

## **CHAPTER 11. STORMWATER MANAGEMENT**

### **ARTICLE A. POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT**

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

##### **Sec. 10-11001. FINDINGS**

It is hereby determined that:

- (1) Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition;
- (2) Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters;
- (3) The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;
- (4) These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural facilities as well as nonstructural measures, such as the conservation of open space and greenspace areas. The preservation and protection of natural area and greenspace for stormwater management benefits is encouraged through the use of incentives or "credits." The Georgia Greenspace Program provides a mechanism for the preservation and coordination of those greenspace areas which provide stormwater management quality and quantity benefits;
- (5) Localities in the State of Georgia are required to comply with a number of both state and federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and nonpoint source pollution;
- (6) Therefore, the City of East Point has established this set of stormwater management policies to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. It has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.

(Ord. No. 004-07, 2-19-07)

##### **Sec. 10-11002. PURPOSE AND INTENT**

The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. 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:

- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
- (2) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
- (3) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- (4) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
- (5) Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable. Coordinate site design plans, which include greenspace, with the county's greenspace protection plan;
- (6) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and
- (7) Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

(Ord. No. 004-07, § 1.1, 2-19-07)

### **Sec. 10-11003. APPLICABILITY**

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

- (1) New development that involves the creation of five thousand (5,000) square feet or more of impervious cover, or that involves other land development activities of one (1) acre or more;
- (2) Redevelopment that includes the creation, addition or replacement of five thousand (5,000) square feet or more of impervious cover, or that involves other land development activity of one (1) acre or more;
- (3) Any new development or redevelopment, regardless of size, that is defined by the City of East Point Office of Government Operations to be a hotspot land use; or
- (4) Land development activities that are smaller than the minimum applicability criteria set forth in subsections (1) and (2) 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.

(b) The following activities are exempt from this article:

- (1) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;
- (2) Additions or modifications to existing single-family or duplex residential structures;

(3) Agricultural or silvicultural land management activities within areas zoned for these activities; and

(4) Repairs to any stormwater management facility or practice deemed necessary by the city office of government operations.

(Ord. No. 004-07, § 1.2, 2-19-07)

#### **Sec. 10-11004. DESIGNATION OF ARTICLE ADMINISTRATOR**

The City of East Point Office of Government Operations, or its designee, is hereby appointed to administer and implement the provisions of this article.

(Ord. No. 004-07, § 1.3, 2-19-07)

#### **Sec. 10-11005. COMPATIBILITY WITH OTHER REGULATIONS**

The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Ord. No. 004-07, § 1.4, 2-19-07)

#### **Sec. 10-11006. SEVERABILITY**

If the provisions of any section, subsection, paragraph, subdivision or clause of this article 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 article.

(Ord. No. 004-07, § 1.5, 2-19-07)

#### **Sec. 10-11007. STORMWATER DESIGN MANUAL**

The city office of government operations will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the Georgia Stormwater Management Manual and any relevant local addenda for the proper implementation of the requirements of this article. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

(Ord. No. 004-07, § 1.6, 2-19-07)

#### **Sec. 10-11008. DEFINITIONS**

[The following words, terms and phrases, when used in this article, shall have the following meanings, except where the context indicates a different meaning is intended:]

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

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

*Conservation easement* means an agreement between a land owner and the City of East Point 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.

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

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

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

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

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

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

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

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

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

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

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

*Hydrologic soil group (HSG)* means a natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

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

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

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

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

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

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

*Land development project* means a discrete land development undertaking.

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

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

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

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

*Office of government operations* is a division of the City of East Point which includes the departments of public works, public utilities, solid waste, fleet management, and buildings and grounds, and is located at 3130 South Martin, Suite 600, East Point, Georgia.

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

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

*Overbank flood protection* means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.

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

*Permit* means the permit issued by the office of government operations to the applicant which is required for undertaking any land development activity.

*Person* means, except to the extent exempted from this article, 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.

*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.

*Project* means a land development project.

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

*Regional stormwater management facility* or *regional facility* means stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or

developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.

*Runoff* means stormwater runoff.

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

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

*Stormwater management* means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

*Stormwater management facility* means any infrastructure that controls or conveys stormwater runoff.

*Stormwater management measure* means any stormwater management facility or nonstructural stormwater practice.

*Stormwater management plan* means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this article.

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

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

*Stormwater runoff* means the flow of surface water resulting from precipitation.

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

*Subdivision* means the division of a tract or parcel of land resulting in one (1) 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.

(Ord. No. 004-07, § 2, 2-19-07)

**Secs. 10-11009--10-11020. RESERVED**

**DIVISION 2. PERMIT PROCEDURES AND REQUIREMENTS**

**Sec. 10-11021. PERMIT APPLICATION REQUIREMENTS**

(a) No owner or developer shall perform any land development activities without first meeting the requirements of this article prior to commencing the proposed activity.

(b) Unless specifically exempted by this article, any owner or developer proposing a land development activity shall submit to the city office of government operations a permit application on a form provided by the office of government operations for that purpose.

(c) Unless otherwise exempted by this article, a permit application shall be accompanied by the following items in order to be considered:

(1) Stormwater concept plan and consultation meeting certification in accordance with section 10-11022.

(2) Stormwater management plan in accordance with section 10-11023;

(3) Inspection and maintenance agreement in accordance with section 10-11024, if applicable;

(4) Performance bond in accordance with section 10-11025, if applicable; and

(5) Permit application and plan review fees in accordance with section 10-11026.

(Ord. No. 004-07, § 3.1, 2-19-07)

**Sec. 10-11022. STORMWATER CONCEPT PLAN AND CONSULTATION MEETING**

(a) Before any stormwater management permit application is submitted, it is recommended that the land owner or developer request, through the planning and zoning department, a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-development stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential ideas for stormwater management designs before the formal site design engineering is commenced.

(b) To accomplish this goal the following information should be included in the concept plan which should be submitted in advance of the meeting:

(1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(2) *Natural resources inventory.* A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other

native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(3) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(c) Local watershed plans, the relevant county or municipal greenspace projection plan, if any, and any relevant resource protection plans will be consulted in the discussion of the concept plan.

(Ord. No. 004-07, § 3.2, 2-19-07)

### **Sec. 10-11023. STORMWATER MANAGEMENT PLAN REQUIREMENTS**

(a) The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this article, including the performance criteria set forth in Division 3 below.

(b) This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a professional engineer (PE) licensed in the state of Georgia, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the stormwater design manual.

(c) The stormwater management plan must ensure that the requirements and criteria in this article are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the stormwater management site plan checklist found in the stormwater design manual. This includes:

(1) Common address and legal description of site.

(2) Vicinity map.

(3) Existing conditions hydrologic analysis. The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each subbasin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, predevelopment conditions shall be modeled using the guidelines established by the City of East Point for the portion of the site undergoing land development activities.

(4) Post-development hydrologic analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each subbasin affected by the project; calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in Section 4; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than fifty (50) percent of the site area for the entire site, then the performance criteria in Division 3 must be met for the stormwater runoff from the entire site.

(5) Stormwater management system. The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in Division 3; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.

(6) Post-development downstream analysis. A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is 10 percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the stormwater design manual.

(7) Construction-phase erosion and sedimentation control plan. An erosion and sedimentation control plan in accordance with the City of East Point's Soil Erosion and Sedimentation Control Ordinance [10-10004 et seq.] or NPDES permit for construction activities. The plan shall also

include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.

(8) Landscaping and open space plan. A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. Such plan must be developed in accordance with the applicable provisions of the Georgia Stormwater Management Manual, Volume 2, Appendix F, "Landscaping and Aesthetics Guidance," as well as the City's zoning and subdivision regulations pertaining to the acceptable use of landscaping materials, as currently in effect and as may be amended in the future. In the event that requirements of the cited authorities are in conflict, the most restrictive shall apply. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.

(9) Operations and maintenance plan. Detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. These plans will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(10) Maintenance access easements. The applicant must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property.

(11) Inspection and maintenance agreements. Unless an on-site stormwater management facility or practice is dedicated to and accepted by the city office of government operations as provided in section 10-11024 below, the applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management facility or practice in accordance section 10-11024. The city will not unilaterally accept responsibility for maintenance of on-site stormwater management facilities. Any dedication and acceptance must be properly recorded in county records.

(12) Evidence of acquisition of applicable local and non-local permits. The applicant shall certify and provide documentation to the city office of government operations that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.

(Ord. No. 004-07, § 3.3, 2-19-07)

## **Sec. 10-11024. STORMWATER MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENTS**

(a) Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder and for which the city office of government operations requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the office of government operations, execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that shall be binding on all subsequent owners of the site.

(b) The inspection and maintenance agreement, if applicable, must be approved by the office of government operations prior to plan approval, and recorded in the deed records upon final plat approval.

(c) The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance. Responsibility for the operation and maintenance of the stormwater management facility or practice, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

(d) As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof.

(e) In addition to enforcing the terms of the inspection and maintenance agreement, the office of government operations may also enforce all of the provisions for ongoing inspection and maintenance in Division 5 of this article.

(f) The city office of government operations, in lieu of an inspection and maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(Ord. No. 004-07, § 3.4, 2-19-07)

## **Sec. 10-11025. PERFORMANCE AND MAINTENANCE BONDS**

For the purpose of guaranteeing performance of construction and/or maintenance obligations set forth herein, the City of East Point may provide for the filing of a surety bond with the city clerk which shall cover the total estimated cost of the construction and/or maintenance as determined by the city engineer for a minimum period of four (4) years after the completion of the development or redevelopment. Such bond shall have sureties satisfactory to the city guaranteeing the completion of construction and/or performance of maintenance obligations within the time specified, and shall address any deficiencies in the stormwater management system of the development or redevelopment, including repairing and addressing any damage to

public or private property resulting from inadequate stormwater management controls. The developer shall remain responsible for maintenance of the stormwater management system during the duration of the bond. Such bond shall be mandatory for all new developments over five (5) acres in size permitted after the effective date of this article. The city shall have the discretion to require a longer term, to the extent permitted under Georgia law. (Ord. No. 004-07, § 3.5, 2-19-07)

#### **Sec. 10-11026. APPLICATION PROCEDURE**

(a) Applications for land development permits shall be filed with the City of East Point Planning and Zoning Department.

(b) Permit applications shall include the items set forth in section 10-11021 above (two (2) copies of the stormwater management plan and the inspection maintenance agreement, if applicable, shall be included).

(c) The city office of government operations shall inform the applicant whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved.

(d) If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, the office of government operations shall notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same, in which event subsection (c) above and this subparagraph shall apply to such resubmittal.

(e) Upon a finding by the office of government operations that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this article, the office of government operations may issue a permit for the land development project, provided all other legal requirements for the issuance of such permit have been met.

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

(1) The applicant shall comply with all applicable requirements of the approved plan and this article and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;

(2) The land development project shall be conducted only within the area specified in the approved plan;

(3) The office of government operations shall be allowed to conduct periodic inspections of the project;

(4) No changes may be made to an approved plan without review and written approval by the office of government operations; and

(5) Upon completion of the project, the applicant or other responsible person shall submit the engineer's report and certificate and as-built plans required by section 10-11063.

(Ord. No. 004-07, § 3.6, 2-19-07)

#### **Sec. 10-11027. APPLICATION REVIEW FEES**

The fee for review of any stormwater management application shall be based on the fee structure established by the city office of government operations and shall be made prior to the issuance of any building permit for the development.

(Ord. No. 004-07, § 3.7, 2-19-07)

### **Sec. 10-11028. MODIFICATIONS FOR OFF-SITE FACILITIES**

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

(b) A stormwater management plan must be submitted to the city office of government operations which shows the adequacy of the off-site or regional facility.

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

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

(Ord. No. 004-07, § 3.8, 2-19-07)

Secs. 10-11029--10-11040. Reserved

### **DIVISION 3. POST-DEVELOPMENT STORMWATER MANAGEMENT PERFORMANCE CRITERIA**

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

(Ord. No. 004-07, § 4, 2-19-07)

### **Sec. 10-11041. WATER QUALITY**

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

- (1) It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;

- (2) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and
- (3) Runoff from hotspot land uses and activities identified by the city office of government operations are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.  
(Ord. No. 004-07, § 4.1, 2-19-07)

#### **Sec. 10-11042. STREAM CHANNEL PROTECTION**

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

- (1) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
- (2) Twenty-four-hour extended detention storage of the one-year, twenty-four-hour return frequency storm event;
- (3) Erosion prevention measures such as energy dissipation and velocity control.  
(Ord. No. 004-07, § 4.2, 2-19-07)

#### **Sec. 10-11043. OVERBANK FLOODING PROTECTION**

(a) Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the twenty-five-year, twenty-four-hour return frequency storm event. If control of the one-year, twenty-four-hour storm under section 10-11043 is exempted, then peak discharge rate attenuation of the two-year through the twenty-five-year return frequency storm event must be provided.

(b) Based on information presented by the developer to the office of government operations, the office may adjust or waive this requirement for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.  
(Ord. No. 004-07, § 4.3, 2-19-07)

#### **Sec. 10-11044. EXTREME FLOODING PROTECTION**

(a) Extreme flood and public safety protection shall be provided by controlling and safely conveying the one hundred-year, twenty-four-hour return frequency storm event such that flooding is not exacerbated.

(b) Based on information presented by the developer to the office of government operations, the office may adjust or waive this requirement for sites where the post-development downstream analysis shows that uncontrolled post-development conditions will not increase downstream peak flows, or that meeting the requirement will cause greater peak flow downstream impacts than the uncontrolled post-development conditions.  
(Ord. No. 004-07, § 4.4, 2-19-07)

## **Sec. 10-11045. STRUCTURAL STORMWATER CONTROLS**

(a) All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the city office of government operations before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the city office of government operations may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.

(b) Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

(Ord. No. 004-07, § 4.5, 2-19-07)

## **Sec. 10-11046. STORMWATER CREDITS FOR NONSTRUCTURAL MEASURES**

The use of one (1) or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under section 10-11045. The applicant may, if approved by the city office of government operations, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

(Ord. No. 004-07, § 4.6, 2-19-07)

## **Sec. 10-11047. DRAINAGE SYSTEM GUIDELINES**

Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:

(1) Methods to calculate stormwater flows shall be in accordance with the stormwater design manual;

(2) All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the stormwater design manual; and

(3) Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the stormwater design manual.  
(Ord. No. 004-07, § 4.7, 2-19-07)

#### **Sec. 10-11048. DAM DESIGN GUIDELINES**

Any land disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.  
(Ord. No. 004-07, § 4.8, 2-19-07)

#### **Sec. 10-11049--10-11060. RESERVED**

### **DIVISION 4. CONSTRUCTION INSPECTIONS OF POST-DEVELOPMENT STORMWATER MANAGEMENT SYSTEM**

#### **Sec. 10-11061. INSPECTIONS TO ENSURE PLAN COMPLIANCE DURING CONSTRUCTION**

(a) Periodic inspections of the stormwater management system construction shall be conducted by the staff of the city office of government operations or conducted and certified by a professional engineer who has been approved by the office of government operations. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.

(b) All inspections shall be documented with written reports that contain the following information:

- (1) The date and location of the inspection;
- (2) Whether construction is in compliance with the approved stormwater management plan;
- (3) Variations from the approved construction specifications; and
- (4) Any other variations or violations of the conditions of the approved stormwater management plan.

(c) If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.

(Ord. No. 004-07, § 5.1, 2-19-07)

#### **Sec. 10-11062. FINAL INSPECTION AND AS BUILT PLANS**

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

(Ord. No. 004-07, § 5.2, 2-19-07)

Secs. 10-1163--10-1170. Reserved

## **DIVISION 5. ONGOING INSPECTION AND MAINTENANCE OF STORMWATER FACILITIES AND PRACTICES**

### **Sec. 10-11071. LONG-TERM MAINTENANCE INSPECTION OF STORMWATER FACILITIES AND PRACTICES**

(a) Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this article.

(b) A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the city office of government operations shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the office of government operations, may correct the violation as provided in section 10-11074 hereof.

(c) Inspection programs by the city office of government operations 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 or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

(Ord. No. 004-07, § 6.1, 2-19-07)

### **Sec. 10-11072. RIGHT-OF-ENTRY FOR INSPECTION**

The terms of the inspection and maintenance agreement shall provide for the city office of government operations 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.

(Ord. No. 004-07, § 6.2, 2-19-07)

### **Sec. 10-11073. RECORDS OF MAINTENANCE ACTIVITIES**

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the city office of government operations upon request.

(Ord. No. 004-07, § 6.3, 2-19-07)

## **Sec. 10-11074. FAILURE TO MAINTAIN**

If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the city office of government operations, after thirty (30) days written notice (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), 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 city office of government operations may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

(Ord. No. 004-07, § 6.4, 2-19-07)

## **Sec. 10-11075--10-11080. RESERVED**

### **DIVISION 6. ENFORCEMENT**

#### **Sec. 10-11081. 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 division. 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. The imposition of any of the penalties described below shall not prevent such equitable relief.

(Ord. No. 004-07, § 7, 2-19-07)

#### **Sec. 10-11082. NOTICE OF VIOLATION**

(a) If the city office of government operations 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, it 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 therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

(b) 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 article 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.

(Ord. No. 004-07, § 7.1, 2-19-07)

## **Sec. 10-11083. 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 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 city office of government operations shall notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten 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. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the city office of government operations may take any one or more of the following actions or impose any one or more of the following penalties.

(1) *Stop work order.* The city office of government operations may issue a stop work order which 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 city point office of government operations may refuse to issue a certificate of occupancy for the building 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 office of government operations 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 office of government operations may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(4) *Civil penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the office of government operations shall deem appropriate (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), the office of government operations may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(5) *Criminal penalties.* For intentional and flagrant violations of this article, the city office of government operations may issue a citation to the applicant or other responsible person, requiring such person to appear in municipal court 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) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.  
(Ord. No. 004-07, § 7.2, 2-19-07)

#### **Sec. 10-11084. ADMINISTRATIVE APPEAL**

Any person aggrieved by a decision or determination of the city office of government operations shall appeal in writing within thirty (30) days after the issuance of such decision or determination to the mayor and city council or their designee and shall be entitled to a hearing within forty-five (45) days of receipt of the written appeal.  
(Ord. No. 004-07, § 8.1, 2-19-07)

#### **Sec. 10-11085. JUDICIAL REVIEW**

Any person aggrieved by a decision or order of the office of government operations, after exhausting all administrative remedies, shall have the right to appeal de novo to the Superior Court of Fulton County.  
(Ord. No. 004-07, § 8.2, 2-19-07)

#### **Secs. 10-11086--10-11100. RESERVED**

### **ARTICLE B. ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS**

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

##### **Sec. 10-11101. FINDINGS**

It is hereby determined that:

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

(7) Therefore, the City of East Point adopts this article to prohibit such non-stormwater discharges to the municipal separate storm sewer system. It is determined that the regulation of spills, improper dumping and discharges to the municipal separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.  
(Ord. No. 002-07, 2-19-07)

**Sec. 10-11102. PURPOSE AND INTENT**

The purpose of this article is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the municipal separate storm sewer system to the maximum extent practicable as required by Federal law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are to:

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

(Ord. No. 002-07, § 1.1, 2-19-07)

**Sec. 10-11103. APPLICABILITY**

The provisions of this article shall apply throughout the City of East Point.  
(Ord. No. 002-07, § 1.2, 2-19-07)

**Sec. 10-11104. COMPATIBILITY WITH OTHER REGULATIONS**

The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Ord. No. 002-07, § 1.3, 2-19-07)

**Sec. 10-11105. SEVERABILITY**

If the provisions of any section, subsection, paragraph, subdivision or clause of this article 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 article.

(Ord. No. 002-07, § 1.4, 2-19-07)

## **Sec. 10-11106. RESPONSIBILITY FOR ADMINISTRATION**

The City of East Point Office of Government Operations shall administer, implement, and enforce the provisions of this article.

(Ord. No. 002-07, § 1.5, 2-19-07)

## **Sec. 10-11107. DEFINITIONS**

[The following words, terms and phrases, when used in this article, shall have the following meanings, except where the context indicates a different meaning is intended:]

*Accidental discharge* means a discharge prohibited by this article which occurs by chance and without planning or thought prior to occurrence.

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

*Construction activity* means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*Illicit discharge* means any direct or indirect non-stormwater discharge to the municipal separate storm sewer system, except as exempted in Division 2 of this article.

*Illegal connection* means 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 municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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

*National pollutant discharge elimination system (npdes) storm water discharge permit* means a permit issued by the Georgia EPD under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Municipal separate storm sewer system* means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, municipal streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

- (1) Owned or maintained by the City of East Point;
- (2) Not a combined sewer; and
- (3) Not part of a publicly-owned treatment works.

*Non-stormwater discharge* means any discharge to the storm drain system that is not composed entirely of stormwater.

*Person* means, except to the extent exempted from this article, 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.

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

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

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

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

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

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

(Ord. No. 002-07, § 2, 2-19-07)

## **Secs.10-11108--10-11120. RESERVED**

## **DIVISION 2. PROHIBITIONS**

### **Sec. 10-11121. PROHIBITION OF ILLICIT DISCHARGES**

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

(b) The following discharges 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, 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 city 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 NPDES permit or order issued to the discharger and administered under the authority of the State and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

(Ord. No. 002-07, § 3.1, 2-19-07)

### **Sec. 10-11102. PROHIBITION OF ILLEGAL CONNECTIONS**

(a) The construction, connection, use, maintenance or continued existence of any illegal connection to the municipal separate storm sewer system 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 municipal separate storm sewer system, or allows such a connection to continue.

(3) Improper connections in violation of this article must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the city office of government operations.

(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 office of government operations 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 office of government operations.

(Ord. No. 002-07, § 3.2, 2-19-07)

### **Secs. 10-11123--10-11130. RESERVED**

## **DIVISION 3. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES**

### **Sec. 10-11131. COMPLIANCE WITH PERMIT**

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

(Ord. No. 002-07, § 4, 2-19-07)

**Secs. 10-11132--10-11140. RESERVED**

**DIVISION 4. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES**

**Sec. 10-11141. RIGHT OF ENTRY**

The City of East Point Office of Government Operations 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. The office of government operations shall provide property owners with written notice at least twenty-four (24) hours prior to such entry and/or inspection, except where the city has reason to believe that conditions may present an imminent danger to human health or the environment, or otherwise jeopardize the public's safety.

(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 office of government operations.

(2) The owner or operator shall allow the office of government operations 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 a NPDES permit to discharge stormwater.

(3) The office of government operations shall have the right to set up on any property or facility such devices as are necessary in the opinion of the office of government operations to conduct monitoring and/or sampling of flow discharges.

(4) The office of government operations may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the office of government operations. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the office of government operations 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 office of government Operations access to a facility is a violation of this article.

(7) If the office of government operations has been refused access to any part of the premises from which stormwater is discharged, and the office of government operations 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 office of government operations may seek issuance of a search warrant from any court of competent jurisdiction.  
(Ord. No. 002-07, § 5, 2-19-07)

**Secs. 10-11142--10-11150. RESERVED**

**DIVISION 5. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS**

**Sec. 10-11151. NOTIFICATION REQUIRED**

(a) 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 municipal separate storm sewer system, State Waters, or Waters of the U.S., 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.

(b) Said person shall notify the office of government operations in person, by phone, or by facsimile no later than twenty-four (24) hours after a discharge or spill of the nature, 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 city office of government operations within three (3) business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the 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 (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

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

(d) Failure to provide notification of a release as provided above is a violation of this article.

(Ord. No. 002-07, § 6, 2-19-07)

**Secs. 10-11152--10-11160. RESERVED**

**DIVISION 6. VIOLATIONS, ENFORCEMENT, PENALTIES AND APPEALS**

**Sec. 10-11161. VIOLATIONS**

(a) 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. The imposition of any of the penalties described below shall not prevent such equitable relief.

(b) In the event the violation constitutes an immediate danger to public health or public safety, the city office of government operations 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 office of government operations is authorized to seek costs of the abatement as outlined in this article.

(Ord. No. 002-07, § 7.1, 2-19-07)

### **Sec. 10-11162. NOTICE OF VIOLATION**

Whenever the city office of government operations finds that a violation of this article has occurred, the office of government operations may order compliance by written notice of violation.

(1) The notice of violation 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; and
- e. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.

(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.

(Ord. No. 002-07, § 7.2, 2-19-07)

### **Sec. 10-11163. 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 or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed in accordance with this section. Before taking any of the following actions or imposing any of the following penalties, the city office of government operations shall notify the owner of the property and/or other alleged violator in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) 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. In the event the property owner or other alleged violator fails to cure such violation after such notice and cure period, the office of government operations may take any one or more of the following actions or impose any one or more of the following penalties.

(1) *Abatement.* If the office of government operations concludes that abatement is necessary or appropriate, then representatives of the city office of government operations 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. Within thirty (30) days after abatement of the violation, the owner of the property shall be notified of the cost of abatement, including administrative costs. If the amount due is not paid within thirty (30) days after receipt of the notice, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(2) *Civil Penalties.* In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the office of government operations shall deem appropriate) (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), the office of government operations may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(3) *Criminal penalties.* For intentional and flagrant violations of this article, the office of government operations may issue a citation to the alleged violator requiring such person to appear in municipal court 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) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. 002-07, § 7.3, 2-19-07)

#### **Sec. 10-11164. 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 law.

(Ord. No. 002-07, § 7.4, 2-19-07)

#### **Sec. 10-11165. 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 city office of government operations may seek cumulative remedies.

(Ord. No. 002-07, § 7.5, 2-19-07)

#### **Sec. 10-11166. ATTORNEYS' FEES AND OTHER COSTS**

The City of East Point Office of Government Operations may recover attorneys' fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

(Ord. No. 002-07, § 7.6, 2-19-07)

#### **Sec. 10-11167. ADMINISTRATIVE APPEAL**

Any person aggrieved by a decision or determination of the city office of government operations shall appeal in writing within thirty (30) days after the issuance of such decision or determination to the mayor and city council or their designee and shall be entitled to a hearing within forty-five (45) days of receipt of the written appeal.

(Ord. No. 002-07, § 8.1, 2-19-07)

**Sec. 10-11168. JUDICIAL REVIEW**

Any person aggrieved by a decision or order of the city office of government operations, after exhausting all administrative remedies, shall have the right to appeal de novo to the Superior Court of Fulton County.

(Ord. No. 002-07, § 8.2, 2-19-07)