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Div. 9.1. Wetlands

Sec. 9.1.1. Wetland Regulations

A. National Wetland Inventory Maps

The National Wetland Inventory Maps, prepared by the United States Fish and Wildlife Service, show the general locations of wetlands and should be consulted by persons contemplating activities in or near wetland areas. These maps should be used as a guide only. Field verification is required to determine the existence or absence of any jurisdictional waters.

B. Plans

Design professionals, after consulting the National Wetland Inventory maps and conducting appropriate field studies, must indicate wetlands or jurisdictional waters on plans required for land disturbance permit applications.

C. Design Professional Statement

Prior to the issuance of a land disturbance permit, the design professional who prepared the required plans accompanying the permit application, must add a statement to the plan sheet indicating land disturbance and the statement must read as follows:

Wetland certification:

The design professional, whose seal appears hereon, certifies the following: (1) the National Wetland Inventory maps have been consulted and appropriate field studies have been conducted; and, (2) the appropriate plan sheet [] DOES/[] DOES NOT (mark appropriate box) indicate wetlands as shown on the maps; and, (3) if wetlands are indicated, the land owner or developer has been advised that land disturbance of protected wetlands or jurisdictional waters must not occur unless the appropriate federal wetlands alteration ("Section 404") permit has been obtained.

D. ACOE Coordination

The issuance of Land Disturbance Permits by the City may be coordinated with the U.S. Army Corps of Engineers Section 404 permitting process. If the "wetland certification" above indicates the presence of wetlands or jurisdictional water as shown on the NWI generalized wetlands maps or by field study, a land disturbance permit that identifies alterations of designated wetlands or jurisdictional waters may not be issued by the City until a Section 404 Permit or Letter of Permission is obtained from the U.S. Army Corps of Engineers.

Div. 9.2. Stream Buffer Protection

Sec. 9.2.1. Findings and Purposes

A. Findings

The Community Development Department of the City finds that buffers adjacent to streams provide numerous benefits, including:

1. Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources.
2. Removing pollutants delivered in urban stormwater.
3. Reducing erosion and controlling sedimentation.
4. Protecting and stabilizing stream banks.
5. Providing for infiltration of stormwater runoff.
6. Maintaining base flow of streams.
7. Contributing organic matter that is a source of food and energy for the aquatic ecosystem.
8. Providing tree canopy to shade streams and promote desirable aquatic habitat.
9. Providing riparian wildlife habitat.
10. Furnishing scenic value and recreational opportunity.
11. Providing opportunities for the protection and restoration of greenspace.

B. Purposes

The purpose of this Division is to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:

1. Create buffer zones along the streams of the City for the protection of water resources; and

2. Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

Sec. 9.2.2. Applicability

A. Generally

This Division applies to all land development activity on property containing a stream protection area (stream buffer) as defined in [Article 12](#). These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

B. Grandfathered Provisions

This Division does not apply to the following activities:

1. Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before December 12, 2005.
2. Existing development and ongoing land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
3. A variance to the requirements of the Sandy Springs portion of any stream buffer (see [Sec. 9.2.5](#)) is not required for:
 - a. Repair or replacement in kind of any legally approved principal structure located in the buffer that existed prior

to December 12, 2005, provided that the footprint of the pre-2005 structure is not exceeded and engineering analysis indicates that no rise in flood elevation will occur. All required permits are still necessary prior to construction.

- b. Removal of a principal or accessory structure or otherwise reducing the amount of impervious surface in the stream buffer, provided the stream buffer is restored using native vegetation. All required permits are still necessary prior to demolition.

C. Exemptions

The following specific activities are exempt from this Division. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

1. Activities for the purpose of building one of the following:
 - a. A stream crossing by a driveway, transportation route or utility line;
 - b. Public water supply intake or public wastewater outfall structures;
 - c. Intrusions necessary to provide access to a property;
 - d. Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - e. Unpaved foot trails and paths;
 - f. Activities to restore and enhance stream bank stability, vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
2. Public sewer line easements paralleling the stream, except that all easements (permanent and construction) and land disturbance should be at least 25 feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption must not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses as specifically cited in paragraph 1 above.
3. Land development activities within a right-of-way existing on December 12, 2005 or approved under the terms of this Division.
4. Within an easement of any utility existing on December 12, 2005 or approved under the terms of this Division, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
5. Emergency work necessary to preserve life or property. However, when emergency work is performed under this Division, the person performing it must report such work to the City on the next business day after commencement of the work. Within 10 days, the person must apply for a permit and perform such work within such time period as may be determined by the City to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
6. Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will

be allowed on the entire property for 3 years after the end of the activities that intruded on the buffer.

7. Projects defined in O.C.G.A. § 12-7-17(3) as minor land-disturbing activities that are exempt from the Georgia Erosion and Sedimentation Act: "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. Minor Land Disturbing Activities

The following land-disturbing activities are examples of projects not specifically listed in O.C.G.A. § 12-7-17(3) that would be considered minor land-disturbing activities and, therefore exempt from the Georgia Erosion and Sedimentation Act and the applicable buffer requirements for state waters:

1. Elevated structures such as decks, gazebos, patios, walkways, viewing platforms or open picnic shelters, provided that:
 - a. The floor or decking is built in a pervious manner to allow for the infiltration of stormwater;
 - b. No more than 100 square feet of footprint of the elevated structure extends into or over the buffer, with an exception for structures compliant with the Americans with Disabilities Act (ADA);
 - c. No grading, cutting, filling or similar land-disturbing activities occurring as a part of the site preparation, construction or subsequent development;
 - d. The structure is built on posts, concrete blocks or similar supports;
 - e. Permanent protective vegetative cover remains or protective measures (for example, mulch or gravel) are installed within the footprint of the elevated
2. A pervious ground-level walkway approach to a dock or similar structure, provided that:
 - a. No more than 100 square feet of the constructed walkway extends into the buffer, with an exception for structures compliant with the Americans with Disabilities Act (ADA);
 - b. No grading, cutting, filling or similar land-disturbing activities occur as a part of the site preparation, construction or subsequent development;
 - c. No concrete or asphalt slabs, pads, supports or foundations are constructed or placed as a part of the site preparation, construction or subsequent development; and
 - d. All ground preparation and walkway material placement is completed with the use of hand-held equipment.
3. Restoration of buffer area after the removal of an existing structure, provided that the buffer area must be replanted with native vegetation.
4. Maintenance or repair of existing structures, the failure of which would result in a threat to human health or state waters, such as sewer lines, water lines, dams or gas lines. Total disturbance must be less than 100 square feet.

5. Placement of rock riprap with the buffer not to exceed 100 square feet on any one property, provided that:
 - a. The placement of the riprap does not result in soil disturbance outside the placement area; and
 - b. No grading, cutting, filling or similar land-disturbing activities occur as part of the site preparation, construction or subsequent development.

E. Activities Not Considered Minor

The following land-disturbing activities are examples of projects that are not considered minor land-disturbing activities and, therefore, not exempt from the Georgia Erosion and Sedimentation Control and Sedimentation Act and the applicable buffer requirements for state waters:

1. Any land-disturbing activity utilizing wheeled or tracked machinery and equipment resulting in soil erosion within the buffer;
 - a. Paving with poured or prefab concrete or asphalt;
 - b. Any project or combination of projects occurring within the same calendar year on the same property resulting in more than 100 square feet of any elevated structures or pervious ground level walkways within or extending into the buffer;
 - c. Construction of a barbeque pit on a concrete or asphalt slab or pad within the buffer;
 - d. Construction of a ground-level patio within the buffer; Construction of a swimming pool within the buffer;
 - e. Construction of a decorative or structural retaining wall within the buffer;

- f. Construction of a new seawall with land-disturbing activities occurring within the buffer; and
- g. Backfilling any new seawall construction within the buffer.

F. Prohibited Activity

Any land development activity within a buffer established under this Division or any impervious cover within a setback established under this Division is prohibited unless a variance is granted pursuant to Sec. 11.6.2.

Sec. 9.2.3. Inspections

- A. The Department may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and must make a final inspection following completion of the work. The permittee must assist the Department in making such inspections. The Department has the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Division, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area.
- B. No person may refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

Sec. 9.2.4. Land Development Requirements

A. Buffer and Setback Requirements

All land development activity subject to this Division must meet the following requirements:

1. An undisturbed natural vegetative buffer is maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream

as measured from the point of wretched vegetation.

2. An additional setback is maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover is prohibited. Grading, filling and earthmoving is minimized within the setback. Staff will consider the concept of minimized according to the following criteria:
 - a. Design constraints exist due to the size, shape or topography of the land that render the proposed grading, filling or earthmoving in the setback as the minimum possible to perform the necessary construction activity; and
 - b. The post-development slope is no greater than 4:1 at any point within the setback, OR post-construction conditions (infiltration and velocity) are comparable to an improvement over the pre-construction conditions.
3. No septic tanks or septic tank drain fields are permitted within the buffer or the setback. Septic tanks and septic tank drain fields must be coordinated with the Fulton County Health Department and comply with their regulations.

B. Variance Procedures

Variations from paragraph A. above may be granted in accordance with the following provisions:

1. Where a parcel was platted prior to December 12, 2005, and its shape, topography or other existing physical condition prevents land development consistent with this Division, and the City finds and determines that the requirements of this Division prohibit the otherwise lawful use of the property by the owner, the Board of Appeals may grant a variance from paragraph A. above, provided

such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.

2. The Board of Appeals will follow the procedure set forth in Sec. 11.6.2.
3. Variances will be considered only in the following cases:
 - a. When a property's shape, topography or other physical conditions existing on December 12, 2005 prevents land development unless a buffer variance is granted.
 - b. Unusual circumstances when strict adherence to the minimal buffer requirements in this Division would create an extreme hardship.
4. Variances will not be considered when actions of any property owner of a given property after December 12, 2005 have created conditions of a hardship on that property.
5. At a minimum, a variance request must include the following information:
 - a. A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
 - b. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - c. A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected is accurately and clearly indicated;
 - d. Documentation of unusual hardship should the buffer be maintained;

- e. At least one alternative plan that does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
 - f. A calculation of the total area and length of the proposed intrusion;
 - g. A stormwater management site plan, if applicable; and
 - h. Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.
6. The following factors will be considered in determining whether to issue a variance:
- a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - b. The locations of all streams on the property, including along property boundaries;
 - c. The location and extent of the proposed buffer or setback intrusion;
 - d. Whether alternative designs are possible which require less intrusion or no intrusion;
 - e. The long-term and construction water quality impacts of the proposed variance; and
 - f. Whether issuance of the variance is at least as protective of natural resources and the environment.
- different from those imposed by any other chapter, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment is considered to take precedence.
- B. Additional standards that apply and will be enforced by the City are as follows:
- 1. Metropolitan River Protection Act and Chattahoochee Corridor Plan:
 - a. Requires a 50-foot undisturbed vegetative buffer;
 - b. Requires a 150-foot impervious surface setback on the Chattahoochee and its impoundments; and
 - c. Requires a 35-foot undisturbed vegetative buffer (all measured from the edge of the water) on perennial tributary streams in a corridor extending 2,000 feet from either bank of the river and its impoundments.
 - d. The corridor extends from Buford Dam to the downstream limits of the Atlanta region (Douglas and Fulton Counties). Streams in the basin of the Corridor are required to be protected by buffers, but no required width is specified. (O.C.G.A. § 12-5-440 et seq.)
 - 2. DNR Part 5 Criteria for small (under 100 square miles) water supply watersheds:
 - a. Authorized under O.C.G.A. § 12-2-8, these criteria require 100-foot undisturbed buffers and 150-foot setbacks on all perennial streams within seven miles upstream of a public water supply reservoir or public water supply intake.
 - b. Beyond 7 miles, the required buffer is 50 feet and the required setback is 75 feet. Equivalent protection measures may be adopted with approval from the state Department of community affairs and the

Sec. 9.2.5. Compatibility with Other Buffers

- A. This Division is not intended to interfere with, abrogate or annul any other chapter, rule or regulation, statute or other provision of law. The requirements of this Division should be considered minimum requirements, and where any provision of this Division imposes restrictions

Department of natural resources (DCA and DNR).

3. DNR Part 5 Criteria for river protection authorized under the Metropolitan River Protection Act, these criteria require a 100-foot buffer along rivers with average annual flows of greater than 400 cubic feet per second (cfs) excepting the portion of the Chattahoochee referenced in subsection (1) of this section. The buffer is measured from the top of the stream bank.
4. Other such state and federal regulations as may be adopted from time to time. While the requirements of this Division are intended to apply to all streams in the City, special conditions may exist that require greater protection. Nothing in this Division should be construed as preventing the establishment of wider and/or more restrictive buffers and setbacks as required under any other existing or future legislation. In addition, nothing in this Division should be construed as preventing the establishment of wider buffers for purposes of protecting greenspace, preserving habitat or other goals that may not be specifically mandated by legislation.

Sec. 9.2.6. Additional Information Requirements

Any permit applications for property requiring buffers and setbacks under this Division must include the following:

- A. A site plan showing:
 1. The location of all streams on the property;
 2. Limits of required stream buffers and setbacks on the property;
 3. Buffer zone topography with contour lines at no greater than five-foot contour intervals;
 4. A tree survey
 5. Detailed plans of all proposed land development in the buffer and of all

proposed impervious cover within the setback.

- B. A description of all proposed land development within the buffer and setback.
- C. Any other documentation that the City may reasonably deem necessary for review of the application and to ensure that the buffer zone ordinance is addressed in the approval process.
- D. All buffer and setback areas must be recorded on the final plat of the property following plan approval.

Sec. 9.2.7. Responsibility

Neither the issuance of a development permit nor compliance with the conditions of the permit, nor with the provisions of this Division relieves any person from any responsibility otherwise imposed by law for damage to persons or property; nor will the issuance of any permit under this Division serve to impose any liability upon the City, its officers or employees, for injury or damage to persons or property.

Sec. 9.2.8. Violations, Enforcement and Penalties

In addition to the provisions of [Div. 11.8](#), the following provisions apply.

A. Violations

Any action or inaction which violates the provisions of this Division or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this section. Any such action or inaction that 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 in paragraph C. of this section does not prevent such equitable relief.

B. Notice of Violation

1. If the City determines that an applicant or other responsible person has failed to comply

with the terms and conditions of a permit, an approved site plan or the provisions of this Division, the Director will issue a written notice of violation to the applicant or other responsible person.

2. Where a person is engaged in activity covered by this Division without having first secured the appropriate permit for the work, the notice of violation is served on the owner or the responsible person in charge of the activity being conducted on the site.
3. The notice of violation must contain:
 - a. The name and address of the owner or the applicant or the responsible person;
 - b. The address or other description of the site upon which the violation is occurring;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this Division and the date for the completion of such remedial action;
 - e. A statement of the penalty or penalties that 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 City by filing a written notice of appeal within 30 days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice is sufficient).

C. Penalties

1. In the event the remedial measures described in the notice of violation have not been completed by the date set forth for

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.

2. Before taking any of the following actions or imposing any of the following penalties, the City must first notify the applicant or other responsible person in writing of its intended action, and provide a reasonable opportunity, of not less than 10 days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice is sufficient) to cure the violation.
3. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City may take any one or more of the following actions or impose any one or more of the following penalties:
 - a. Stop work order. The Department may issue a stop work order that is served on the applicant or other responsible person. The stop work order will 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 necessary remedial measures to cure such violation or violations.
 - b. Withhold certificate of occupancy. The City 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.

- c. Suspension, revocation or modification of permit. The City 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 City may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- d. 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 days (or such greater period as the City deems appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice is sufficient) after the City has taken one or more of the actions described above, the City may impose a penalty not to exceed \$1,000.00 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- e. Criminal penalties. For intentional and flagrant violations of this Division, the City may issue a citation to the applicant or other responsible person, requiring such person to appear in (appropriate municipal, magistrate or recorder's) court to answer charges for such violation. Upon conviction, such person is guilty of a violation of this Code. Each act of violation and each day upon which any act of violation occurs constitutes a separate violation of this Code.

Div. 9.3. Tree Conservation

Sec. 9.3.1. Purpose

- A. The purpose of this Section is to recognize the importance of trees to the environment within the City for the purposes of health and welfare, beauty, safety, history, and general well-being, and to promote:
 - 1. Tree conservation;
 - 2. The increase, renewal and proliferation of trees and the tree canopy; and
 - 3. The protection of existing trees.
- B. This Section is designed to provide reasonable minimum standards regarding the preservation, planting, protection and maintenance of trees within the City. The provisions and regulations contained here, along with the Administrative Standards and Best Management Practices for Sandy Springs' Urban Forest, will guide practices to accomplish this Section's purpose.
- C. The City further recognizes benefits derived from the conservation, proliferation, and renewal of trees and increased tree canopy including but not limited to:
 - 1. The improvement of air quality by providing filtration of dust and fumes;
 - 2. The conservation of energy and mitigation of the urban heat island effect through shading and transpiration;
 - 3. The reduction of stormwater runoff and flooding by dissipating rainfall and absorbing moisture;
 - 4. The reduction of soil erosion, and improved water quality;
 - 5. The improvement of habitat for desirable wildlife by providing diversity for food, shelter, and nesting sites;

- 6. The reduction of health risks to residents due to improved environmental conditions;
- 7. The improvement of community aesthetics and quality of life by having a diverse environment;
- 8. The reduction of ambient noise levels;
- 9. The mitigation of conditions in areas of vehicular use by providing buffering and shading; and
- 10. The general enhancement of economic value to properties.
- D. The requirement of a high level of quality in the maintenance and development of land is consistent with community standards and the economic necessity of maintaining the City as a desirable place to live and conduct business.

Sec. 9.3.2. Standards

A. Canopy Requirements By Land Use

All sites within the City must contain the following minimum tree canopy cover. Canopy cover is calculated as a percentage of the entire lot or subdivision.

Land Use	Canopy Required
Residential	35%
Nonresidential, Commercial, Industrial	40%

B. Canopy Calculation

The City Arborist maintains a list of trees assigned to the following categories.

- 1. Large canopy trees are calculated as 1,000 square feet.
- 2. Medium canopy trees are calculated as 500 square feet.
- 3. Small canopy trees are calculated as 250 square feet.

Sec. 9.3.3. Tree Removal

A. Tree Removal Permit Required

1. Except as set forth in Sec. 9.3.3.B, a Tree Removal Permit is required when any of the following trees are either removed or has 25% or more of the critical root zone disturbed by any intentional activities of the property owner or the owner's agent or employees:
 - a. Any Protected Tree, Setback Tree, Boundary Tree or Landmark Tree;
 - b. Any tree located within 2,000 feet of the banks of the Chattahoochee River; and
 - c. Any tree in a required stream buffer.
2. All permit requirements in this Article are deemed cumulative, with the most restrictive being operative regarding any particular application.

B. Tree Removal Permit Not Required

No Tree Removal Permit is required in the following circumstances:

1. Normal tree maintenance, including the removal of dead wood and branches or limbs that endanger life or property, provided that the tree is not limbed, topped or pruned in a manner so as to deprive the tree of continued viability.
2. Removal of a hazardous tree, provided the owner of the property must immediately notify the City Arborist of the removal of the tree and provide documentation that the removed tree was a hazardous tree. Hazardous tree means a tree that is at risk for failure because it is dead or structurally defective, and where that failure could result in personal injury or property damage.

C. Site/Tree Conservation Plan

1. As part of the application for a Tree Removal Permit, a Site/Tree Conservation Plan is required in conjunction with any activity

requiring the issuance of a building permit (other than a building permit for a deck, open air patio, fence or interior renovations), demolition permit, land disturbance permit, or erosion and grading permit by the City.

2. Whenever an application for building permit or land disturbance permit requires a Site/Tree Conservation Plan, the process is as follows:
 - a. Concurrently with the building permit or land disturbance permit application, the applicant must submit a Site/Tree Conservation Plan prepared by a qualified professional for review by the City Arborist.
 - b. The Site/Tree Conservation Plan must document the following:
 - i. Tree species, DBH, critical root zone, and location of all existing trees and existing tree canopy on the property;
 - ii. The location, species, and caliper size of all proposed mitigation planting trees; and
 - iii. The location of all proposed building construction and land development activities, including grading, drainage, proposed utility locations and all proposed tree protection measures;
 - iv. All trees proposed for removal;
 - v. Calculation of the tree canopy on the property prior to and following the implementation of the tree removal/replacement activity set forth in the Site/Tree Conservation Plan.
 - c. If the proposed construction causes the canopy to fall below the minimum canopy requirement, the applicant is required to:
 - i. Pay into the Tree Bank for the deficient canopy as set forth in Sec. 9.3.8.D; and

- ii. Install trees of a similar species to bring the site into compliance with the minimum canopy requirement.
- d. The Site/Tree Conservation Plan must document standard details for tree protection and tree planting in compliance with the administrative standards and best management practices.
- e. The Site/Tree Conservation Plan must document compliance with the parking and landscape requirements of this Development Code in compliance with the administrative standards and best management practices.
- f. The Site/Tree Conservation Plan must document all boundary trees and their critical root zones.

D. Replanting Location Incentive

When meeting canopy requirements with replanted trees, the Site/Tree Conservation Plan must document compliance with the following:

- 1. Each large canopy tree planted along the street frontage receives mitigation credit for 1.25 trees.
- 2. Each large canopy tree planted between 50 feet and 75 feet of a stream buffer receives mitigation credit for 1.25 trees.

E. Payment and Assurances Required

A Site/Tree Conservation Plan approval will not be issued until both:

- 1. Payment of any required amounts by cashier's check have been received by the Sandy Springs Tree Bank; and
- 2. The City has been provided adequate assurances of any required canopy replacement (such as a tree planting schedule).

F. Field Verification

- 1. The qualified professional submitting the Site/Tree Conservation Plan must field verify the accuracy of the Site/Tree Conservation Plan prior to submittal.
- 2. The qualified professional must certify successful compliance with the terms of the approved Site/Tree Conservation Plan to the City prior to issuance of a certificate of occupancy for the permitted property.
- 3. The City Arborist must validate submitted Site/Tree Conservation Plans for field accuracy and compliance as deemed appropriate by the Director.
- 4. In addition to all other provisions of this Section and where allowed by law, submission of an inaccurate Site/Tree Conservation Plan or inaccurate certification of compliance with a Site/Tree Conservation Plan will cause the submitting qualified professional to be removed from the approved list (if any) maintained by the City Arborist for a period of not less than 90 days.

Sec. 9.3.4. Boundary Tree

- A. Where a Tree Removal Permit is required for a Boundary Tree, the City Arborist must determine whether the proposed land disturbance or construction activity will deprive the Boundary Tree of continued viability.
 - 1. If there is not sufficient evidence to show that the proposed activity will deprive the Boundary Tree of continued viability, the Tree Removal Permit may be issued allowing the proposed activity.
 - 2. If there is sufficient evidence to show that the proposed activity will deprive the Boundary Tree of continued viability, the Tree Removal Permit must not be issued in a manner allow the proposed activity relating to the Boundary Tree.

- B. If the City Arborist determines that it is uncertain whether the proposed land disturbance or construction activity will deprive the boundary tree of continued viability, prior to the issuance of a Tree Removal Permit allowing the proposed activity relating to the Boundary Tree:
1. The applicant must provide funds into an account established by the City in an amount determined by the City Arborist to be sufficient to offset the removal and replacement costs of the Boundary Tree. Notice must be provided to the property owner whose property contains the Boundary Tree and must include notice of the deposited funds and a copy of this Section.
 2. In establishing the escrow amount required pursuant to subsection, the proposed replacement tree upon which payment is computed must be a comparable species and size potential to the Boundary Tree, is ecologically compatible with the intended growing site, and at maturity will fully mitigate the loss of the entire canopy area of the Boundary Tree.
 3. For the purposes of this section, credit will be granted to applicants for the entire tree canopy of a Boundary Tree protected as calculated pursuant to the administrative standards.

Sec. 9.3.5. Setback Tree

- A. Setback Tree means a tree 18 inches DBH or larger located in the minimum required setbacks of any property.
- B. The City Arborist may decide to approve the removal of a Setback Tree by weighing the following factors:
1. The size and configuration of the property;
 2. The physical condition of the tree;
 3. The total tree canopy on the property;

4. Pedestrian or vehicle traffic on or adjacent to the property;
 5. The configuration of buildings, structures and utilities on or adjacent to the property;
 6. Cost effectiveness of potential alternatives to tree removal;
 7. Whether the tree contributes to meeting any of the requirements set forth in this Article or other requirements set forth by the City;
 8. Generally recognized good forestry practices;
 9. Canopy coverage;
 10. Necessary grading; or
 11. The construction of structures allowed in setback areas.
- C. For removal or destruction of trees approved pursuant to paragraph A. above, on property not meeting the canopy requirements, or which removal will cause the tree canopy to fall below the canopy requirements, the trees must be replaced by the planting of new trees within the minimum required setback of the property of a comparable species and canopy potential.
- D. If the City Arborist determines that replacement of the Setback Tree is not practical based upon: (1) the size and configuration of the Property; or (2) undue hardship for the applicant, payment may be made into the Sandy Springs Tree Bank in lieu of replacement planting. The compensation for the lost tree canopy below the canopy requirements is calculated on a square foot lost/ replaced basis as set forth in the canopy and cost assignment table contained in Sec. 9.3.8.D.

Sec. 9.3.6. Landmark Tree

- A. Landmark Tree means:
1. Hardwood tree 27 inches DBH or larger;
 2. Pine tree 30 inches DBH or larger, provided that said pine tree is not located within 30 feet of any structure; or

3. Dogwood or redbud tree ten inches DBH or larger being in fair or better condition.
- B. The destruction or removal of Landmark Trees pursuant to this subsection is permitted only if the Landmark Tree is located:
 1. Within the building footprint of the proposed construction as permitted by the City; or
 2. Outside of the permitted building footprint, and the City Arborist determines that the permitted land disturbance or construction activity will require the removal of the landmark tree based upon:
 - a. The size and configuration of the property;
 - b. A tree assessment by an International Society of Arboriculture certified arborist indicating that the tree is dead, dying or hazardous;
 - c. The total tree canopy on the property;
 - d. The configuration of buildings, structures and utilities on or adjacent to the property;
 - e. Cost effectiveness of potential alternatives to tree removal;
 - f. Whether the tree contributes to meeting any of the requirements set forth in this Article or other requirements set forth by the City;
 - g. Generally recognized good forestry practices; or
 - h. Other factors creating undue hardship for the applicant.
 3. Tree health is poor, or the tree is dead.
- C. All Landmark Trees removed pursuant to 9.3.3.A. must be replaced by the planting of new trees on the property of a comparable species and with a canopy potential of 150% of the canopy of the Landmark Tree to foster the enhancement of the

tree canopy. Canopy mitigation is computed using the actual measured canopy of the Landmark Tree.

- D. If the City Arborist determines that replacement of the Landmark Tree is not practical based upon the size and configuration of the property, payment may be made into the Sandy Springs Tree Bank in lieu of replacement planting. The compensation for the lost tree canopy below the canopy requirements is calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Sec. 9.3.8.D.
- E. In calculating a Tree Removal Permit, the preservation of existing Landmark Trees in the side, front and rear yards will receive 1.25 square feet of mitigation credit for each lot of canopy planted.

Sec. 9.3.7. Protected Tree

- A. Protected Tree means a tree 18 inches DBH or larger, other than a Landmark Tree or Setback Tree, in fair or better condition.
- B. The destruction or removal of a Protected Tree on any property must comply with the Site/Tree Conservation Plan provisions of Sec. 9.3.3.C.
- C. The removal or destruction of Protected Trees on property not meeting the canopy requirements, or that will cause the tree canopy to fall below the canopy requirements, is permitted only if the Protected Trees are:
 1. Located within the building footprint of the proposed construction as permitted by the City; or
 2. Outside of the permitted building footprint, and the City Arborist determines that the permitted land disturbance or construction activity will require the removal of the Protected Tree based on the provisions of Sec. 9.3.3.C.

3. The City Arborist may decide to approve the removal of a Protected Tree by weighing the following factors in order to determine the extent of the impact of the removal of the Protected Tree upon adjacent properties and only allow such removal if it is determined that such impact is minimal:
 4. The size and configuration of the property;
 5. The physical condition of the tree;
 6. Cost effectiveness of potential alternatives to tree removal;
 7. Whether the tree contributes to meeting any of the requirements set forth in this Article or other requirements set forth by the City;
 8. Generally recognized good forestry practices; or
 9. Other factors creating undue hardship for the applicant.
- D. For removal or destruction of trees approved pursuant to paragraph C. above, on property not meeting the canopy requirements, or which removal will cause the tree canopy to fall below the canopy requirements, the trees must be replaced by the planting of new trees within the minimum required setback of the property of a comparable species and canopy potential.
- E. If the City Arborist determines that replacement is not practical based upon:
1. The size and configuration of the property;
 2. Unavoidable site modifications resulting from grading, utility work, and construction activities will result in destruction or irreparable damage to the tree and site plan modifications to prevent destruction or irreparable damage to the tree are impossible or unduly burdensome on the applicant;
 3. The tree canopy of common areas appurtenant to the property; or
 4. Other factors creating undue hardship for the applicant including but not limited to: pedestrian or vehicle traffic on and adjacent to the property; the configuration of buildings, structures and utilities on or adjacent to the property; cost effectiveness of potential replacement; whether the tree contributes to meeting any of the requirements set forth in this division or other requirements set forth by the City; or generally recognized good forestry practices;
 5. Then payment may be made into the Sandy Springs Tree Bank in lieu of replacement planting. The compensation for the lost tree canopy below the canopy requirements is calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Sec. 9.3.8.D.
 6. The compensation for the lost tree canopy below the canopy requirements is calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Sec. 9.3.8.D.
 7. All trees removed pursuant to this Section must be replaced by the planting of new trees on the property of a comparable species and canopy potential.
 8. If the City Arborist determines that replacement is not practical based upon:
 - a. The size and configuration of the property;
 - b. Unavoidable site modifications resulting from grading, utility work, and construction activities will result in destruction or irreparable damage to the tree and site plan modifications to prevent destruction or irreparable damage to the tree are impossible or unduly burdensome on the applicant;
 - c. The tree canopy of common areas appurtenant to the property; or

- d. Other factors creating undue hardship for the applicant including but not limited to: pedestrian or vehicle traffic on and adjacent to the property; the configuration of buildings, structures and utilities on or adjacent to the property; cost effectiveness of potential replacement; whether the tree contributes to meeting any of the requirements set forth in this division or other requirements set forth by the City; or generally recognized good forestry practices.

Sec. 9.3.8. Administration

A. Administrative Standards

Administrative standards means the administrative standards and best management practices, prepared in conjunction with this Article and which, as they exist and may be amended from time to time, are incorporated here, and a copy of which is maintained in the office of the City Clerk. If any term of the administrative standards and best management practices is deemed to conflict with the terms of this Article, the terms of this Article control.

B. Appeals

1. Any applicant under this Article aggrieved by an action of the City Arborist, or any adjacent property owner directly impacted by a decision made under this Article, may appeal and be heard by the Board of Appeals in accordance with the rules and regulations as set forth by this Article and the Board. See [Sec. 11.6.3](#).
2. Appeals are only be granted for errors of interpretation, application, or where the unique natural features of the site are such that it is impractical or impossible to apply the terms, conditions or standards of this Article, resulting in an undue hardship to the property owner.

C. Establishment of Tree Bank

1. There is hereby established a Sandy Springs Tree Bank for the maintenance and disbursement of funds required to be paid pursuant to the terms of this Article.
2. Where it is determined by the City Arborist that payment into the Sandy Springs Tree Bank is required by this Article, the required funds must be paid to the Sandy Springs Tree Bank prior to issuance of any related permit.
3. Funds maintained in the Sandy Springs Tree Bank are administered by the Director pursuant to the rules and regulations regarding the funds as established by the Sandy Springs City Council for the purposes of replacing tree canopy or canopy preservation.

D. Cost Assignment

1. For the purposes of calculation of required payment into the Sandy Springs Tree Bank, an assessed value of \$5,000.00 per 1,000 square feet of canopy will be used when canopy replacement cannot be achieved by replanting on the site.
 - a. Large canopy trees are calculated as 1,000 square feet.
 - b. Medium canopy trees are calculated as 500 square feet.
 - c. Small canopy trees are calculated as 250 square feet.
2. When proposed construction causes the canopy to fall below the minimum canopy requirement, an assessed value of \$1,200.00 per 1,000 square feet of canopy is used to determine the payment for the deficient canopy.

E. Potentially Damaged Trees-Escrow Fund

1. Where the City Arborist determines that due to approved construction or land disturbance activity an applicant may remove a tree

pursuant to the terms of this Article, and the applicant is required to pay for the lost tree canopy of the removed tree, the applicant may, at its election, propose alternative construction methods to attempt to preserve the continued viability of the tree. Should the City Arborist determine that the proposed alternative construction methods will reasonably result in the survival of the tree, that portion of the funds required to pay for the lost tree canopy of the tree pursuant to this Article must be paid into an escrow fund maintained by the City.

2. After 3 years from the date of the payment of the escrow funds, the applicant has the right to petition the City Arborist for the return of all escrow funds held for the protection of the tree. Within 30 days of the petition, the City Arborist will make a determination as to whether the tree has failed to survive or is in a state of irreversible decline due to the permitted activity. Should the City Arborist determine that the tree has survived and is not in a state of irreversible decline, the funds must be paid to the applicant. Should the City Arborist determine that the tree has failed to survive or is in a state of irreversible decline, the escrow must be transferred into the Sandy Springs Tree Bank.
3. If funds are required to be paid into escrow pursuant to paragraph B. above, at any time prior to a determination authorizing the return of the escrow funds to the applicant pursuant to paragraph D. below, the property owner whose property contains the Boundary Tree (petitioner) may petition the City Arborist for the payment of the escrow funds to be used for the removal and replacement of the Boundary Tree on the grounds that the permitted activity has caused the Boundary Tree to fail to survive or be in a state of irreversible decline.
4. Upon receipt of such petition, notice of the petition is provided to the applicant hereunder at the address provided at the time of the tree removal permit application, or at any alternative address subsequently designated by the applicant to the City Arborist in writing, via first class and certified mail, within 30 days of mailing of the notice. The City Arborist will make a determination as to whether the Boundary Tree has failed to survive or is in a state of irreversible decline due to the permitted activity. Notice of the decision is provided to the petitioner and the applicant by certified and first class mail as set forth in this paragraph. Either party may appeal the City Arborist's determination pursuant to this Article. Should the City Arborist determine that the boundary tree failed to survive or is in a state of irreversible decline due to the permitted activity, and no appeal has been timely filed, or the applicant has fully exhausted his or her appellate rights, the escrow funds will be paid to the petitioner to offset any costs incurred in removal and replacement of the boundary tree. The petitioner's rights pursuant to this section may not be exercised more than once in any 18-month period.
5. Any funds not collected by either an affected property owner or the applicant within a period of 4 years of the establishment of the escrow fund are deposited in the Sandy Springs Tree Bank.
6. No party is entitled to receive interest on any escrow funds required pursuant to the provisions of this Article.

F. Enforcement

1. The Director will enforce the terms of this Article.
2. No certificate of occupancy may be issued on any property without compliance with the terms of this Article.
3. Examples of violations include, but are not limited to:

- a. Land disturbance or building construction without a permit.
 - b. Improperly installed or maintained tree protection.
 - c. The removal of applicable trees prior to the issuance of a permit.
 - d. Non-approved encroachment of tree protection zones.
 - e. Other violations of the terms, provisions and standard of this Article.
4. The Director has the authority to issue a Notice of Violation, a Stop Work Order and a citation to enforce the provisions of this Article.
 5. Where it is deemed necessary, the Director will require sureties to assure compliance to the terms, conditions and standards of this Article.

G. Fines and Penalties

1. Any person, firm, corporation or other entity violating any of the provisions of this Article is guilty of a violation of this Development Code. Each act of violation and each day upon which any act of violation occurs constitutes a separate violation of this Development Code.
2. Each owner of any property where a violation exists is jointly and severally responsible for the violation.
3. Removal of a tree protected under the terms of this Article without compliance with the terms of this Article will result in an assessment for the replacement of the lost tree canopy in the amount of 3 times the value of the lost tree canopy, calculated in accordance with the canopy and cost methodology contained in Sec. 9.3.8.D.

Div. 9.4. Steep Slopes

Sec. 9.4.1. Purpose

- A. The purpose of this Division is to protect topographical features that have a slope in excess of the standards below in order to prevent one or more of the following negative impacts:
1. Erosion affecting the structural integrity of steep slopes.
 2. Stormwater and erosion-related impacts on adjacent properties.
 3. Stormwater and erosion-related impacts to environmentally sensitive areas such as streams and wetlands.
 4. Increased stormwater velocity due to loss of vegetation.
 5. Decreased groundwater recharge due to changes in site hydrology.
 6. Loss of natural or topographic features that contribute substantially to the natural beauty and visual quality of the community.
- B. These standards are intended to guide the creation of new lots, and are not intended to prohibit development on existing lots.
- C. The standards of this Division do not apply to steep slopes in the CS- or Perimeter Center Districts.

Sec. 9.4.2. Standards

A. Definition

For purposes of this Division, “slope” means the ratio of elevation change to horizontal distance, expressed as a percentage. Slope is computed by dividing the vertical distance (“rise”) by the horizontal distance (“run”). For example, a 3-foot rise in a 20-foot run results in a 15% slope.

B. Applicability

All new construction, including additions, must comply with the requirements of this Division, except that any lawful existing dwelling unit or guest house in a Protected Neighborhood may be expanded, provided the expansion meets the requirements of this Development Code.

C. Designation on Plans

Steep slopes must be designated on any Land Disturbance Permit or Building Permit application where the area of slopes greater than 15% exceeds 1,000 square feet in area.

D. Steep Slopes Over 15% up to 25%

Building and site preparation may occur upon demonstration of specialized site design techniques and approaches that meet the requirements in F. below.

E. Steep Slopes Over 25%

These areas are generally unsuitable for development. Land disturbance must not exceed $\frac{1}{4}$ of the area containing slopes greater than 25%, except that where an existing lot of record does not have a reasonable building site with less than 25% slope, the Director will approve the site, subject to any necessary mitigation measures.

F. Construction Techniques

Construction activities on slopes greater than 15% must comply with the following:

1. All plans must show provisions for reducing and minimizing stormwater runoff during construction of steep slopes and cut and fill slopes.
2. All swales and all slopes must be provided temporary or permanent stabilization with ground cover sufficient to restrain erosion as soon as practicable, but in any event within 7 calendar days of any phase of grading.

3. All other disturbed areas must be provided temporary or permanent stabilization with ground cover sufficient to restrain erosion as soon as practicable, but in any event within 14 calendar days of termination or completion of any phase of grading.
4. Prior to issuance of a certificate of occupancy, vegetation must be reestablished.
5. Where irrigation is not provided, the exposed soil must be planted with species that survive without irrigation.
6. Vegetative ground cover or any alternative cover (rock, masonry, or similar materials) must be maintained in perpetuity.

G. Cut and Fill

In order to protect existing trees and vegetation on sites, the following limits on cut and fill are required.

1. No cut or fill is allowed within a required side or rear yard setback on lots in a Protected Neighborhood or on lots in an Urban Neighborhood immediately adjoining a Protected Neighborhood.
2. All cut and fill slopes must not exceed 3 feet (horizontal) to 1 foot (vertical). The Director, upon certification by a qualified soils engineer or geologist that the slope will remain stable under foreseeable conditions, may permit a steeper slope. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist.

H. Variance from Standards

In granting a variance from the standards of this Section, the Board of Appeals may determine that some features or areas may not be disturbed. These include, but are not limited to:

1. Large stands of trees;
2. Rock outcroppings; and

3. Slopes over 25%.

Sec. 9.4.3. Retaining Walls

A. Design

1. Applicants are encouraged to use foundations as retaining walls to retain slopes. There is no limit on the height of foundation walls serving as retaining walls, provided the resulting building does not exceed the district height standards.
2. Where retaining walls are necessary, they are limited as follows:
 - a. Maximum exposed wall height of 6 feet per wall in RE-, RD- and RU- Districts, and 8 feet in height in all other districts.
 - b. Retaining walls must be separated horizontally by at least 4 feet from other retaining walls. This horizontal separation area must be graded to capture stormwater and not sloped such that stormwater will run off.
 - c. Each tier between retaining walls must be vegetated and maintained with a mix of native, evergreen and deciduous shrubs, to be approved by the City Arborist, as follows:
 - i. One shrub every 4 linear feet; and
 - ii. The Director may waive this landscaping standard for retaining walls that slope back and contain natural planting.

B. Measurement

1. Total retaining wall height is considered to be the vertical distance from the finished grade at the lowest point of the wall to the finished grade at the top of the wall, including any combination of a fence atop the retaining wall or placed within 3 feet of the retaining wall.
2. Any portion of a retaining wall extending above the finished grade is considered a

fence or wall, subject to the requirements of Sec. 8.2.9.

C. Maintenance and Replacement

Existing legally permitted and constructed retaining walls may be repaired or replaced, provided the repair or replacement does not result in an increase in the height of the wall.

D. In RE-, RD- and RU- Districts

The following standards apply in the single-unit detached districts.

1. Retaining walls must be no closer to all property lines than the required building setback.
2. Newly constructed retaining walls are subject to the following requirements:
 - a. Up to 6 feet as a single wall or tiered walls in height.
 - b. Over 6 feet in height requires tiered retaining walls (each not to exceed 6 feet in height).

E. In All Other Districts

The following standards apply all districts that are not single-unit detached districts.

1. On lots adjacent to any Protected Neighborhood lot, retaining walls must be located no closer to all property lines than the required building setback.
2. On lots not adjacent to a Protected Neighborhood, retaining walls must be located no closer than ½ the required setback distance.
3. Newly constructed retaining walls are subject to the following requirements:
 - a. Up to 8 feet as a single wall or tiered walls in height.
 - b. Over 8 feet in height requires tiered retaining walls, which require a building permit.

F. Materials

All retaining walls must be finished with stucco, brick or stone. With approval of the Director, architectural segmented or modular block walls may be approved. No unfinished concrete masonry units or other similar materials are allowed.

G. Permits and Indemnification

1. Retaining walls over 4 feet in height require a retaining wall permit and an indemnification.
2. Retaining walls over 6 feet in height require a professional engineer's certification regarding the design of the wall.
3. A retaining wall permit is required where an assemblage of tiered retaining walls and slopes results in an excess of a 2:1 slope.
4. Where a retaining wall of any height supports a surcharge, a retaining wall permit may be required, by the Director. Surcharge is any vertical load imposed on the retained soil that may impose a lateral force in addition to the lateral earth pressure of the retained soil. Examples of surcharges include:
 - a. Sloping retaining soil;
 - b. Structure footings supported by the retained soil;
 - c. Adjacent vehicle loads supported by the retained soil.
5. During the permit review process, the global stability of any series of tiered retaining walls will be reviewed. A safety factor of at least 1.5 is required.
6. Where a retaining wall might impact (either visually or structurally) an existing structure, adjacent property, the public right-of-way, a buffer, a utility, or other similar significant interest, the Director may require plans, details, cross-sections, and professional engineer calculations beyond those cited in this Section.

Div. 9.5. Floodplain Management

Sec. 9.5.1. In General

A. Purpose

The purpose of this Division 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, wetland preservation and ecological and environmental protection by provisions designed to:

1. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
2. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
3. 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;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
6. Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters; and
7. Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and

ecological functions of natural floodplain areas.

B. Applicability

This Division shall be applicable to all areas of special flood hazard within the City. For the purposes of defining and determining areas of special flood hazard, areas of future-conditions flood hazard, areas of shallow flooding, base flood elevations, floodplains, floodways, future-conditions floodplains, potential flood hazard or risk categories as shown on FIRM maps, and other such terms used in this Division, the following documents and sources may be used for such purposes and are adopted by reference thereto:

1. The flood insurance study (FIS) for the county, dated May 7, 2001, with accompanying maps and other supporting data and any revision thereto.
2. Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the base or one-percent (100-year) floodplain and floodprone areas, including:
3. Any flood or flood-related study conducted by the United States Corps of Engineers, the United States Geological Survey, or any other local, state or federal agency applicable to the City; and
4. Any base flood study conducted by a licensed professional which has been prepared utilizing FEMA-approved methodology and approved by the Director.
5. Other studies which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain and floodprone areas including:
6. Any flood or flood-related study conducted by the United States Corps of Engineers, the

United States Geological Survey, or any other local, state, or federal agency applicable to the City; and

7. Any future-conditions flood study conducted by a licensed professional engineer which has been prepared by utilizing FEMA-approved methodology approved by the Director.
8. The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the City hall.

C. Compatibility with Other Regulations

This Division is not intended to modify or repeal any other chapter, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this Division are in addition to the requirements of any other chapter, rule, regulation or other provision of law, and where any provision of this Division imposes restrictions different from those imposed by any other chapter, 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.

D. Warning and Disclaimer of Liability

The degree of flood protection required by this Division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This Division 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 Division shall not create liability on the part of the City or by any officer or employee thereof for any flood damages that result from reliance on this Division or any administrative decision lawfully made thereunder.

E. Violations, Enforcement and Penalties

Any action or inaction which violates the provisions of this Division, 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.

F. Notice of Violation

If the Department 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 Division, 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 Division without having first secured a permit therefor, the notice of violation is 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 Division and the date for the completion of such remedial action;
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
6. A statement that the determination of violation may be appealed to the Department by filing a written notice of appeal within 30 days after the notice of violation.

G. 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 Department 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 days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice is 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 Department 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 Department may issue a stop work order which is 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 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 City 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 Department 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 days, or such greater period as the Department shall deem appropriate (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice is sufficient) after the Department has taken one or more of the actions described in subsections (2)a.—c. of this section, it may impose a penalty not to exceed \$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 Division, the Department may issue a citation to the applicant or other responsible person, requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be guilty of a violation of this Code.

Sec. 9.5.2. Administration and Enforcement

A. Designation of Administrator

1. Appointed

The Director or his designee is hereby appointed to administer and implement the provisions of this division.

2. Duties and Responsibilities

Duties of the Director shall include, but not be limited to:

- a. Review all land development applications and permits to assure that the requirements of this Division have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;
- b. Require that copies of all necessary permits from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344, be provided and maintained on file;
- c. Require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, when base flood elevation data or floodway data have not been provided, in order to meet the provisions of sections 109-154 and 109-155;
- d. Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;
- e. Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been floodproofed;

- f. Obtain certification of design criteria from a registered professional engineer or architect, when floodproofing is utilized for a structure;
- g. Notify affected adjacent communities and the state Department of natural resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the federal Emergency Management Agency (FEMA);
- h. Make the necessary interpretation where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of the boundary is given a reasonable opportunity to appeal the interpretation as provided in this Division. Where floodplain elevations have been defined, the floodplain is determined based on flood elevations rather than the area graphically delineated on the floodplain maps.

3. Records

- a. All records pertaining to the provisions of this Division is maintained in the office of the Director, and is open for public inspection.
- b. Lowest floor means 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 so as to render the structure in violation of other provisions of adopted City building code.

B. Permit Requirements

1. No owner or developer shall perform any land development activities on a site where an area of special flood hazard or area of future-conditions flood hazard is located, without first meeting the requirements of this division prior to commencing the proposed activity.
2. No land development permit will be approved for any land development activities that do not meet the requirements, restrictions and criteria of this division.

C. Additional Requirements

1. An application for a development project with any area of special flood hazard located on the site shall include a floodplain management/flood damage prevention plan. This plan shall include the following items:
2. Site plan drawn to scale, which includes but is not limited to:
 - a. Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;
 - b. For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one-foot contour elevations throughout the building site;
 - c. Proposed locations of water supply, sanitary sewer, and utilities;
 - d. Proposed locations of drainage and stormwater management facilities;
 - e. Proposed grading plan;
 - f. Base flood elevations and future-conditions flood elevations;

- g. Boundaries of the base flood floodplain and future-conditions floodplain;
 - h. If applicable, the location of the floodway; and
 - i. Certification of the information required in this subsection by a licensed professional engineer or surveyor.
3. Building and foundation design detail, including but not limited to:
 - a. Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
 - c. Certification that any proposed nonresidential floodproofed structure meets the criteria in Sec. 9.5.4.B.2;
 - d. For enclosures below the base flood elevation, location and total net area of flood openings as required in Sec. 9.5.4.A.5; and
 - e. Design plans certified by a licensed professional engineer or architect for all proposed structure(s).
 4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;
 5. Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre-development and post-development conditions base flood elevations, future-conditions flood elevations, flood protection elevations, special flood hazard areas and regulatory floodway, flood profiles and all other computations and other information similar to that presented in the FIS;

- a. Copies of all applicable state and federal permits necessary for proposed development, including but not limited to permits required by Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334; and
 - b. All appropriate certifications required under this Division.
6. The approved floodplain management/ flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.

D. Construction Stage Submittal Requirements

1. New Construction and Substantial Improvements

For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder shall provide to the Director a certified as-built elevation certificate or floodproofing certificate for nonresidential construction, including the lowest floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. A final elevation certificate is provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level is prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, said certification is prepared by or under the direct supervision of a professional engineer or architect and certified by same, using the FEMA floodproofing certificate. This certification

shall also include the design and operation/ maintenance plan to assure continued viability of the floodproofing measures.

2. Failure to Obtain a Permit or Certification

Any work undertaken prior to approval of these certifications is at the permit holder's risk. The Director shall review the referenced certification data submitted. Deficiencies detected by such review are corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby is cause to issue a stop work order for the project.

E. Appeals and Variances

The following variance and appeals procedures shall apply to an applicant who has been denied a permit for a development activity, or to an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this Division.

1. The Board of Appeals shall hear and decide requests for appeals or variances from the requirements of this Division. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
2. The Board of Appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Director in the enforcement or administration of this Division. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
3. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure

and the variance issued is the minimum necessary to preserve the historic character and design of the structure.

4. Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Division are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
6. In reviewing such requests, the Board of Appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this Division.
7. Conditions for variances:
A variance is issued only when there is:
 - a. A finding of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.
8. The provisions of this Division are minimum standards for flood loss reduction, therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
9. Any applicant to whom a variance is granted is given written notice specifying the

difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance resulting from the lowest floor elevation being placed below the base flood elevation will be commensurate with the increased risk to life and property, and that such costs may be as high as \$25.00 for each \$100.00 of insurance coverage provided.

10. The Director shall maintain the records of all variance actions, both granted and denied, and report them to the Georgia Department of Natural Resources and the Federal Emergency Management Agency upon request.
11. Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the Board of Appeals shall deem necessary for the consideration of the request.
12. Upon consideration of the factors listed in this section and the purposes of this Division, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Division.
13. Variances shall not be issued "after the fact."

Sec. 9.5.3. Development Standards

A. Definition of Floodplain Boundaries

1. Studied "A" zones, as identified in the FIS, is used to establish base flood elevations whenever available.
2. For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations are provided by the City. If future-conditions elevation data is not available from the City, then it is determined by a licensed professional engineer using a method approved by FEMA and the City.

B. Definition of Floodway Boundaries

The width of a floodway is determined from the FIS or FEMA-approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway is provided by the City. If floodway data is not available from the City, then it is determined by a licensed professional engineer using a method approved by FEMA and the City.

C. General Standards

1. No development shall be allowed within any area of special flood hazard or area of future-conditions flood hazard that could result in any of the following:
 - a. Raising the base flood elevation or future-conditions flood elevation equal to or more than 0.01 foot;
 - b. Reducing the base flood or future-conditions regulatory flood storage capacity;
 - c. Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the property; or
 - d. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.
2. Any development within any area of special flood hazard or area of future-conditions flood hazard allowed under subsection (a) of this section shall also meet the following conditions:
 - a. Compensation for storage capacity shall occur between the average groundwater table elevation and the base flood elevation for the base flood, and between the average groundwater table elevation and the future-conditions flood elevation for the future-conditions flood, and lie within the boundaries of ownership of the property being developed and is within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation:
 - i. Include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain;
 - ii. Storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;
 - b. Cut areas are stabilized and graded to a slope of no less than two percent;
 - c. Effective transitions are provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;
 - d. Verification of no-rise conditions (0.01 foot or less), flood storage volumes, and flow characteristics are provided via a step-backwater analysis meeting the requirements of section 109-90(2);
 - e. Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, are located and constructed to minimize or eliminate infiltration or contamination from floodwaters; and
 - f. Any significant physical changes to the base flood floodplain is submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. The CLOMR submittal is subject to approval by the Department using the FEMA

community concurrence forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval is the responsibility of the applicant. Within six months of the completion of development, the applicant shall submit as-built surveys and plans for a final letter of map revision (LOMR).

D. Engineering Study Requirements for Floodplain Encroachments

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and floodways. This study is prepared by a licensed professional engineer and made a part of the application for a permit. This information is submitted to and approved by the Department prior to the approval of any permit which would authorize the disturbance of land located within the future-conditions floodplain. Such study shall include all requirements specified in the Sandy Springs Technical Manual:

1. Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
2. Step-backwater analysis, using a FEMA-approved methodology approved by the Department. Cross sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood profiles and future-conditions flood profiles;
3. Floodplain storage calculations based on cross sections (at least one every 100 feet)

showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development;

4. The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

E. Floodway Encroachments

Located within areas of special flood hazard are areas designated as floodways. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in [subsection] (2) below.
2. Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment will not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A licensed professional engineer must provide supporting technical data and certification thereof; and
3. If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway is issued by the City until an affirmative conditional letter of map revision (CLOMR) is issued by FEMA or a no-rise certification is approved by the Department.

F. Maintenance Requirements

The property owner is responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on the property so that the flood-carrying or flood storage capacity is maintained. The City may direct the property owner, at no cost to the City, to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the Department.

Sec. 9.5.4. Flood Damage Reduction

A. General Standards

In all areas of special flood hazard and areas of future-conditions flood hazard the following provisions apply:

1. New construction and substantial improvements of structures (residential or nonresidential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all requirements of sections 109-89, 109-90, and 109-91 have been met.
2. New construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
5. Elevated building. All new construction and substantial improvements that include any fully enclosed area located below the lowest floor formed by foundation and other exterior

walls are designed so as to be an unfinished or flood-resistant enclosure. The enclosure is designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

- a. Designs for complying with this requirement must either be certified by a licensed professional engineer or architect to meet or exceed the following minimum criteria:
 - i. Provide 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 are 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 floodwater in both directions.
- b. So as not to violate the lowest floor criteria of this Division, the unfinished or flood-resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and
- c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.
6. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities are designed and/or located three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating

within the components during conditions of flooding;

7. Manufactured homes are anchored to prevent flotation, collapse, and 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 is in addition to and consistent with applicable state requirements for resisting wind forces;
8. All proposed development shall include adequate drainage and stormwater management facilities per the requirements of the City to reduce exposure to flood hazards;
9. New and replacement water supply systems are designed to minimize or eliminate infiltration of floodwaters into the system;
10. New and replacement sanitary sewage systems are designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
11. On-site waste disposal systems are located and constructed to avoid impairment to, or contamination from such systems during flooding;
12. Other public utilities such as gas and electric systems shall be located and constructed to avoid impairment to them, or public safety hazards from them during flooding;
13. Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this Division is undertaken only if the nonconformity is not furthered, extended or replaced;
14. If the proposed development is located in multiple flood zones or multiple base flood elevations cross the proposed site, the higher or more restrictive base flood elevation or future-condition elevation and development standards shall take precedence;
15. When only a portion of a proposed structure is located within a flood zone or the future conditions floodplain, the entire structure shall meet the requirements of this Division; and
16. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reasonably safe from flooding:
 - a. All such proposals shall be consistent with the need to minimize flood damage within the flood-prone area;
 - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; and
 - c. Adequate drainage shall be provided to reduce exposure to flood hazards.

B. Building Standards for Structures and Buildings within the Future-Conditions Floodplain

1. Residential Buildings

a. New Construction

New construction of principal residential structures shall not be allowed within the limits of the future-conditions floodplain.

b. Substantial Improvements

Substantial improvement of any principal residential structure shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is highest. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of section 109-113(5).

2. Nonresidential Buildings

a. New Construction

New construction of principal non-residential structures shall not be allowed within the limits of the future-conditions floodplain unless all requirements of sections 109-89, 109-90, and 109-91. If all of the requirements of sections 109-89, 109-90, and 109-91 have been met, all new construction shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of section 109-113(5)a. New construction that has met all of the requirements of sections 109-89, 109-90, and 109-91 may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A licensed professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Director using the FEMA floodproofing certificate along with the design and operation/ maintenance plan.

b. Substantial Improvements

Substantial improvement of any principal nonresidential structure located in A1-30, AE, or AH zones may be authorized by the Director to be elevated or floodproofed. Substantial improvements shall have the lowest floor, including basement elevated no lower than one foot above the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of section 109-113(5) a. Substantial improvements may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is highest, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A licensed professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Director using the FEMA floodproofing certificate along with the design and operation/ maintenance plan.

c. Accessory Structures and Facilities

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, recreational facilities and other similar non-habitable structures and facilities)

which meet the requirements of sections 109-89, 109-90, and 109-91 and are permitted to be located within the limits of the future-conditions floodplain shall be constructed of flood-resistant materials and designed to provide adequate flood openings in accordance with section 109-113(5)a. and be anchored to prevent flotation, collapse, and lateral movement of the structure.

d. Recreational Vehicles

All recreational vehicles placed on sites must either:

- i. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
- ii. Meet all the requirements for residential buildings—substantial improvements set forth in subsection (a)(2) of this section, including the anchoring and elevation requirements.

e. Manufactured Homes

- i. New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of sections 109-89, 109-90, and 109-91 have been met, all new construction and substantial improvement shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation,

whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of section 109-113(5)a.

- ii. Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision is elevated so that either: (a) The lowest floor of the manufactured home is elevated no lower than three feet above the level of the base flood elevation, or one foot above the future-conditions flood elevation, whichever is higher; or (b) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
- iii. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with standards of section 109-113(7).

C. Building Standards for Structures and Buildings Authorized Adjacent to the Future-Conditions Floodplain

1. Residential Buildings

For new construction and substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, is at least three feet above the level of the highest base flood (100-year) elevation adjacent to the building or at least one foot above the future-conditions flood elevation, whichever is higher. Should

solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of section 109-113(5)a.

2. Nonresidential Buildings

For new construction or substantial improvement of any principal nonresidential building, the elevation of the lowest floor, including basement and access to the building, is at least three feet above the level of the highest base flood elevation adjacent to the building or at least one foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of section 109-113(5)a. Nonresidential buildings may be floodproofed in lieu of elevation.

D. Building Standards for Residential Single-Lot Development on Streams without Established Base Flood Elevations and/or Floodway (A zones)

For a residential single-lot development not part of a subdivision that has areas of special flood hazard, where streams exist but no base flood data have been provided (A zones), the Director shall review and reasonably utilize any available scientific or historic flood elevation, data, base flood elevation floodway data or future-conditions flood elevation data available from a federal, state, or other source in order to administer the provisions and standards of this Division. If data are not available from any of these sources, the following provisions shall apply:

1. No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or fifty

feet from the top of the bank of the stream, whichever is greater.

2. In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the highest adjacent grade at the building site. Flood openings sufficient to facilitate automatic equalization of hydrostatic flood forces shall be provided for flood prone enclosures in accordance with section 109-113(5)a.

E. Building Standards for Areas of Shallow Flooding (AO zones)

Areas of special flood hazard may include designated AO shallow flooding areas. These areas have base flood depths of one foot to three feet above ground, with no clearly defined channel. In these areas the following provisions apply:

1. All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to no lower than one foot above the flood depth number specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, is elevated at least three feet above the highest adjacent grade. Flood openings sufficient to facilitate automatic equalization of hydrostatic flood forces shall be provided in accordance with standards of section 109-113(5)a.;
2. New construction and substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level plus one foot above the highest adjacent

grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A licensed professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice, and shall provide such certification to the City using the FEMA floodproofing certificate along with the design and operation/maintenance plan; and

3. Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

2. On-site waste disposal systems are located outside the floodplain to avoid impairment to them, or contamination from them during flooding.

F. Standards for Subdivisions of Land

1. All subdivision proposals shall identify the areas of special flood hazard and areas of future-conditions flood hazard therein and provide base flood elevation data and future-conditions flood elevation data;
2. All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future-conditions floodplain such that encroachments into the future-conditions floodplain for residential structures will not be required;
3. All subdivision plans will provide the elevations of proposed structures in accordance with section 109-54(a)(2).

G. Standards for Utilities

1. All new and replacement water supply and sanitary sewerage systems are designed to minimize or eliminate:
 - a. Infiltration of floodwaters into the systems; and
 - b. Discharges from the systems into floodwaters.

Div. 9.6. Stormwater Management

Sec. 9.6.1. Purpose

The purpose of this Division 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 by focusing on the types of frequently occurring storm events that generate the most water quality impacts. 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 Division 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, stream bank erosion, non-point source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
- C. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality and to preserve and/or restore natural hydrologic conditions on development sites;
- D. Establish design and application criteria for the construction and use of structural stormwater control facilities that meet the minimum post-development stormwater management standards;
- E. Encourage the use of nonstructural stormwater management and stormwater better site design practices, peak rate and/or runoff reduction, and the preservation of greenspace and other conservation areas, by establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality. Coordinate site design plans, which include greenspace, with the City's greenspace protection plan;
- F. Establish provisions for the long-term responsibility for operation, inspection, maintenance and repair of private structural stormwater control facilities and private commitments for nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety or the environment; 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 compliance; and
- H. Protect public health and safety by reducing the risk of localized flooding and reducing the amount of runoff entering public rights-of-way.

Sec. 9.6.2. Violations, Enforcement, Penalties

Any action or inaction which violates the provisions of this Division 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 that 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 in subsection (2) of this section shall not prevent such equitable relief.

A. Notice of Violation

If the Department 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 Division, 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 Division without having first secured a permit therefor, the notice of violation is 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 Division and the date for the completion of such remedial action;
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
6. A statement that the determination of violation may be appealed to the Department by filing a written notice of appeal within 30 days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient).

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 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 Department 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 days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice is 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 Department 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 Department may issue a stop work order that is 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 Department 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 Department 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 City 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 days, or such greater period as the Department shall deem appropriate (except that, in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice is sufficient) after the City has taken one or more of the actions described above, the Department may impose a penalty not to exceed \$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 Division, the Department 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 guilty of a violation of this Code. Each act of violation and each day upon which any act of violation shall occur shall constitute a separate violation of this Code.

Sec. 9.6.3. Standards

A. Applicability

1. This Division is applicable to all land development, including, but not limited to, site plan applications, single family residential applications, subdivision

applications, and grading applications, unless exempt pursuant to subsection (2) of this section. These standards apply to any new development or redevelopment site that meets one or more of the following criteria, or as otherwise required by the Director:

- a. Any new development, redevelopment, addition or replacement that involves the creation of 1,000 square feet or more of impervious cover, or that involves other land development activities of 5,000 square feet or more;
 - b. Any new development or redevelopment, regardless of size, 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 that is defined by the Director to be a hotspot land use.
2. The following activities are exempt from this Division:
 - a. Agricultural or silvicultural land management activities within areas zoned for these activities; and
 - b. Repairs to any stormwater management facility or practice deemed necessary by the Director.
 - c. Minor improvements to public parks involving less than 5,000 square feet of land disturbance and less than 1,000 square feet of impervious surface.
 - d. Utility installations, repairs or modifications outside of stream buffers.
 - e. Installations or modifications to existing structures to accommodate Americans with Disability Act (ADA) requirements.
 - f. Installation of pervious pavement less than 5,000 square feet.

- g. Maintenance, repair and resurfacing of existing paved surfaces.
- h. Addition of sidewalks in or along public rights-of-way.
- i. Stream bank stabilization or restoration.
- j. Land disturbance required for environmental cleanup or remediation.
- k. Residential driveway replacement.

3. Minimum Requirements

Except for repairs to existing stormwater facilities or stormwater facilities in the public right-of-way, all developments and redevelopment activity, including single-family residential and those which are otherwise exempt from this Division, the following minimum requirements shall apply:

- a. Lots and buildings shall be developed in a manner to ensure that stormwater exiting individual parcels or lots under post-development conditions does not adversely impact the adjacent parcels or lots as a result of concentrated flows, flooding, erosion or deposits of silt or sediment;
- b. The stormwater discharge from a downspout, cistern, or any water collection device shall be located no closer to a property line than ten feet and oriented so direction of flow is away from any downstream improvements. Discharge from any outlet must be dissipated, infiltrated or diverted such that flows will not be concentrated; and
- c. No person shall erect, construct, or otherwise permit any obstruction that prevents the natural or contained flow of water to or from any component of the stormwater system of the City unless such obstruction is allowed as a part of a permit approved pursuant to this Division.

B. Designation of Administrator

The Director or a designee is hereby appointed to administer and implement the provisions of this Division.

C. Compatibility With Other Regulations

This Division is not intended to modify or repeal any other chapter, rule, regulation or other provision of law. The requirements of this Division are in addition to the requirements of any other chapter, rule, regulation or other provision of law, and where any provision of this Division imposes restrictions different from those imposed by any other chapter, 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. 9.6.4. Stormwater Design Manual

The City will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the 2016 Georgia Stormwater Management Manual and any relevant City addenda (or equivalent City stormwater management design manual) for the proper implementation of the requirements of this Division. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

Sec. 9.6.5. Permit Application Requirements

- A. No owner or developer shall perform any land development activities without first meeting the requirements of this Division prior to commencing the proposed activity.
- B. Unless specifically exempted by this Division, any owner or developer proposing a land development activity shall submit to the Department a permit application on a form provided by the City for that purpose.
- C. Unless otherwise exempted by this Division, a permit application is accompanied by the following items in order to be considered:

1. Stormwater concept plan and consultation meeting certification in accordance with section 109-190;
 2. Stormwater management plan in accordance with section 109-191;
 3. Inspection and maintenance agreement in accordance with section 109-191(c)(11), if applicable;
 4. Performance bond, if applicable; and
 5. Permit application and plan review fees in accordance with section 109-193.
- D. The approved stormwater management plan shall obligate the responsible party to accomplish all land clearing, construction, development and drainage in accordance with the stormwater management plan. Any and all permits for development activities may be revoked at any time if the construction of stormwater management facilities is not conducted in substantial conformity with approved plans.
- E. Applicant or responsible party shall obtain all state and federal permits required for the proposed development activity in addition to the plans and permits required by the City.
- F. Upon completion of the project the applicant or responsible party shall submit the engineer-of-record's certification and as-built plan that includes the global positioning system coordinates of the stormwater management facilities. If the as-built plan differs substantially from the approved plan but is still acceptable to the City, then the applicant or responsible party shall update the recorded inspection and maintenance agreement upon approval by the City.
- stormwater management plan and the inspection maintenance agreement, if applicable, is included.
- C. The Department 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 Department 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 this subsection and subsection (3) of this section shall apply to such resubmittal.
- E. Upon a finding by the Department that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this Division, the Department 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 is subject to the following requirements:
1. The applicant shall comply with all applicable requirements of the approved plan and this Division and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
 2. The land development project is conducted only within the area specified in the approved plan;
 3. The Department is 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 Department; and

Sec. 9.6.6. Application Procedure

- A. Applications for land development permits are filed with the Department.
- B. Permit applications shall include the items set forth in section 109-188(c). Two copies of the

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 109-196.

Sec. 9.6.7. Stormwater Concept Plan

- A. Discussion of post-development stormwater management. Before any stormwater management permit application is submitted, it is recommended that the landowner or developer shall meet with the Department for a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This consultation meeting shall 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. Information to be submitted. To accomplish this goal, the following information is included in the concept plan that is 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. Local watershed plans, the City greenspace projection plan (if applicable), and any relevant resource protection plans will be consulted in the discussion of the concept plan.

Sec. 9.6.8. Stormwater Management Plan

- A. The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this Division, including the performance criteria set forth in section 109-195.

- B. This plan is in accordance with the criteria established in this section and must be submitted with the stamp and signature of a design professional licensed in the state, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the current Georgia Stormwater Management Manual 2016 Edition (here and henceforth all references to this manual assume the 2016 edition, including all amendments as may be forthcoming from time to time) and the City's submittal requirements for commercial and single-family residential development.
- C. The stormwater management plan must ensure that the requirements and criteria in this Division are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the applicable design requirements and forms found in the Georgia Stormwater Management Manual and the City's submittal requirement for commercial and single-family residential development. This includes but is not limited to:
1. The common address and legal description of the site.
 2. Vicinity map.
 3. Existing conditions and proposed site plans. Existing conditions and proposed site layout plans which illustrate at a minimum; existing and proposed topography, perennial and intermittent streams; mapping of predominate soils from soil surveys, boundaries of existing predominant vegetation and proposed limits of clearing and grading, and location of existing and proposed roads, building parking area and other impervious surfaces.
 4. Infiltration rates. Infiltration rates shall be determined by soil surveys, on-site soil analysis or a percolation test. If the site has been previously developed or graded or contains urban soil types, a percolation test is required.
 5. Natural resources inventory. A written or graphic inventory of the natural resources in existence prior to the commencement of the project. This inventory shall address resources both on the site and in the surrounding area that are or may be impacted by the project. This inventory shall also include a description of the soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural features protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks, including but not limited to drinking water well setbacks and septic setbacks. Particular attention should be paid to environmentally sensitive features that present constraints for development.
 6. Existing conditions hydrologic analysis. The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities in accordance with the current Georgia Stormwater Management Manual, 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, pre-development conditions are modeled using guidelines established by the Director for the portion of the site undergoing land development activities.

7. Postdevelopment hydrologic analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall be calculated in accordance with the Georgia Stormwater Management Manual and 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 109-195; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50 percent of the site area for the entire site, then the performance criteria in section 109-195 must be met for the stormwater runoff from the entire site. For a subdivision of land or planned development, post-development runoff volumes, rates, and velocities shall be calculated based on the built-out conditions of the entire parcel to be subdivided, regardless of future ownership of individual lots. Estimates of impervious surfaces shall be made based on maximum allowable lot coverage in accordance with the City's zoning ordinance when meeting the performance criteria. The developer of said subdivided parcel may provide runoff

reduction and water quality measures for individual lots which must be reflected accordingly on the final plat.

8. Stormwater management system. The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in section 109-195; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catchbasins, 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.

9. Postdevelopment downstream analysis. A downstream peak flow analysis that 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 ten 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 is in accordance with the stormwater design manual.
10. Construction-phase erosion and sedimentation control plan. An erosion and sedimentation control plan in accordance with the Georgia Erosion and Sedimentation Control Act of 1975 (O.C.G.A. § 12-7-1 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. Prior to the approval of the stormwater management plan, the applicant or responsible party shall submit a proposed staged construction and inspection control schedule for approval; otherwise, the construction and inspection control schedule will be for the entire drainage system. No stage work related to the construction of stormwater management facilities or BMPs shall proceed until the next proceeding stage of work, according to the sequence specified in the approved stage construction and inspection control schedule, as inspected and approved. Runoff reduction and water quality measures shall be installed in the final phase of construction to prevent clogging.
11. Landscaping and open space plan. A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.
12. 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 a narrative describing how the stormwater management system is designed to function, including capture, runoff control, water quality treatment, channel and flood protection, and ongoing operations and maintenance procedures for all stormwater management facilities and practices shown on the stormwater management site plan. 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 are included in the plan.

13. 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 is sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist is recorded and shall remain in effect even with the transfer of title of the property.
14. Inspection and maintenance agreements. Unless an on-site stormwater management facility or practice is dedicated to and accepted by the Department as provided in section 109-192, 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 109-192.
15. Evidence of acquisition of applicable local and nonlocal permits. The applicant shall certify and provide documentation to the Department that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.

Sec. 9.6.9. Inspection, 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 Department 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 Department, execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that is binding on all subsequent owners of the site.

- B. The inspection and maintenance agreement, if applicable, must be approved by the Department 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 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 are 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 is 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 Department may also enforce all of the provisions for ongoing inspection and maintenance in section 109-197.
- F. The Department, in lieu of an inspection and maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility

meets all the requirements of this Division and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Sec. 9.6.10. Application Review Fees

The fee for review of any stormwater management application is based on the fee structure established by the Department and is made prior to the issuance of any building permit for the development.

Sec. 9.6.11. 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 are 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 Department that shows the adequacy of the off-site or regional facility.
- C. To be eligible for a modification, the applicant must demonstrate to the satisfaction of the Director 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 stream bank or streambed erosion or siltation;
4. Degradation of in-stream biological functions or habitat; or
5. Water quality impairment in violation of the state water quality standards, and/or violation of any state or federal regulations.

Sec. 9.6.12. Performance Criteria

- A. For new developments, the following performance criteria shall be applied to the area of the site impacted by the proposed work. For redevelopment, the following performance criteria shall be applied to the area of the site impacted by the proposed work, provided that the impacted area does not exceed 35 percent of the previously developed area. If the impacted area exceeds 35 percent of the previously developed area, the following performance criteria shall be applied to the entire development, including previously developed area:
 1. **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 it satisfies the stormwater reduction criteria in this section. However if any of the stormwater runoff volume generated by the first 1.2 inches of rainfall cannot be reduced or retained on site due to constraints such as a high water table, rock, low infiltration rates or the presence of a hotspot, the remaining volume shall be increased by a multiplier of 1.2 and shall be intercepted and treated in one or more stormwater management practices that provide at least an 80 percent reduction in total suspended solids loads in accordance with the following criteria:

- a. It is sized to treat the prescribed water quality treatment volume from the site,

as defined in the Georgia Stormwater Management Manual;

- b. 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 or constitutes an alternative practice responsibly designed and documented by the design professional to reproduce the intent of the Georgia Stormwater Management Manual; and
- c. Runoff from hotspot land uses and activities identified by the Department are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

2. Stream Channel Protection

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

- a. Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
- b. Twenty-four-hour extended detention storage of the one-year, 24-hour return frequency storm event;
- c. Erosion prevention measures such as energy dissipation and velocity control.
- d. For redevelopment projects that create, add, or demolish and replace less than 5,000 square feet of impervious surface and meet the performance criteria of this section, stream channel protection is not required.

3. Overbank Flooding Protection

- a. Downstream overbank flood and property protection is provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the one-year, 24-hour storm under subsection (a) of this section is exempted, then peak discharge rate attenuation of the two-year through the 25-year return frequency storm event must be provided. For redevelopment projects overbank flood and property protection shall be provided by reducing the peak discharge rate up to the 25-year, 24-hour storm event in accordance with the following formula:
 - b. $\%PIC/2 = \%PDRR$
 - c. PIC = Predevelopment Impervious Cover
 - i. PDRR = Peak Discharge Rate Reduction
 - d. For sites where previous demolition has removed impervious surfaces, pre-development peak discharge rate calculations and percentage of impervious coverage shall be calculated based on pre-demolition conditions. For sites that have been demolished and have remained fallow and stabilized with vegetation for a minimum of five years, they shall be considered as having pre-development conditions of 20 percent impervious cover for purposes of calculating peak discharge rate reduction.
 - e. For land development permitted after 2005 and served by appropriate stormwater management facilities, subsequent redevelopment of the same area is not required to further reduce the peak discharge rate, provided that the site continues to meet the reduction previously achieved.

- f. For redevelopment projects that create, add, or demolish and replace less than 5,000 square feet of impervious surface and meet the performance criteria of this section, overbank flooding protection is not required.

4. Extreme Flooding Protection

- a. Extreme flood and public safety protection is provided by controlling and safely conveying the 100-year, 24-hour return frequency storm event such that flooding is not exacerbated.
- b. For redevelopment projects that create, add, or demolish and replace less than 5,000 square feet of impervious surface and meet the performance criteria of this section, extreme flooding protection is not required.

5. Structural Stormwater Controls

All structural stormwater management facilities are 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 Department 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 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 non-point source pollution loads created on the site in question. Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

6. Stormwater Credits for Nonstructural Measures

The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under subsection (a) of this section. The applicant may, if approved by the Department, 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 that 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.

7. Drainage System Guidelines

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

- a. Methods to calculate stormwater flows are in accordance with the stormwater design manual;

- b. All culverts, pipe systems and open channel flow systems are sized in accordance with the stormwater management plan using the methods included in the Georgia Stormwater Management Manual; and
- c. Design and construction of stormwater conveyance facilities are in accordance with the criteria and specifications found in the Georgia Stormwater Management Manual.

8. Dam Design Guidelines

Any land disturbing activity that involves a site that proposes a dam shall comply with the Georgia Safe Dams Act of 1978 (O.C.G.A. § 12-5-370 et seq.) and rules for dam safety as applicable.

Sec. 9.6.13. Construction Inspections

- A. Inspections to ensure plan compliance during construction. Periodic inspections of the stormwater management system construction is conducted by the staff of the Department or conducted and certified by a professional engineer who has been approved by the Department. Construction inspections shall utilize the approved stormwater management plan for establishing compliance. All inspections are 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.
 - 5. If any violations are found, the applicant is notified in writing of the nature of the violation and the required corrective actions.

- B. Final inspection and as-built plans. Upon completion of a project, and before a certificate of occupancy is granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan including the global positioning system coordinates of all stormwater management facilities. 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 Department is required before the release of any performance securities can occur.

Sec. 9.6.14. Ongoing Inspection, Maintenance

A. Long-Term Maintenance Inspection of Stormwater Facilities and Practices

- 1. The absence of an inspection and maintenance agreement shall not relieve the owner or responsible party from performing proper maintenance and inspection of the stormwater management facility. If the owner or responsible party fails or refuses to meet the requirements of this Division, the City may correct the violation at the owner’s expense.
- 2. For facilities constructed prior to the effective date of this Division the owner or responsible party shall perform proper maintenance of the stormwater maintenance facility as required by the indemnification agreement. If the owner or responsible party fails or refuses to meet the requirements of this Division, the City may correct the violation at the owner’s expense.
- 3. Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure

compliance with the requirements of the agreement, the plan and this Division.

4. A stormwater management facility or practice is inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement or in the absence of an inspection and maintenance agreement, in accordance with the requirements of this Division. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the Department 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 are completed. Failure of the City to provide such notice shall not relieve the owner or responsible party from performing proper maintenance and inspection of the stormwater maintenance facility. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Department, may correct the violation as provided in section 109-197(4) hereof.
5. An annual inspection shall be performed and attested to by a professional engineer with results reported to the City. Any deficiencies noted in either operation or maintenance of the facility must be included in the report along with the proposed remedies required and a time table for their implementation. If substantial deficiencies are found, a follow-up inspection to confirm correction of said deficiencies shall be performed and reported to the City.
6. Inspection programs by the Department 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.

B. Right-of-Entry for Inspection

The terms of the inspection and maintenance agreement shall provide for the City 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 Division is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this Division.

C. 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 Department.

Sec. 9.6.15. Failure to Maintain

If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Department, after 30 days' written notice (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice is 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 Department may assess the owners of the facility for the cost of repair work that is 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.

Sec. 9.6.16. Marsh Creek Watershed Regional Detention Pond

A. Purpose

The purpose and intent of this section is to protect the public health, safety, environment and general welfare through the establishment of a policy and procedure for the protection and maintenance of the water quality and flood storage capacity being controlled by the Marsh Creek Watershed Improvement Project and the Stormwater Best Management Practice (Marsh Creek BMP) for present and future development and redevelopment within the drainage basin of the Marsh Creek BMP. The following policy and procedures seek to meet that purpose and shall be known as the Marsh Creek Watershed Regional Detention Pond Ordinance:

1. This section will apply to the developed parcels that lie, in whole or in part, within the drainage basin area boundaries of the Marsh Creek BMP.
2. The applicant shall be any property owner and/or developer proposing to develop or redevelop sites within the Marsh Creek BMP.
3. The applicant shall submit the site plan with the proposed development addressing all application requirements for review by the Department to determine the availability of stormwater detention capacity within the Marsh Creek BMP.
4. Should capacity within the facility be available, the applicant will have the option to:
 - a. Utilize the Marsh Creek BMP facility for stormwater detention and submit a fee to the City for the cost and maintenance of the facility; or
 - b. Provide onsite detention through the use of underground storage facilities in accordance with the City's stormwater management plan requirements.

5. Upon approval of the application by the City, acceptance of the utilization of the Marsh Creek BMP by the applicant, and payment of the fee, a license shall be granted to the applicant; however, the responsibility for operation, maintenance and regulation of the stormwater management services within the Marsh Creek BMP shall be owned, operated and maintained by the City of Sandy Springs in accordance with the SWMP and stormwater management services performed, owned and operated or maintained by the City of Sandy Springs.

B. Application Requirements

1. A certified topographic map of existing conditions that delineate the drainage area boundaries of the applicant's parcel defining the areas within and outside the Marsh Creek BMP drainage basin as well as the existing impervious area within and outside the basin;
2. A site plan of the proposed improvements, including a delineation of new and/or redeveloped impervious areas within the applicant's parcel;
3. A hydraulic analysis of the downstream public stormwater conveyance system of the applicant's parcel, to verify the capacity of the system to carry the proposed stormwater flows in compliance with the development regulations;
4. Confirmation of onsite erosion and sediment control which applicant will utilize during the course of the construction project to protect the Marsh Creek BMP from any construction related damage;
5. A fee in the amount of \$180,000.00 per impervious acre of applicant's parcel (measured to the nearest one-hundredth of an acre) shall be charged and assessed to the applicant for the cost of utilizing stormwater detention services and ongoing maintenance

to the stormwater management system and facility of the Marsh Creek BMP.

6. Conformity by the applicant with onsite water quality requirements through the use of green infrastructure or low impact development (LID) practices, or other approved structural practices as directed by the City;
7. Applicant shall comply with the City development regulations ordinance, floodplain management ordinance, and any other City and state rules, regulations or permits, which regulate the development of land.
8. If the parcel is to be developed in phases, then a separate application process shall be required for each phase.

C. Application process

1. Immediately upon receipt of all application requirements, the Department shall review the plans and determine the capacity feasibility of the Marsh Creek BMP facility as to the proposed development. The Department shall be expected to complete its review of the application within 35 days of receipt of all documents required from the applicant.
2. Availability will be determined based on the impervious area of the parcel proposing to drain to the facility, as well as the capacity of the existing and to be installed conveyance system to carry the proposed stormwater discharge to the facility.
3. An application may be rejected if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application.
4. Upon final approval, the applicant shall be granted a license allowing utilization of the

Marsh Creek BMP for the site's stormwater control within the drainage basin area.

5. The applicant shall be responsible for the installation and maintenance of all required onsite erosion and sediment control during the course of the construction project to protect the Marsh Creek BMP and the related drainage system from any construction related damage.
6. Should the applicant not select utilization of the Marsh Creek BMP, or should the proposed conveyance system be found inadequate to carry the proposed development or redevelopment of the parcel, the applicant shall be required to conform to all stormwater management ordinance, development regulations ordinance, floodplain management ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the City.

Div. 9.7. Soil Erosion and Sedimentation Control

Sec. 9.7.1. Title and Findings

A. Title

This Division will be known as “The City of Sandy Springs Soil Erosion, Sedimentation and Pollution Control Ordinance.”

B. Findings

The City of Sandy Springs finds that soil erosion and sediment deposition onto land and into water within the watersheds of the City are a result of failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses. It is therefore declared to be the policy of the City of Sandy Springs and the intent of this Division to strengthen and extend the present erosion and sediment control activities and programs of the City of Sandy Springs and to provide for the establishment and implementation of a City-wide comprehensive soil erosion and sediment control program to conserve and protect the land, water, air, and other resources of the City of Sandy Springs.

Sec. 9.7.2. Exemptions

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

- A. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, “The Georgia Surface Mining Act of 1968.”
- B. Granite Quarrying and land for such quarrying.
- C. Such minor land-disturbance activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities. If such activities cause excessive erosion an official notice shall be provided to implement a best management practice (BMP) to stop continued erosion.
- D. The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan or development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however:
 1. Construction of any such residence (single-family) shall conform to the minimum requirements as set forth in section 109-252© of this Division.
 2. 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 1 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.
 3. The minimum requirements of section 109-252© of this Division and the buffer zones provided by this section shall be enforced by the City;

- 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 aquaculture, 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 sections 109-252(c)(15) and (16) of this Division, 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 years after completion of such forestry practices;
- G. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) 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 banks/points of wretched vegetation 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, 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 drainageway, 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 A., B., C., D., E., F., G., I. or J. 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 road and 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 the Department of transportation or the state road and tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-71; 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. 9.7.3. Minimum Requirements

A. General Provisions

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance [from which this Division derived] and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities that are not exempted by this Division shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of sections 109-252(b) and (c) of this Division. 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, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this Division and the NPDES general permit.

B. Minimum Requirements/BMPs

1. Best management practices as set forth in sections 109-252(b) and (c) of this Division 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 O.C.G.A. § 12-5-30(f), the “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(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 O.C.G.A. § 12-5-30(f), 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 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, EPD. 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 of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), 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 of Natural Resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.
 5. The LIA may set more stringent buffer requirements than stated in [subsections] (c) (15) and (16), in light of O.C.G.A. § 12-7-6(c).
- C. The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et seq. 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 practicable 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 runoff 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, sedimentation and pollution 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 109-252(b)(2) of this Division;

15. Except as provided in paragraph (16) of this section, there is established a 25-foot buffer 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, EPD determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director, EPD pursuant to O.C.G.A. § 12-2-8, where a drainage structure 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; or along any ephemeral stream. As used in this provision, the term “ephemeral stream” means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year round; for which groundwater is not a source of water; and for which runoff from precipitation is the primary source of water flow, unless exempted as along an ephemeral stream, 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, EPD 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 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 streambed; 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 streambed; 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 of Natural Resources, 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, EPD 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 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 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 streambed; 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 streambed; 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.

17. Nothing contained in O.C.G.A. § 12-7-1 et seq. 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 subsections 109-252(b) and (c) of this Division.
18. 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 Division or the terms of the permit.

Sec. 9.7.4. Application/Permit Process

A. General

The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this Division, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.

B. Application Requirements

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Sandy Springs, Georgia, without first obtaining a permit from the Department to perform such activity and providing a copy of notice of intent submitted to EPD, if applicable.
2. The application for a permit shall be submitted to the Department and must include the applicant's erosion,

sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in section 109-253(c) of this Division. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land-disturbing activity proposed will be carried out in such a manner that the provisions of sections 109-252(b) and (c) of this Division will be met. Applications for a permit will not be accepted unless accompanied by three copies of the applicant’s erosion, sedimentation and pollution 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 in accordance with EPD Rule 391-3-7-10.

3. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph O.C.G.A. § 12-5-23(5)(a), 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 O.C.G.A. § 12-7-8(a), 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 O.C.G.A. § 12-7-17(9) or (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
4. Receipt of an application and plan for a permit, the City shall review and approve or disapprove concerning the adequacy of the erosion, sedimentation and pollution control plan. The City shall approve or disapprove a plan within 35 days of receipt. Failure of the

City to act within 35 days shall be considered an approval of the pending plan. No permit will be issued unless the plan has been approved by the City, and any variances required by sections 109-252(c)(15) and (16) has been obtained, all fees have been paid, and bonding, if required as per section 109-253(b)(6) have been obtained.

5. If a permit applicant has had two or more violations of previous permits, this Division section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the local issuing authority may deny the permit application.
6. 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 section 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 sections 109-252(b) and (c) of this Division, 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 Division. 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 stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land-disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

2. Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.
3. Stand alone residential development permit and procedures
4. All building permits for a stand alone residential development or redevelopment shall be submitted for review and approval that includes an erosion control plan and details.
5. The building permit shall include a site erosion control plan, sealed by a Georgia registered Engineer, Landscape Architect, Certified Person in Erosion and Sediment Control (CPESC) or Land Surveyor, to accompany the building plans. No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the local issuing authority pursuant to section 109-252(c). All proposed BMPs on the site erosion control plan shall be designed per requirements and specifications contained in the “Manual for Erosion and Sediment Control in Georgia.”
6. At the time of the preconstruction meeting the owner, operator or applicant shall sign the memorandum of understanding titled “Erosion Control Responsibilities.” This document is on file with the Department.
7. Self-inspections and rain event logs.
 - a. The on-site operator, owner or applicant shall perform self-inspections of the erosion control BMPs daily when land disturbing is underway and at a minimum of once per week when the site is stabilized.
 - b. An inspection be conducted after every rain event of 0.5 inches or more within a 24 hour period.
 - c. Any problems noted during these inspections should be logged and corrected immediately.
 - d. A log of the self-inspections and remedial measures undertaken must be available for review by the City of Sandy Springs at any time during the development and up to the final site stabilization.
8. Permits
 - a. Permits shall be issued or denied as soon as practicable, but in any event not later than 45 days after receipt by the local issuing authority of a completed application, providing variances and bonding are obtained, where necessary, and all applicable fees have been paid prior to permit issuance. The permit

shall include conditions under which the activity may be undertaken.

- b. No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the district and the local issuing authority has affirmatively determined that the plan is in compliance with this Division, any variances required by sections 109-252(c) (15) and (16) are obtained, bonding requirements, if necessary, as per section 109-253(b)(6) 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.
- c. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this Division, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
- d. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- e. 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 Division. 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.

- f. The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. § 12-7-7(f)(1).

Sec. 9.7.5. Inspection and Enforcement

- A. The Director 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 primary, secondary and tertiary 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. Tertiary permittees shall be responsible for installation and maintenance where the tertiary 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 Division, 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 Division.
- B. The local issuing authority must amend its ordinances to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.

- C. The Director shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this Division, 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.
- D. 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.
- E. The district or the commission or both shall semi-annually 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 district 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, sedimentation and pollution control program. The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.
- F. The division may 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). 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 indicates 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 90 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 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority.

Sec. 9.7.6. 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 Division without first obtaining said permit, the person shall be subject to revocation of the 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 Division, the Director, EPD or the local issuing authority shall provide official notice to the violator. The violator shall have 48 hours to correct the violation. If the violation is not corrected within 48 hours, the Director, EPD or 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. In cases where there is danger of damage to state waters, stormwater systems or adjacent property a stop work order may be issued and the violator shall correct the violation immediately.
2. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

3. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, failure to follow the approved plan, failure to maintain required BMPs or significant amounts of sediment, as determined by the local issuing authority or by the Director, EPD or his or her designee, have been or are being discharged into state waters, offsite or public streets and where best management practices have not been properly designed, installed, and maintained, a stop-work order shall be issued and citation may be issued, by the local issuing authority or by the Director, EPD 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.

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 Division 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 109-253(b)(6). 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

Any person who violates any provisions of this Division, or any permit condition or limitation established pursuant to this Division, or who negligently or intentionally fails or refuses to comply with any final or order of the Director may be cited for the violation of this Division. Any person who violates any provisions of this Division, or any permit condition or limitation established pursuant to this Division, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director, EPD issued as provided in this Division, shall be liable for a civil penalty not to exceed \$2,500.00 per day, except that the penalty for violations associated with stand alone residential development shall be pursuant to section 1-10 of the City Code. For the purpose of enforcing the provisions of this Division, notwithstanding any provisions in any City Charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation, except that the penalty for violations associated for stand alone residential development shall be pursuant to section 1-10 of the City Code for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this Division under county ordinances approved under this Division shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation, except that the penalty for violations associated with stand alone residential development shall be pursuant to section 1-10 of the City Code for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

Sec. 9.7.7. Education and Certification

- A. 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.

- B. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this Division.
- D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in O.C.G.A. § 12-7-19(b)(4) and shall not be required to meet any educational requirements that exceed those specified in said subsection.

Sec. 9.7.8. Administrative Appeal, Judicial Review

A. Administrative remedies

The suspension, revocation, modification or grant with condition of a permit by the local issuing

authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution 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 Board of Appeals within 30 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 denovo to the Superior Court of Fulton County, Georgia.

Sec. 9.7.9. Effectivity, Validity and Liability

A. Effectivity

This Division shall become effective on the twentieth day of April, 2010.

B. Validity

If any section, paragraph, clause, phrase, or provision of this Division shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this Division.

C. Liability

1. Neither the approval of a plan under the provisions of this Division, nor the compliance with provisions of this Division 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.
2. 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 Division or the terms of the permit.

3. No provision of this Division 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.

Div. 9.8. Illicit Discharge and Connection

Sec. 9.8.1. General Provisions

A. Purpose and intent

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

1. Regulate the contribution of pollutants to the storm sewer system by any person;
2. Prohibit illicit discharges and illegal connections to the storm sewer system;
3. Prevent nonstormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the storm sewer system; and
4. Establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Division.

B. Compatibility with Other Regulations

This Division is not intended to modify or repeal any other chapter, rule, regulation, or other provision of law. The requirements of this Division are in addition to the requirements of any other chapter, rule, regulation, or other provision of law, and where any provision of this Division imposes restrictions different from those imposed by any other chapter, 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.

C. Responsibility for Administration

The Department shall administer, implement, and enforce the provisions of this Division.

Sec. 9.8.2. Violations, Enforcement, Penalties

A. Violations

1. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Division. Any person who has violated or continues to violate the provisions of this Division 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.
2. In the event the violation constitutes an immediate danger to public health or public safety, the Department 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 Department is authorized to seek costs of the abatement as provided herein.

B. Notice of Violation

Whenever the Department finds that a violation of this Division has occurred, the Department 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 Division 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 Department by filing a written notice of appeal within 30 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

Any person receiving a notice of violation may appeal the determination of the Department. The notice of appeal must be received within 30 days from the date of the notice of violation. Hearing on the appeal before the Director or his designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the appropriate authority or designee is final.

D. Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 30 days of the decision of the appropriate authority upholding the decision of the Department, then representatives of the Department 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 is 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 in this section.

E. Costs of Abatement of Violation

Within 60 days after abatement of the violation, the owner of the property will be notified 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 30 days of such notice. If the amount due is not paid within 30 days after receipt of the notice, or if an appeal is taken within 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.

F. 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 Department shall deem appropriate, after the Department has taken one or more of the actions described in subsection (e) of this section, the Department may impose a penalty not to exceed \$1,000.00 (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 Division, the Department 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 guilty of a violation of this Code. Each act of violation and each day upon which any act of violation shall occur shall constitute a separate violation of this Code.

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 Division 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.

I. Remedies not Exclusive

The remedies listed in this Division are not exclusive of any other remedies available under any applicable federal, state or local law and the Department may seek cumulative remedies.

J. Recovery of Fees and Costs

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

Sec. 9.8.3. Prohibitions**A. Prohibition of Illicit Discharges**

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

B. Exemptions

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 groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, 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 firefighting, and other discharges specified in writing by the Director as being necessary to protect public health and safety;
3. The prohibition provision above shall not apply to any nonstormwater 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 City separate storm sewer system.

C. Prohibition of Illegal Connections

The construction, connection, use, maintenance or continued existence of any illegal connection to the 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 Division if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.
 3. Improper connections in violation of this Division must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system upon approval of the public works Department.
 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, is located by the owner or occupant of that property upon receipt of written notice of violation from the Department 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 Department.
- A. If a property or facility has security measures in force that 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 Department.
 - B. The owner or operator shall allow the Department 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.
 - C. The Department shall have the right to set up on any property or facility such devices as are necessary, in the opinion of the Department, to conduct monitoring and/or sampling of flow discharges.
 - D. The Department may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to its designees. This sampling and monitoring equipment is maintained at all times in a safe and proper operating condition by the owner or operator at his own expense. All devices used to measure flow and quality is calibrated to ensure their accuracy.
 - E. Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled is promptly removed by the owner or operator at the written or oral request of the Department and shall not be replaced. The costs of clearing such access is borne by the owner or operator.
 - F. Unreasonable delays in allowing the Department access to a facility is a violation of this Division.
 - G. If the Department has been refused access to any part of the premises from which stormwater is discharged, and the Department is able to demonstrate probable cause to believe that there may be a violation of this Division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program

Sec. 9.8.4. Industrial, Construction Discharges

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

Sec. 9.8.5. Access, Inspection

The Department is permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this Division.

designed to verify compliance with this Division or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Department may seek issuance of a search warrant from any court of competent jurisdiction.

- D. Failure to provide notification of a release as provided above is a violation of this Division.

Sec. 9.8.6. Notification

- 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 nonstormwater discharges from that facility or operation which is resulting or may result in illicit discharges or pollutants discharging into stormwater, the City 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 authorized enforcement agency in person or by phone, facsimile or in person no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone are confirmed by written notice addressed and mailed to the Department within three 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 are retained for at least three 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 are immediately notified.