporary seeding, producing short-term vegetative cover; or
3. Sodding, covering areas with a turf of perennial sod-forming grass.

Erosion and Sedimentation Control Plan

A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity.

Extended Detention

The detention of stormwater runoff for an extended period, typically 24 hours or greater.

Extreme Flood Protection

Measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

Fill

A portion of land surface to which soil or other solid materials have been added; the depth above the original ground.

Final Plat

A finished drawing or map of a subdivision or development, meeting all of the requirements of this Ordinance and showing, completely and accurately, all legal design and engineering information, and certified as necessary for recording.

Finished Grade

The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Flooding

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

Flood Hazard Boundary Map (FHBM)

An official map of a community issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood Insurance Rate Map (FIRM)

An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study

Official report provided by the Federal Emergency Management Agency containing flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

Flood Way

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor

The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in wood frame construction. Floor,

Floor, Lowest

The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

Grading

Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Greenspace or Open Space

Permanently protected areas of the site that are preserved in a natural state.

Ground Elevation

The original elevation of the ground surface prior to cutting or filling.

Highest Adjacent Grade

The highest natural elevation of the ground surface, prior to construction, next to proposed walls of a structure.

Historic Structure

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing in the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior;

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Hotspot

An area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples of hotspots include auto salvage operations, landfills or as may be listed in the Newton County Stormwater Local Design Manual.

Hydrologic Soil Group (HSG)

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

Either of the following:

1. 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

2. Any pipe, open channel, drain or conveyance connected to the county separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit Discharge

Any direct or indirect non-stormwater discharge to the county separate storm sewer system, except as exempted in Article 5, Section 500-020 of this Ordinance.

Impervious Cover

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

Impervious Surface

Areas which do not permit natural infiltration of rainfall, including, but not limited to rooftops, paved parking lots, driveways, paved roads and streets, patios, paved sidewalks, swimming pools, paved tennis courts and basketball courts, and any other exposed area surfaced in concrete or asphalt, except for gravel and pervious or porous paving materials.

Industrial Activity

Activities subject to NPDES Industrial Permits as defined in 40 CFR Section 122.26 (b)(14).

Industrial Stormwater Permit

A National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration

The process of percolating stormwater runoff into the subsoil.

Inspection and Maintenance Agreement

A written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

Jurisdictional Wetland

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

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

Land Development Activities

Those actions or activities which comprise, facilitate or result in land development.

Land Development Project

A discrete land development undertaking.

Land-Disturbing Activity

Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land unless otherwise stated herein. For the purposes of Article 7 of this Ordinance, “Land Disturbing Activity” shall not include agricultural practices as described in Section 700-020 E.

Land Disturbance Permit

A permit issued to authorize clearing, dredging, grading, excavating, transporting and filling of land.

Larger Common Plan of Development or Sale

A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Local Issuing Authority

The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. § 12-7-8.

Lot

A portion, plot, or parcel of land separated from other portions, plots, or parcels by description as on a subdivision plat or record or survey map or as described by metes and bounds, and intended for transfer of ownership or for building development.

Mean Sea Level

The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Metropolitan River Protection Act (MRPA)

A state law referenced as O.C.G.A. § 12-5-440 *et seq.*, which addresses environmental and development matters in certain metropolitan river corridors and their drainage basins.

National Geodetic Vertical Datum (NGVD)

Vertical control used as a reference for establishing varying elevations within the floodplain (as corrected in 1929).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit

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.

Natural Ground Surface

The ground surface in its original state before any grading, excavation or filling.

Nephelometric Turbidity Units (NTU)

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

A land development activity on a previously undeveloped site.

Nonpoint Source Pollution

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

Any discharge to the storm drain system that is not composed entirely of stormwater.

Nonstructural Stormwater Management Practice or Nonstructural Practice

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

A stormwater management facility located outside the boundaries of the site.

On-Site Facility

A stormwater management facility located within the boundaries of the site.

Operator

The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.

Overbank Flood Protection

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

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

Permit

The permit issued by the County to the applicant which is required for undertaking any land development activity.

Person

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.

Planning Commission

The Newton County Planning Commission.

Pollutant

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

The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Post-development

Refers to the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

Pre-development

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

Preliminary Plat

A tentative drawing or map of a proposed subdivision or development meeting the specified requirements of this Ordinance and showing the layout in sufficient detail to allow an evaluation of the proposed project.

Premises

Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Project

A land development project.

Qualified Personnel

Any person who meets or exceeds the education and training requirements of O.C.G.A. § 12-7-19.

Recreational Vehicle (Travel Trailer)

A vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation uses not more than eight feet in body width and of any weight provided its body length does not exceed 27 feet.

Redevelopment

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

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

Retention Facility

A permanent facility that provides for the storage of runoff and is designed to maintain a permanent pool of water referred to as the normal pool.

Right-of-Way

A strip of land designated, reserved, dedicated, or purchased for the purpose of pedestrian or vehicular access or utility line installation.

Roadway Drainage Structure

A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Runoff

Stormwater runoff.

Sediment

Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice or gravity as a product of erosion.

Sedimentation

The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Site

The parcel of land being developed, or the portion thereof on which the land development project is located.

Soil and Water Conservation District Approved Plan

An erosion and sedimentation control plan approved in writing by the Upper Ocmulgee River Soil and Water Conservation District.

Special Exception

The modification of the minimum requirements of this Ordinance when strict adherence to such requirements would result in unnecessary hardship.

Stabilization

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 General Permit

The National Pollution Discharge Elimination System general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended

or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq., and subsection (f) of O.C.G.A. § 12-5-30.

State Waters

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

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

Stormwater Management

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

Any infrastructure that controls or conveys stormwater runoff.

Stormwater Management Facility, Off-Site

Any facility outside the project boundary that is or will be used for transporting and managing of stormwater runoff, including, but not limited to, culverts, detention ponds, storm drains, flumes, and headwater pools.

Stormwater Management, On-Site

The design and construction of a facility necessary to control stormwater runoff within and for a single development.

Stormwater Management Facility, On-Site

Any facility within the project boundary used for the purpose of transporting or managing stormwater runoff, including, but not limited to, culverts, detention ponds, storm drains, flumes, and headwater pools.

Stormwater Management Measure

Any stormwater management facility or nonstructural stormwater practice.

Stormwater Management Plan

A document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this Ordinance.

Stormwater Management, Regional

The design and construction of a facility necessary to control stormwater runoff; whether within or outside of a development, and serving one or more developments.

Stormwater Management System

The entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

Stormwater Retrofit

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

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Street, Public

A right-of-way purchased or dedicated to and accepted by Newton County for vehicular traffic or over which Newton County may hold a prescriptive easement for public access, including designated and numbered U.S. and State highways.

Structure

Anything constructed or erected on the ground or attached to something on the ground, including, but not limited to, walled or roofed buildings such as manufactured homes or infrastructure such as storage tanks.

Structural Erosion and Sedimentation Control Practices

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

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

Subdivision

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.

Substantially Improved Existing Manufactured Home Parks or Subdivisions

Repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equaling or exceeding 50 percent of the value of the streets, utilities and pads before repair, reconstruction or improvement commenced.

Trout Streams

All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 *et seq.* Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Variance

A relaxation of the terms of this Ordinance that will not be contrary to the public interest and where, owing to conditions peculiar to the property (and not the applicant), a literal enforcement of the regulations would result in unnecessary and undue hardship.

Vegetative Erosion and Sedimentation Control Measures

Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

1. Permanent seeding, sprigging or planting, producing long-term vegetative cover;
2. Temporary seeding, producing short-term vegetative cover; or
3. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

Watercourse

Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or washing in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Watershed

That area contributing runoff to a single surface watercourse or waterbody.

Wetlands

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. In case of conflict, wetlands are determined under the laws, rules and regulations promulgated by the federal government and administered by the United States Army Corps of Engineers and United States Environmental Protection Agency.

ARTICLE 3 – ADMINISTRATION

Sec. 300-010 GENERAL

In addition to other responsibilities and authorities noted in other sections of this Ordinance, the duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Director acting on behalf of the County Board of Commissioners.

Sec. 300-020 EXEMPTION FROM REQUIREMENTS

The following development activities are exempt from Article 4 of this Ordinance and the requirements of providing stormwater management, *but are not exempted from State Erosion Control / Forestry BMPs*:

- A. Agricultural and forestry land management activities.
- B. Additions or modifications to existing detached single-family or duplex dwellings.
- C. Construction of a detached single-family dwelling, which is not part of a larger development.
- D. Repairs to any stormwater management facility or practice deemed necessary by the County.

Sec. 300-030 SPECIAL EXCEPTIONS AND VARIANCES PROCEDURES

The Newton County Board of Zoning Appeals shall consider all special exception requests from the requirements of this Ordinance when due to extraordinary and exceptional conditions pertaining to a particular piece of property, the strict application of such requirements may result in unnecessary hardship. A formal written application, along with any such fees as may be established by the Board of Commissioners, shall be filed with the Director and submitted to the Newton County Board of Zoning Appeals. The following procedures shall apply to all applications:

- A. The application for a special exception shall state the specific regulation from which exception is sought and the reasons the exception is needed. The application shall contain such information as the Director deems necessary to evaluate the request.
- B. It shall be the applicant's responsibility to provide sufficient justification for granting the exception variance.
- C. The Director and staff shall prepare an evaluation statement concerning each application for special exception. The evaluation shall consider the circumstances and supporting documents supplied by the applicant and other generally available technical information pertaining to the special exception request. The evaluation shall consider

whether the request satisfies each criteria governing special exceptions, and the Director shall make a recommendation as to grant, grant with conditions, or denial of the special exception.

D. No special exception shall be granted if the hardship has been created by the applicant (for example, by poor subdivision design). No special exception shall be granted to permit a use not otherwise authorized in the zoning district. No special exception shall be granted if it would result in increased threats to public safety, extraordinary public expense, create nuisances, or conflict with the Newton County Zoning Ordinance, Development Regulations, Comprehensive Plan or other applicable rules and regulations. No special exception shall be granted to any applicant currently in violation of any Newton County ordinance or regulation.

E. The application shall be heard at a regularly scheduled Board of Zoning Appeals meeting. At the hearing on a special exception application, the Director or staff shall appear and present its analysis and findings to the Board of Zoning Appeals. The Board of Zoning Appeals shall only consider evidence presented with the application or at the hearing. Board members shall not accept any ex parte evidence, and all evidence submitted (including the staff analysis) shall be disclosed at or before the public hearing, to allow all sides the opportunity to review it. The Board of Zoning Appeals shall make a decision to approve the special exception, approve with conditions, or deny the special exception, citing to the grounds relied upon, and/or to the staff evaluation comments.

F. In consideration a special exception request, the Board of Zoning Appeals shall consider the following criteria, all of which must be satisfied:

1. Whether there are extraordinary and exceptional circumstances or conditions pertaining to the particular piece of property because of its size, shape or topography, and through no fault of the applicant;
2. Whether the strict application of this Ordinance to this particular piece of property would create severe practical difficulty or unnecessary hardship;
3. Whether the exception requested is the minimum necessary; and
4. Whether relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.

Sec. 300-040 ADMINISTRATIVE VARIANCE

A. Administrative variances may be granted by the Director. The Director is authorized to vary the requirements of the Ordinance up to ten percent, in circumstances where doing so would not impair the purposes of the Ordinance, and is necessary because of a hardship on the applicant that was not created by the applicant. Administrative variances are to be granted as infrequently as possible.

B. The grant of an administrative variance may be appealed pursuant to Sec. 300-050. The denial of an administrative variance may only be appealed by first applying for a Special Exception, under Sec. 300-030.

Sec. 300-050 APPEALS

A. Appeal of Planning and Development Department Staff decisions. The Newton County Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is an error in any interpretation or determination made by the Director or Planning and Development Department Staff in the administration of this Ordinance. Such appeals may be brought by the applicant, any member of the Board of Commissioners, or any aggrieved person, as defined below. Such appeals shall be taken within thirty (30) days of the decision appealed by filing with the Planning and Development Department and the Board of Zoning Appeals a notice of appeal specifying the grounds for appeal.

B. Appeal of Board of Zoning Appeals decisions. Any person or persons severally or jointly aggrieved by any decision of the Board of Zoning Appeals may take an appeal to the Board of Commissioners by filing a notice of appeal within ten days of the date of the decision of the Board of Zoning Appeals. The secretary of the board of Zoning Appeals shall transmit the record to the Board of Commissioners, and the Board of Commissioners shall hear the appeal de novo within forty-five days of the filing of the notice of appeal.

C. Aggrieved Persons. A person is aggrieved only if they own the subject property, or they own nearby or adjacent property which is in danger of suffering special damages or injury not common to all property owners similarly situated as a result of the action.

Sec. 300-060 VIOLATION AND PENALTY

A. It shall be the duty of the Director to enforce this Ordinance. The Director shall have the authority to revoke, suspend or void any development permit and shall have the authority to suspend all work on a site or portion thereof.

B. Any permit issued in conformance with this Ordinance shall be voided if its terms are violated.

C. Work which is not authorized by an approved permit, which is not in conformance with the approved plans for the project or which is not in compliance with the provisions of this Ordinance or any other adopted code, regulation or ordinance of Newton County, shall be subject to an immediate stop work order issued by the Department. Work which proceeds without having received the necessary inspections of the Department shall be halted until all inspections of intervening work are complete.

D. The filing or recording of a plat of a subdivision or development without the required approvals as established by this Ordinance is declared to be a misdemeanor.

E. Any responsible party or other persons convicted by a court of competent jurisdiction of violating any provision of this Ordinance shall be guilty of violating a duly adopted Ordinance of Newton County and shall be punished either by a fine not to exceed \$1,000. The owner of any lands or parts thereof, where anything in violation of this Ordinance shall be placed or shall exist and each responsible party or other person assisting in the commission of any such violation, shall be guilty of a separate offense.

ARTICLE 4 – POST-CONSTRUCTION STORMWATER MANAGEMENT

Sec. 400-010 PURPOSE

The purpose of this Article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point source pollution associated with new development and redevelopment. 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. This Article seeks to meet that purpose through the following objectives:

- A. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
- B. Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, non-point source pollution, and maintain the integrity of stream channels and aquatic habitats;
- C. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- D. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
- E. Encourage the use of 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 the county's greenspace protection plan;
- F. 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,
- G. Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

Sec. 400-020 APPLICABILITY

All persons proposing development and/or construction within Newton County shall submit a Stormwater Management Plan and hydrology study to the Director for review of conformity with this Ordinance, except as provided in Section 300-020. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:

- A. New development that involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of one acre or more;
- B. Redevelopment that includes the creation, addition or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of one acre or more;
- C. Any new development or redevelopment, regardless of size, that is defined as a hotspot land use;
- D. Land development activities that are smaller than the minimum applicability criteria set forth in items A and B above 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; or,
- E. Activities that lie within a special drainage district as defined in the Newton County Stormwater Local Design Manual (LDM) and are regulated by the provisions of the special drainage district.

Sec. 400-030 STORMWATER LOCAL DESIGN MANUAL

Newton County will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the Georgia Stormwater Management Manual and the Newton County Stormwater LDM, for the proper implementation of the requirements of this Ordinance. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience. The Georgia Stormwater Management Manual and Newton County Stormwater LDM are adopted by reference and declared to be part of this Ordinance.

Sec. 400-040 REQUIREMENTS FOR STORMWATER MANAGEMENT PLAN

- A. The Stormwater Management Plan shall be prepared under the supervision of, and certified by, a Professional Engineer, Professional Land Surveyor, or Registered Landscape Architect with competency in Hydrology and Hydraulics, currently registered in the State of Georgia. The plan shall conform with the requirements of this Article.

B. Upon receipt of the Stormwater Management Plan, the County shall perform appropriate reviews, and shall either approve the Stormwater Management Plan or return comments and reasons for rejection.

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Sec. 400-050 PERMIT PROCEDURES AND REQUIREMENTS

A. Permit Application Requirements

No owner or developer shall perform any land development activities without first meeting the requirements of this Article prior to commencing the proposed activity. Unless otherwise exempted by this Ordinance, or granted a waiver to meeting the minimum requirements outlined in the Newton County Stormwater LDM, a Land Disturbance Permit application shall be accompanied by the following items in order to be considered:

1. Stormwater concept plan and consultation meeting certification if required by subsection B, below;
2. Stormwater Management Plan;
3. Inspection and long term maintenance agreement;
4. Stormwater Tax Assessment Area, if applicable;
5. Performance bond, if applicable; and,
6. Land Disturbance Permit application and applicable review fees.

B. Stormwater Concept Plan and Consultation Meeting

Projects that are complex in nature may require a stormwater concept plan and consultation prior to submittal of design plans for review by the County. The stormwater concept plan shall meet the requirements outlined in the LDM. For the purposes of this section, any proposed development activity that meets any of the following criteria shall be required to prepare a stormwater concept plan and participate in a consultation meeting prior to submission of engineering plans for review.

1. Any residential subdivision with greater than 50 lots, unless such development contains 2-acre or greater lots.
2. Any non-residential development with a disturbed area of 10 acres or greater.
3. Any non-residential development regardless of size which has an impervious surface coverage that covers 50 percent or more of the property excluding those lands contained within undisturbed buffers including but not limited to floodplains, stream buffers and undisturbed buffers between dissimilar zonings.

4. Any non-residential development regardless of size, which is defined as a hot spot land use.

C. Stormwater Management Plan Requirements

A Stormwater Management Plan must be submitted in accordance with the LDM.

D. Inspection and maintenance agreement

The applicant or owner of the land involved in a land development project requiring a stormwater management facility or practice hereunder and for which Newton County requires ongoing maintenance must execute a stormwater management inspection and maintenance agreement that shall be binding on all subsequent owners of the site or any portion thereof.

1. Approval and Recording of Inspection and Maintenance Agreement.

The inspection and maintenance agreement shall require approval by the Director prior to final plat approval or final site plan approval. The Agreement shall be recorded by the property owner in the land records of Newton County. A covenant running with the land will describe said agreement and the obligation of all present and future holders of any interest in the development or any portion thereof. Said covenant shall be recorded on the deed of every parcel of property and/or lot that is derived in any way from the land development activity. Thereafter, each deed shall be recorded in the county deed records.

2. Required Contents.

The stormwater management inspection and maintenance agreement shall identify by name and official title, if applicable, the person(s) bound by said agreement to cause said inspection and maintenance. For residential developments, responsibility for the operation and maintenance of the stormwater management facility or practice shall remain that of the party which executed the stormwater management inspection and maintenance agreement unless and until such time as the duties hereunder are properly assumed by a homeowners association which is created as specified in this section. Evidence of the assumption of such duties shall be in a writing executed by the party assigning said duties and the homeowners association.

The duties created under the inspection and maintenance agreement shall transfer to each and every subsequent owner/applicant, or homeowners association (where one is established and duties are assigned thereto, in accordance with this Ordinance), or similar holders of interest in the development or any portion thereof. Upon transfer, each owner/applicant, homeowners association, or similar interest holder shall cause the deed of transfer to be marked upon its face with notice of obligations of the inspection and maintenance agreement through use of a restrictive covenant, as previously described. Each successor in title shall be bound by the inspection and maintenance agreement to all the duties of his predecessor thereunder.

The stormwater inspection and maintenance agreement shall incorporate by reference the project's operation and maintenance plan and account for all the work requirements specified in the plan.

The inspection and maintenance agreement shall provide that preventive maintenance inspections of infiltration systems, retention, or detention structures may be made by the County, at its option. The County's inspection schedule shall be established on a frequency that meets the intent of this Article and applicable regulatory compliance requirements bestowed on the County.

Right-of-entry for inspection. The terms of the inspection and maintenance agreement shall provide for the Director or his/her designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this Article is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this Article.

The inspection and maintenance agreement shall provide that the County shall notify the property owner(s) of the facility of any violation, deficiency or failure to comply with the Agreement. The Agreement shall also provide that upon a failure to correct violations requiring maintenance work or failure to provide an action plan for correcting such violation within ten (10) business days after notice thereof, the County may provide for all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the costs of the work performed by the County, and there shall be a lien on every parcel of property and/or lot that is derived in any way from the land development activity. If a Stormwater Tax Assessment Area has been established, the costs of the work performed shall be collected as provided in subsection E. Should such a lien be filed, portions of the affected property may be released by Newton County following the payments by the owner of such portion of the property of such owner's pro-rata share of the lien amount based upon the acreage to be released with such release amount to be determined by the Newton County Board of Commissioners.

3. Additional Requirements for Residential Subdivisions.

Prior to final plat approval, the developer of a subdivision, which is subject to the provisions of this Article, shall create a homeowners association for the residential subdivision(s) for which the developer is requesting approval. All property owners within the subdivision shall be members of the homeowners association. The homeowners association shall be the legal entity to which all correspondence and notice, required under or related to this Article is given by Newton County and from which Newton County will accept the same.

A copy of the homeowners' association's recorded declaration shall be provided to the County. The declaration shall provide:

- a. That the stormwater management facilities are part of the common elements of the development and shall be subject to the inspection and maintenance agreement and covenant;
- b. That membership in the association shall be mandatory and automatic for all homeowners of the development and their successors;
- c. That the association shall have lien authority to ensure the collection of dues from all members;
- d. That the requirements of the inspection and maintenance agreement and covenant shall receive the highest priority for expenditures by the association except for any other expenditures required by law to have higher authority;
- e. That a separate fund shall be maintained by the association for the routine maintenance, reconstruction and repair of the facilities, separate from all other funds of the association; that it shall be kept in an account insured by the FDIC;
- f. That the routine maintenance, reconstruction, and repair fund shall contain at all times the dollar amount reasonably determined from time to time by the County to be adequate to pay for the probable reconstruction and repair cost (but not routine maintenance cost) for a three-year period;

4. Dedication to County.

In lieu of an inspection and maintenance agreement, the Newton County Board of Commissioners may, at its discretion, accept dedication of any existing or future stormwater management facility for perpetual maintenance by Newton County, provided such facility meets all the requirements of this Ordinance, the LDM and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular structural maintenance by Newton County. In the event the County accepts dedication of any stormwater management facility for a residential subdivision, the Resolution creating the Stormwater Tax Assessment Area for the subdivision required by Subsection E.1, below, shall specify the fee for routine inspection, maintenance and repair activities to be performed by the County. In addition the Resolution creating the Stormwater Tax Assessment area may specify a fee to offset potential non-routine maintenance and repair expenditures by the county. These funds shall be maintained in a designated account for the Stormwater Tax Assessment Area activities. Collection of the amount for non-routine maintenance and repair shall be suspended once the account contains an amount necessary, as determined by the Director, to rebuild the stormwater facilities. The Board of Commissioners may revise said fees by resolution no earlier than 30 days after written notice to the participants in the Stormwater Tax Assessment Area.

E. Stormwater Tax Assessment Area.

1. Establishment of a Stormwater Tax Assessment Area.

Prior to final plat approval, the developer of any common development subject to the provisions of this Article shall establish a Stormwater Tax Assessment Area that shall thereafter encompass the development, each subdivision thereof, and any other property that is alleged to be covered/served by the stormwater management plan. The Stormwater Tax Assessment Area shall be established within the County upon a petition presented to the Board of Commissioners by the developer of any new subdivision or any additional unit or phase of an existing large subdivision which has been approved for development in units or phases. The petition shall be accompanied by appropriate forms, to be promulgated by the county, which shall at least list thereon the legal description and the district, land lot, block and/or lot of each parcel or tract of land affected by the proposed Stormwater Tax Assessment Area. Approval of the petition shall be by majority vote of the Board of Commissioners. Upon approval, the Board shall establish, by appropriate Resolution, the particular Stormwater Tax Assessment Area for which the petition has been submitted. The establishing resolution shall state the charge or fee for such service or the basis for computation and adjustment of the charge or fee.

2. Determination and Collection of Charges and Fees Incident to the Establishment of Stormwater Tax Assessment Area.

a. At the time of the approval of the petition by the Board of Commissioners, a copy of the resolution establishing the Stormwater Tax Assessment Area shall be transmitted to the County Tax Commissioner. The Tax Commissioner shall be responsible for the collection of any and all charges and fees which are established by the Board pursuant to Paragraph 1. Said charges and fees may be imposed against any business, resident or other property served by the stormwater management plan.

b. Property owners within a Stormwater Tax Assessment Area shall be billed annually through their regular ad valorem county tax bill for the cost to the county of county performance of inspection, maintenance and repair activities on privately-owned stormwater management facilities and practices during the 12 months proceeding the end of Newton County's fiscal year ending June 30 of the applicable tax year. The rate for Stormwater Tax Assessment Areas shall be determined based on the total cost incurred by the county in inspecting, maintaining and repairing these facilities in the applicable tax year divided by the number of non-exempt parcels which exist in all Stormwater Tax Assessment Areas in existence in the county in the applicable tax year.

c. A parcel that exists in a Stormwater Tax Assessment Area shall be exempt from the stormwater tax assessment if all requirements set forth in the inspection and maintenance agreement have been met and all necessary

documentation thereof has been submitted to and approved by the Director. The determination of applicability of exemption shall be made on a yearly basis by the Director. For residential subdivisions, individual lots shall not be exempt, all property owners shall be considered exempt or non-exempt based on the work performed for that subdivision.

F. Maintenance Bonds.

Prior to final plat approval of all subdivision development projects, the developer shall submit to the Director a bond or irrevocable letter of credit for the purpose of guaranteeing the materials and workmanship of all stormwater control measures associated with the development for a period of two (2) years from the issuance of the final plat or until the issuance of 75% of the Certificates of Occupancy for the subdivision development, whichever is greater. The bond amount shall be calculated by the Director and provided to the developer upon completion of field activities and submittal of the final plat to the Newton County Planning and Development Department.

If, during the bond period, the need for repairs to any of the stormwater control measures becomes evident then the developer will be notified in writing by the Director and informed of the measures to be taken to repair the facilities. If the developer has not taken significant action, as determined by the Director, within thirty (30) days of said notification, the Director shall take such steps as are necessary to claim an amount of the funds from the bond or letter of credit which, as estimated based upon no less than two bids secured by the Director, will cover all costs and expenses the county will incur in causing the repairs to be made.

G. Modifications for Off-Site Facilities

The Stormwater Management Plan for each land development project shall provide for stormwater management measures located on the site of the project, unless provisions are made with the Director to manage stormwater by an off-site, or regional facility. The off-site or regional facility: (1) must be located on property legally dedicated for the purpose, (2) 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 (3) there must be a County approved, 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 address stormwater management issues upstream and downstream from the development site to the off-site or regional facility.

A Stormwater Management Plan must be submitted to Newton County, which shows the adequacy of the off-site or regional facility.

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

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

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Sec. 400-060 POST-DEVELOPMENT STORMWATER MANAGEMENT
PERFORMANCE CRITERIA

The following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this Ordinance:

A. Water Quality

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. The system is sized to treat the prescribed water quality treatment volume from the site, as defined in the LDM;
2. Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained in accordance with the specific criteria in the LDM; and,
3. Runoff from hotspot land uses and activities identified in the LDM are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

B. 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;
3. Erosion prevention measures such as energy dissipation and velocity control.

All design and construction work that is undertaken proximate to stream channels (including the buffer areas) shall be in strict conformance with current local, State and Federal regulations.

C. Flood Protection

Flood and public safety protection shall be provided by controlling and safely conveying storm events such that flooding is not exacerbated for the storm events specified in the LDM and in accordance with applicable requirements in Article 6 of this Ordinance.

D. 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, gutters, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public and private properties adjoining project sites. Stormwater conveyance facilities that are designed to carry stormwater 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 LDM;
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 LDM; and,
3. Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the LDM.

E. Dam Design Guidelines

Any land disturbing activity that involves a property, which is proposed to contain a dam, shall comply with the provisions of this Section.

1. New Dams Which Become Subject to the Requirements of the Georgia Safe Dams Act and Rules for Dam Safety. Dams proposed to be 25 feet or more in height or proposed to have an impounding capacity of 100 acre-feet or more at maximum water storage elevation shall be subject to the following:
 - a. If a development is located within the breach zone of a dam, then the dam shall be subject to the requirements of the Georgia Safe Dams Act and Rules for Dam Safety adopted by the Georgia Department of Natural Resources. The developer shall obtain necessary approvals and permits from the Environmental Protection Division of the Georgia Department of Natural Resources for the project and the dam prior to securing a Land Disturbance Permit from the County. If the development is not located within the breach zone, the developer shall submit construction plans to the County prior to securing a Land Disturbance Permit from the County.

- b. If the developer elects to construct the dam in accordance with the design standards for new dams as contained in the Rules for Dam Safety, then new development shall be permitted within the dam breach zone. However, the dam shall meet the design standards for new dams as contained in the Rules for Dam Safety if development currently exists or is proposed in the dam breach zone.
- c. If the developer elects not to construct the new dam to the design standards for new dams as contained in the Rules for Dam Safety, then a dam breach analysis for the dam shall be submitted along with the construction plans prior to securing a Land Disturbance Permit from the County. The dam breach analysis shall be certified by a Professional Engineer licensed in Georgia and approved by the Georgia Safe Dams Program. The design engineer shall utilize the computer models entitled “DAMBRK” or “HEC-RAS” for the dam breach analysis.
- d. Should the dam not meet the design standards for dams as contained in the Rules for Dam Safety, then only the following uses and structures shall be permitted within the dam breach zone:
- i. Agriculture which requires no structures for human habitation within the dam breach zone including forestry, livestock raising, and agricultural and forestry access roads.
 - ii. Fences.
 - iii. Outdoor advertising signs provided they are located no closer than 100-feet from any residence or place of business.
 - iv. Roads, driveways and parking areas.
 - v. Utility poles, towers, pipelines, water treatment outfalls and facilities, or other similar facilities and structures.
- e. For any dam that is proposed not to meet the design for new dams as contained in the Rules for Dam Safety, the developer shall obtain a dam breach easement, recorded with the Clerk of Superior Court, from any off-site property owner where it is proposed for the dam breach zone to extend off the property where the dam is being constructed. The developer shall also cause a dam breach easement to be recorded upon the property being developed.
- f. Prior to recording of a Final Plat or issuance of a Certificate of Occupancy, as appropriate, an as-built survey must be performed by a Professional Land Surveyor and an as-built design certification must be performed by a Professional Engineer currently registered in the State of Georgia. Both certifications must be submitted to the Director. The certification shall state that the dam is constructed in accordance with the provisions of this Article, as well as the approved construction plans. If the project is for the development of a subdivision, the developer shall also

establish a legal entity, acceptable to the County, such as a mandatory Homeowner's Association (HOA) that will be responsible for the perpetual maintenance of the dam and its impoundment, prior to approval of the Final Plat.

2. Dams Subject to Regulation by the County. Dams proposed to be nine feet or more in height, but less than 25 feet in height, in combination with an impounding capacity proposed to be 20 acre-feet or more at maximum water storage elevation, but less than 100 acre-feet, shall be subject to the following:

a. If the developer elects not to construct the dam to the design standards for dams as contained in the Rules for Dam Safety, then a dam breach analysis for the dam shall be submitted to the Director with the construction plans prior to securing a Land Disturbance Permit from the County. The dam breach analysis shall be certified by a Professional Engineer licensed in Georgia and approved by the Georgia Safe Dams Program. The design engineer shall utilize the computer models entitled "DAMBRK" or "HEC-RAS" for the dam breach analysis.

b. Should the dam not meet the design standards for dams as contained in the Rules for Dam Safety, then only the following uses and structures shall be permitted within the dam breach zone:

- i. Agriculture which requires no structures for human habitation within the dam breach zone including forestry, livestock raising, and agricultural and forestry access roads.
- ii. Fences.
- iii. Outdoor advertising signs provided they are located no closer than 100-feet from any residence or place of business.
- iv. Roads, driveways and parking areas.
- v. Utility poles, towers, pipelines, water treatment outfalls and facilities, or similar facilities and structures.

c. If the developer elects to construct the dam in accordance with the design standards for dams as contained in the Rules for Dam Safety, then new development shall be permitted within the dam breach zone. However, the dam shall meet the design standards for dams as contained in the Rules for Dam Safety if development currently exists or is proposed in the dam breach zone.

d. Construction plans for dams defined herein shall be submitted to the County prior to securing a Land Disturbance Permit from the County. The plans shall be certified by a Professional Engineer licensed in Georgia and approved by the Georgia Safe Dams Program.

e. For any dam that is proposed not to meet the design standards for dams as contained in the Rules for Dam Safety, the developer shall obtain a dam breach easement, recorded with the Clerk of Superior Court, from any off-site property owner where it is proposed for the dam breach zone to extend off the property where the dam is being constructed. The developer shall also cause a dam breach easement to be recorded upon the property being developed.

f. Prior to recording of a Final Plat or issuance of a Certificate of Occupancy, as appropriate, the required as-built certifications, as stated herein, shall be submitted to the Director.

3. Existing Dams. Existing dams that are located on a project site and will remain after construction is complete, shall comply with the provisions of this Article and all referenced articles as if they were new dams.

4. Existing Category II Dams. When an existing Category II dam would be reclassified to a Category I dam because of a proposed development downstream of the dam, the following shall be provided by the developer for review by the Georgia Safe Dams Program.

a. Location of the Category II dam and the proposed development; and,

b. A surveyed cross-section of the stream valley at the location of the proposed development including finished floor elevations; and,

c. A dam breach analysis using the “DAMBRK” or “HEC-RAS” computer model to establish the height of the flood wave in the downstream floodplain. The “DAMBRK” or “HEC-RAS” modeling shall be completed in accordance with the Safe Dams Program by a qualified registered engineer licensed in Georgia and approved by the Georgia Safe Dams Program..

Sec. 400-070 CONSTRUCTION INSPECTIONS

A. Periodic inspection of the development site shall be made by the Director to ensure that the Stormwater Management Plan is properly implemented.

B. Upon completion of the construction phase on the project, and prior to approval of the Final Plat or issuance of a Certificate of Occupancy, the developer shall provide an as-built survey and an as-built design certification for each stormwater management facility. The as-built survey(s) shall be prepared by a Land Surveyor currently registered in the State of Georgia. A certified record drawing of the facility shall be prepared based upon this as-built survey. Based on the actual parameters established on the record drawing, an addendum to the Stormwater Management Plan shall be prepared which demonstrates that the facility, as constructed, complies with the requirements of the approved

Stormwater Management Plan. The certified record drawing shall be certified by a Professional Engineer currently registered in the State of Georgia.

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Sec. 400-080 LONG-TERM INSPECTION AND MAINTENANCE

A. Long-term inspection and maintenance of stormwater facilities and practices. Stormwater management facilities and practices included in a stormwater management plan that are subject to an inspection and maintenance agreement must undergo ongoing inspections to ensure compliance with the requirements of the agreement, the plan and this Ordinance. The responsible person, as designated in the approved inspection and maintenance agreement, shall inspect the stormwater management facilities or practices on a periodic basis.

B. County Inspections. Inspection programs by the Director may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental, safety laws, and to meet applicable regulatory requirements. 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. Inspection reports, including documented deficiencies and needed maintenance requirements, shall be maintained by the Director and provided to the responsible party to undertake appropriate action. Scanned or electronic copies of original documents may be maintained in lieu of said original documents.

C. Duty to Maintain. Property owners are responsible for performing operation and maintenance activities for stormwater management facilities and practices located on their property in accordance with the Operations and Maintenance Plan. Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Director.

D. Failure to maintain. 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 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 a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Director 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. The owner(s) of the facility shall be assessed the costs of the work performed by the County, and there shall be a lien on all property of the owner in which said property utilizes, or will utilize such facility in achieving stormwater management,. If a Stormwater Tax Assessment Area has been established, the costs of the work performed shall be collected as provided in Section 400-050 E. Alternatively,

the Director may consult Code Enforcement to issue citations to help force compliance with the inspection and maintenance agreement.

Sec. 400-090 MAINTENANCE OF PRE-EXISTING STORMWATER FACILITIES

Pre-Existing Residential Subdivisions.

Any homeowner's association with a duty to maintain a pre-existing stormwater facility may establish a Stormwater Tax Assessment Area upon presentation of a petition to the Board of Commissioners by either or both of the following:

1. Owners whose cumulative holdings total fifty-one percent (51%) or more of the property affected within the proposed Stormwater Tax Assessment Area.
2. Fifty-one percent (51%) of the owners of the property affected within the proposed Stormwater Tax Assessment Area.

Approval of the petition shall be by majority vote of the Board of Commissioners. If approved, the Board shall establish, by resolution, the particular Stormwater Tax Assessment Area for which the petition has been submitted. The establishing resolution shall state the charge or fee for such service, as well as the basis for computation and adjustment of the charge or fee. Establishment of the Stormwater Tax Assessment Area and collection of fees shall be in accordance with Section 400-050 E.

400-100 VIOLATIONS, ENFORCEMENT AND PENALTIES

Any action or inaction which violates the provisions of this Article or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this section. Any such action or inaction, which is continuous with respect to time, is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

A. Notice of violation. If the Director determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this Article, the Director shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this Article without having first secured a permit, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

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

2. The address or other description of the site upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this Ordinance and the date for the completion of such remedial action; and
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.
6. A statement on whether the violation must be corrected within ten (10) business days or whether an action plan submitted within ten (10) business days will be acceptable.

B. Penalties. In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one (1) or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Director shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) business days (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours notice shall be sufficient) to cure such violation or develop an action plan for curing such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Director may take any one (1) or more of the following actions or impose any one (1) or more of the following penalties.

1. Stop work order. The Director may issue a stop work order that shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
2. Withhold certificate of occupancy. The Director may refuse to issue a certificate of occupancy for any and all buildings or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
3. Suspension, revocation or modification of permit. The Director may suspend, revoke or modify the permit authorizing the land development project. A

suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Director may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

4. Citations. For intentional and flagrant violations of this Article, or in the event the applicant or other responsible person fails to take the remedial measures set forth in previously issued notice-of-violation(s) or otherwise fails to cure the violations or develop and action plan for curing such violation within ten (10) business days, the Director may issue a citation to the applicant or other responsible person, requiring such person to appear in Magistrate Court of Newton County to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00). Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Sec. 400-110 SOIL EROSION AND SEDIMENTATION CONTROLS

Developers shall be required to provide soil erosion and sedimentation control measures in conformance with state law and the Newton County Soil Erosion and Sedimentation Control provisions of Article 7.

ARTICLE 5 – ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sec. 500-010 PURPOSE

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 County municipal separate storm sewer system (MS4) to the maximum extent practicable as required by State and Federal law. This Article establishes methods for controlling the introduction of pollutants into the County MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II Stormwater General Permit. The objectives of this Article are to:

1. Regulate the contribution of pollutants to the County MS4 by any person, property owner, site operator, etc;
2. Prohibit illicit discharges and illegal connections to the County MS4 ;
3. Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the County MS4; and,
4. To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Article.

Sec. 500-020 PROHIBITIONS

A. Prohibition of Illicit Discharges

No person shall dispose, discard, drain, or otherwise discharge, cause, or allow others under its control to dispose, discard, drain, or otherwise discharge into the County MS4 any contaminated or polluted water, liquids, materials, waste products, etc, other than stormwater.

The following discharges to the MS4 are exempt from the prohibition provision above:

1. Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, non-commercial car wash water, 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 any other water source not containing pollutants;
2. Discharges or flows from fire fighting, and other discharges specified in writing by the County as being necessary to protect public health and safety;

3. The prohibition provision above shall not apply to any non-stormwater discharge permitted under an approved NPDES permit or order issued to the discharger and administered under the authority of the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (USEPA), 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 County MS4.

B. Prohibition of Illegal Connections

The construction, connection, use, maintenance or continued existence of any illegal connection to the County MS4 is prohibited.

1. 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 County MS4, or allows such a connection to continue.
3. Improper connections in violation of this Article must be abated, disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system with approval of Newton County Water and Sewerage Authority.
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 County 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 County.

Sec. 500-030 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an NPDES Industrial Stormwater Permit or NPDES Construction Activity Permit administered by the Georgia EPD shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the County prior to allowing discharges to the County MS4.

Sec. 500-040 ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

Duly authorized representatives of the County 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. Prior to entering private property, a County representative shall obtain the consent of the property owner or, if such consent is withheld, a duly issued search warrant.

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 County.
2. The property owner or operator shall allow the County 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 County shall have the right to set up on any property or facility such devices as are necessary in the opinion of the County to conduct monitoring and/or sampling of flow discharges.
4. The County may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the County. 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 water 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 County 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 County access to a facility is a violation of this Article.
7. If the County has been refused access to any part of the premises from which stormwater is discharged, and the County is able to demonstrate probable cause to believe that there may be a violation of this Article, 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 Article or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the County may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 500-050 NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the County MS4, State Waters, or Waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

Said person shall notify the County and other appropriate agencies (State, Federal, etc.) in person or by phone, facsimile no later than 24 hours after the discharge, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County Engineer's Office within three business days of the initial notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the property owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.

Failure to provide notification of a release as provided above is a violation of this Article.

Sec. 500-060 VIOLATIONS, ENFORCEMENT AND PENALTIES

A. 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 section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the County is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The County is authorized to seek costs of the abatement as outlined in subsection E of this Article.

B. Notice of Violation (NOV)

Whenever the County finds that a violation of this Article has occurred, the County may order compliance by a written NOV.

1. The NOV shall contain:
 - a. The name and address of the alleged violator;
 - b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to restore compliance with this Article and a time schedule for the completion of such remedial action;
 - e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
 - f. A statement that the determination of violation may be appealed to the County by filing a written notice of appeal within ten (10) days of service of notice of violation.
2. Such notice may require without limitation:
 - a. The performance of monitoring, analyses, and reporting;
 - b. The elimination of illicit discharges and illegal connections;
 - c. That violating discharges, practices, or operations shall cease and desist;
 - d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - e. Payment of costs to cover administrative and abatement costs; and,
 - f. The implementation of pollution prevention practices.

C. Appeal of Notice of Violation (NOV)

Any person receiving a NOV may appeal the determination of the County. The notice of appeal must be received within ten (10) days from the date of the Notice of Violation. Hearing on the appeal before the Director shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the Director shall be final.

D. Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the NOV, or in the event of an appeal, within 30 days of the decision of the County Engineer upholding the decision of the County, then representatives of the County may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

E. Costs of Abatement of the Violation

Within thirty (30) days after abatement of the violation, the owner of the property will be notified by the County of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within ten (10) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this Article shall become liable to the County by reason of such violation.

F. Civil Penalties

In the event the alleged violator fails to take the remedial measures set forth in the NOV or otherwise fails to cure the violations described therein within ten days, or such greater period as the County shall deem appropriate, after the County has taken one or more of the actions described above, the County may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

G. Criminal Penalties

For intentional and flagrant violations of this Article, the County may issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

H. Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public

health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by applicable law.

I. Remedies Not Exclusive

The remedies listed in this Article are not exclusive of any other remedies available under any applicable Federal, State or local law and the County may seek cumulative remedies.

The County may recover attorney's fees, court costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

ARTICLE 6- FLOODPLAIN MANAGEMENT

Sec. 600-010 PURPOSE

The purpose of this Article is to protect, maintain and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, streambank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed to:

- A. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- B. Restrict or prohibit uses which are dangerous to health, safety and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion;
- C. Control filling, grading, dredging and other development which may increase flood damage or erosion;
- D. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
- E. Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and,
- F. Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

Sec. 600-020 APPLICABILITY

This Article shall apply to all areas of special flood hazard within the jurisdiction of Newton County.

Sec. 600-030 AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated July 5, 1983, with accompanying maps and other supporting data and any revisions thereto are adopted by reference and declared to be part of this Ordinance.

Sec. 600-040 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required in this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-

made or natural causes. This Article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of Newton County or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

Sec. 600-050 PERMIT PROCEDURES

Application for a Land Disturbance Permit shall be made in accordance with the established procedures. Specifically, the following information is required:

A. Application Stage:

1. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.
2. Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed.
3. If flood-proofing is required, certificate from a registered professional engineer or architect that the non-residential flood-proofed structures will meet the flood-proofing in Section 600-080 (B) (2).
4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

B. Construction Stage:

Provide a flood elevation or flood-proofing certification after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the County Building Official a certification of the elevation of the lowest floor or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified. When flood-proofing is used for a particular building, certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified. Any work done within the 21 calendar day period and prior to submission of the certification shall be at the permit holder's risk. The County Building Official shall review the Flood Elevation Survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make corrections required shall be cause to issue a stop-work order for the project.

Sec. 600-060 DUTIES OF THE COUNTY BUILDING OFFICIAL

Duties of the County Building Official shall include, but not be limited to:

- A. Review all application for Land Disturbance Permits to ensure that the permit requirements of this Article have been satisfied.
- B. Advise permit holder that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the Land Disturbance Permit.
- C. Notify adjacent communities and the Department of Natural Resources, Georgia Geologic Survey, Flood Plain Management Unit, State of Georgia, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- D. Ensure that maintenance is provided within the altered or relocated portion of the affected watercourse so that the flood carrying capacity is not diminished.
- E. Verify and record the actual elevations (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in accordance with this Ordinance.
- F. Verify and record the actual elevations (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed in accordance with this Ordinance.
- G. When flood-proofing is used for a particular structure, the County Building Official shall obtain certification from a registered professional engineer or architect in accordance with this Ordinance
- H. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard or a conflict between a mapped boundary and actual field conditions exists, the County Building Official shall make the necessary determination. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- I. When base flood elevation data has not been provided in accordance with Section 600-030, then the County Building Official shall obtain, review, and reasonably use any base flood elevation data available from a federal, State or other source, in order to administer the provisions of Section 600-080.
- J. All records pertaining to the provisions of this Article shall be maintained in the office of the Director and shall be open for public inspection.

Sec. 600-070 SPECIAL EXCEPTION, WAIVER, AND APPEAL PROCEDURES

A. The Newton County Board of Zoning Appeals shall hear appeals of the Building Official's interpretation of the requirements of this Article and any requests for exceptions from or waivers of the requirements of this Article in accordance with the procedures and criteria established in Article 3 of this Ordinance.

B. In considering exceptions to this Article, the Newton County Board of Zoning Appeals shall specifically consider all technical evaluation, relevant factors, and standards specified in other sections and:

1. The danger that materials may be swept onto other lands;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, in the case of a functionally dependent facility;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

C. Exceptions shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Exceptions may be issued for the repair or rehabilitation of historic structures upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the exception is the minimum necessary to preserve the historic character and design.

E. Any applicant to whom an exception is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

F. The County Building Official shall maintain the records of all appeal actions and report any exceptions to the Federal Emergency Management Agency upon request.

Sec. 600-080 PROVISIONS FOR FLOOD HAZARD REDUCTION

A. General Standards

In all areas of special flood hazard the following provisions are required:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
3. All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
4. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
5. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within components during conditions of flooding.
6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
7. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
8. On-site waste disposal systems shall be located and constructed to avoid impairment or contamination during flooding.

9. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Article, shall meet the requirements of “new construction” as contained in this Ordinance.

10. Any alteration, repair, reconstruction or improvements to a building, which is not in compliance with the provisions of this Article, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

B. Specific Standards

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in this Article, the following provisions are required:

1. Residential Construction

New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor including basement elevated to or above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 600-070 (B) (3).

2. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the level of the base flood elevation. Buildings located in all A-zones, together with attendant utility and sanitary facilities, may be flood-proofed in lieu of being elevated provided that all areas of the building below the base flood level are water tight with walls substantially impermeable to the passage of water, and use structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in this Article.

3. Elevated Buildings

New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

- i. Provided a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one foot above grade; and
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions.
- b. Electrical plumbing and other utility connections are prohibited below the base flood elevation;
- c. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
- d. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions must meet all requirements for new construction, including elevation and anchoring.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
 - i. The lowest floor of the manufactured home is elevated to or above the level of the base flood elevation, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above grade, and the lowest floor be elevated to or above the level of the base flood elevation.
 - iii. The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood, any manufactured home placed or substantially improved on any lot receiving prior damage must meet the standards of subsection (4) (b).

c. All recreational vehicles placed on sites must either:

i. Be fully licensed and ready for highway use; or

ii. The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of this Article above.

iii. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.

5. Floodways

Located within areas of special flood hazard established in this Article, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris and potential projectiles, and has erosion potential, the following provisions shall apply:

a. Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

b. If subsection (5) (a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.

c. Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards in and the elevation standards and the encroachment standards (a) are met.

C. Standards For Development Proposals

1. All development proposals shall be consistent with the need to minimize flood damage.

2. All development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. All development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions).

D. Standards For Areas Of Shallow Flooding

Located within the areas of special flood hazard established in this Article are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade.
2. All new construction and substantial improvements of nonresidential buildings shall:
 - a. Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated to at least three (3) feet above the highest adjacent grade, or;
 - b. Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Sec. 600-090 FLOODPLAIN

A. All buildings located adjacent to the 100-year floodplain shall be constructed so that all portions of the structure, including the basement floor or crawl areas, shall be not less than three (3) feet above the 100-year flood elevations; however, structural support units may be located within the 100-year floodplain, provided they do not conflict with the hydrologic design characteristics of the approved plans and do not conflict with other requirements of this Section. Any structure or manufactured home so erected must be

designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure, and be constructed with flood-resistant materials and utility equipment resistant to flood damage. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Flood-proofing of residential construction will be in accordance with this Article. When flood-proofing is used for a non-residential structure, the Building Official shall obtain certification from a registered professional engineer or architect.

B. The profile elevation of the centerline of all public streets shall be constructed a minimum of one (1) foot above the 100-year flood elevation. Exceptions to this provision may be granted by the Building Official in cases where construction of the street elevation below the 100-year flood elevation would improve drainage or reduce the effects of flooding.

ARTICLE 7 – EROSION AND SEDIMENTATION CONTROL

Sec. 700-010 Definitions

For the purposes of this Article only, the following definitions shall apply:

Board

The Board of Natural Resources.

Buffer

The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Commission

The State Soil & Water Conservation Commission.

Department

The Department of Natural Resources.

Director

The Director of the Environmental Protection Division of the Department of Natural Resources.

District

The Upper Ocmulgee River Soil and Water Conservation District.

Division

The Environmental Protection Division of the Department of Natural Resources.

Erosion and Sedimentation Control Plan

A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity. Also known as the “plan”.

Permit

The authorization necessary to conduct a land-disturbing activity under the provisions of this Article.

Project

The entire proposed development project regardless of the size of the area of land to be disturbed.

Sec. 700-020 EXEMPTIONS

This Article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

A. Surface mining, as the same defined in O.C.G.A. § 12-4-72, “Mineral Resources and Caves Act”;

B. Granite quarrying and land clearing for such quarrying;

C. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;

D. The construction of single-family residences, when such construction disturbs less than one acre and is not a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Section 700-030 of this Article and this Paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams, pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Section 700-030 of this Article and the buffer zones provided by this section shall be enforced by the local issuing authority;

E. Agricultural operations as defined in O.C.G.A. § 1-3-3, “definitions”, to include raising, harvesting, or storing of products of the field or orchard; 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, 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; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;

F. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section 700-030 C. of this Article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;

G. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

H. Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph. "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;

I. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb one (1) or more contiguous acres of land shall be subject to provisions of Code Section 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

J. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United states engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

K. Any public water system reservoir.

Sec. 700-030 MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL USING BEST MANAGEMENT PRACTICES

A. General Provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this Article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Section 700-030 B and C of this Article. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

B. Minimum Requirements/BMP's

1. Best management practices as set forth in Section 700-030 B and C of this Article shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of Code Section § 12-5-30, "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6 subsection (b).

2. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of Code Section § 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.

3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local Issuing Authority or any state general permit issued by the Division pursuant to subsection (f) of Code Section § 12-5-30, the “Georgia Water Quality Control Act”, for each day on which such failure occurs.

4. The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

C. The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

1. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;

2. Cut-fill operations must be kept to a minimum;

3. Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;

4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;

5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;

6. Disturbed soil shall be stabilized as quickly as practicable;

7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.

8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable.

9. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it

is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 *et. seq.*;

10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;

11. Cuts and fills may not endanger adjoining property;

12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;

13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;

14. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 700-030 B.2. of this Article.

15. Except as provided in paragraph (16) of this subsection, there is established a 35-foot buffer¹ along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure which must cross a state water or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the “Georgia Water Quality Control Act”, shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:

a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once land-disturbing activity is initiated and continuing until final stabilization of the site is achieved, the boundary of the buffer shall be designated by four foot orange safety fencing. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on

¹ See Divisions 415, 420 and 520 of The Zoning Ordinance of Newton County Georgia, as amended, for additional riparian buffer requirements.

the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

16. There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as “trout streams” pursuant to Article 2 of Chapter 5 of Title 12, the “Georgia Water Quality Control Act”, except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner’s property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

a. No land-disturbing activities shall be conducted within buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once land-disturbing activity is initiated and continuing until final stabilization of the site is achieved, the boundary of the buffer shall be designated by four foot orange safety fencing. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

D. Nothing contained in this chapter shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section 700-030 B and C of this Article.

E. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Article or the terms of the permit.

Sec. 700-040 APPLICATION/PERMIT PROCESS

A. General

The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the Local Issuing Authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this Article, and other ordinances which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the operator is the only party who may obtain a permit.

B. Application Requirements

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Newton County without first obtaining a permit from the Planning & Zoning Department of Newton County to perform such activity.
2. The application for a permit shall be submitted to the Planning & Zoning Department of Newton County and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section 700-040 C of this Article. Soil erosion and sedimentation control plans shall conform to the provisions of Section 700-030 B and C of this Article. Applications for a permit will not be accepted unless accompanied by three (3) copies of the applicant's soil erosion and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to

creation of the plan or that such a visit was not required in accordance with rules and regulations established by the board.

3. A fee, in an amount set by the Newton County Board of Commissioners, shall be charged for each acre or fraction thereof in the project area.

4. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. § 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. § 12-7-17 shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.

5. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. A District shall approve or disapprove a plan within 35 days of receipt. Failure of a District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 700-030 C. 15. and 16. and bonding, if required as per Section 700-040 B. 7, have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District.

6. If a permit applicant has had two or more violations of previous permits, this Article section, or the Erosion and Sedimentation Act, as amended, within three (3) years prior to the date of filing of the application under consideration, the Local Issuing Authority may deny the permit application.

7. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this Article or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall

not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

C. Plan Requirements

1. Plans must be prepared to meet the minimum requirements as contained in Section 700-030 B and C of this Article. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sediment Control in Georgia*, published by the State Soil and Water Conservation Commission as a guide; or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this Article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws.

2. Data Required for Site Plan

- a. Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
- b. Description of existing land use at project site and description of proposed project.
- c. Name, address, and phone number of the property owner.
- d. Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls. This individual must have completed a Soil Erosion and Sedimentation Course accepted and sanctioned by the Georgia Soil and Water Conservation Commission. Qualifying courses include, but are not limited to, the following:
 - i. Soil and Water Conservation/Athens
 - ii. Rockdale
 - iii. Roswell/Alpharetta
 - iv. Newton/Covington

Qualifying course completion must be evidenced by a certification card from an approved course. Any person performing land disturbance activities in Newton County or the City of Covington must be currently

certified or successfully complete an approved course within 12 months of the date the application for land-disturbing activity is made.

e. Size of project, or phase under construction, in acres.

f. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in **bold letters**, that “the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities.”

g. Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.

h. Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.

i. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.

j. Maintenance statement – “Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source.”

3. Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the Commission pursuant to O.C.G.A. § 12-7-20. The certified plans shall contain:

a. Graphic scale and north point or arrow indicating magnetic north.

b. Vicinity maps showing location of project and existing streets.

c. Boundary line survey.

d. Delineation of disturbed areas within project boundary.

e. Existing and planned contours, with an interval in accordance with the following:

Map Scale	Ground Slope	Contour Interval, ft.
1 inch = 100 ft. or larger scale	Flat 0-2% Rolling 2-8% Steep 8%+	0.5 or 1 1 or 2 2, 5 or 10

f. Adjacent areas and features areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

g. Proposed structures or additions to existing structures and paved areas.

h. Delineate the 35-foot horizontal buffer adjacent to state waters and the specified width in MRPA areas.

i. Delineate the specified horizontal buffer along designated trout streams, where applicable.

j. Location of erosion and sedimentation control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*, Chapter 6.

4. Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

D. Permits

1. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary.

2. No permit shall be issued by the Local Issuing Authority unless the erosion and sedimentation control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this Article, any variances required by Section 700-030 C 15 and 16 are obtained, bonding requirements, if necessary, as per Section 700-040 B. 7 are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries

of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.

3. If the tract is to be developed in phases, then a separate permit shall be required for each phase.

4. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this Article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

5. No permit shall be issued unless the applicant provides a statement by the Newton County Tax Commissioner's Office certifying that all ad valorem taxes levied against the property and due and owing have been paid.

Sec. 700-050 INSPECTION AND ENFORCEMENT

A. The Building and Inspections Department of Newton County will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the Local Issuing Authority shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this Article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Article.

B. The Building and Inspections Department of Newton County shall have the power to conduct such investigations as it may reasonable deem necessary to carry out duties as prescribed in this Article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

C. No person shall refuse entry or access to any authorized representative or, agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person

obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

D. The Districts or the Commission or both shall periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. § 12-7-8(a). The Districts or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The Districts or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.

E. The Board, on or before December 31, 2003, shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section § 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicated that the governing authority of any county or municipality certified pursuant to O.C.G.A. § 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 30 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 30 days after notification by the division, the division may revoke the certification of the county or municipality as a Local Issuing Authority.

Sec. 700-060 PENALTIES AND INCENTIVES

A. Failure to Obtain a Permit for Land-Disturbing Activity

If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this Article without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.

B. Stop-Work Orders

1. For the first violation of the provisions of this Article, the Local Issuing Authority shall issue a written warning to the violator. The violator shall have three (3) business days to correct the violation. If the violation is not corrected within three (3) business days, the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary

corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning.

2. For each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and

3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or any amount of sediment, as determined by the local issuing authority or by the director or his or her designee, has been or is being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls

5. If, through inspection, it is determined that a person engaged in land-disturbing activities is not in compliance with BMP's, the deposit of any silt or sediment into State Waters is an automatic violation subject to a stop-work order and citation.

C. Bond Forfeiture

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section Sec. 700-040 B. 7. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

D. Monetary Penalties

1. Any person who violates any provisions of this Article, or any permit condition or limitation established pursuant to this Article or who negligently or intentionally fails or refuses to comply with any final or emergency order issued

as provided in this Article may be held liable for a monetary penalty of \$2,500.00 per day for the purpose of enforcing the provisions of this Article, notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court competent jurisdiction trying cases brought as violations of this Article under county ordinances approved under this Article shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

2. The following minimum penalties shall apply to land-disturbing activities performed in violation of any provision of this Article, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this Article:

a. There shall be a minimum penalty of \$250.00 per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and;

b. There shall be a minimum penalty of \$1,000.00 per day for each violation involving land-disturbing activities other than as provided in subsection (a) of this paragraph.

Sec. 700-070 EDUCATION AND CERTIFICATION

After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the Commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

Sec. 700-080 ADMINISTRATIVE APPEAL JUDICIAL REVIEW

A. Administrative Remedies

The suspension, revocation, modification or grant with condition of permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Newton County Planning Commission within fifteen (15) days after receipt by the Local Issuing Authority of written notice of appeal.

B. Judicial Review

Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of Newton County.

Sec. 700-090 LIABILITY

Liability

A. Neither the approval of a plan under the provisions of this Article, nor the compliance with provisions of this Article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.

B. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Article or the terms of the permit.

C. No provision of this Article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

SO ORDAINED, this 5th day of September, 2006 after a public hearing on said date.

NEWTON COUNTY BOARD OF COMMISSIONERS

By: _____
Aaron Varner, Chairman

Attest: _____
Clerk

{COUNTY SEAL}