

## ARTICLE 7. – STORMWATER MANAGEMENT

**Sec. 7-1. Stormwater management requirements and controls**

**Sec. 7-2. Soil erosion, sedimentation and pollution control**

**Sec. 7-3. Water resource protection**

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Revisions:

None

## ARTICLE 7. – STORMWATER MANAGEMENT

### Sec. 7-1. Stormwater management requirements and controls

#### 7-1.1. General provisions.

(A) *Findings of Fact.* It is hereby determined that:

- (1) Land development and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants; and
- (3) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the City of Perry establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

- (B) *Purpose.* The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This [article] seeks to meet that purpose through regulation of activities that can through proper regulation improve and maintain those water resources that lie partially or wholly within the jurisdictional boundaries of the City of Perry, Georgia.
- (C) *Compatibility with Other Permit and Ordinance Requirements.* This [article] is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.
- (D) *Severability.* The provisions of this [article] are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this [article] or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.
- (E) *Responsibility for Administration.* Unless otherwise stated, the administrator shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the administrator may be delegated to persons or entities acting under the authority of City of Perry.
- (F) *Effects of Compliance.* The standards set forth herein pursuant to this article unless otherwise noted are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no adverse effect with regard to water quality and quantity.

7-1.2. *Definitions.* When used in this article, the following words and phrases shall have the meaning given in this section. Words not defined herein shall be construed to have a meaning given by common and ordinary use as defined by Webster's Third New International Dictionary, copyright 1970. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future. The following definitions shall apply in the interpretation and enforcement of this article, unless otherwise specifically stated:

1. *As-built Drawings*. Amended site and construction plans specifying the locations, dimensions, elevations, capacities and operational capabilities of road and drainage structures and facilities as they have been constructed.
2. *Best Management Practices (BMPs)*. Structural devices to store or treat stormwater runoff or non-structural programs or practices both of which are designed to prevent or reduce the pollution of the waters of the State of Georgia.
3. *Buffer*. An area along the course of any watercourse to be maintained in an undisturbed and natural condition.
4. *Construction*. Any alteration of land for the purpose of achieving its development or changing use, including particularly any preparation for, building of, or erection of a structure and/or infrastructure.
5. *Construction Activity*. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
6. *Cut*. A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.
7. *Day*. A day is defined as a calendar day.
8. *Department*. The Georgia Department of Natural Resources.
9. *Design Storm*. The rainfall event of such size and frequency as described in the Georgia Stormwater Management Manual or local design manual, which is used for the design of stormwater facilities.
10. *Developer*. Any person who acts in his own behalf or as the agent of any owner of property and engages in alteration of land or vegetation in preparation for construction activity.
11. *Development*. Any action in preparation for construction activities which result in alteration of either land or vegetation other than such minor land disturbing activities as home gardens and individual home landscaping repairs or maintenance work which result in minor soil erosion.
12. *Director*. The Director of the Environmental Protection Division of the Department of Natural Resources, State of Georgia.
13. *Division*. The Georgia Environmental Protection Division of the Department of Natural Resources, State of Georgia.
14. *Drainage*. A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping, commonly applied herein to surface water.
15. *Drainage Plan*. A plan prepared using appropriate and commonly accepted engineering standards which specifies the means for alteration or development of a drainage system.
16. *Drainage Structure*. Any stormwater conveyance structure as defined below, and any piping or ditching for stormwater management purposes.
17. *Drainage System*. The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, and ponds, whether of an intermittent or continuous nature, and the manmade element which includes culverts, ditches, channels, retention facilities and the storm sewer system.
18. *Erosion*. The process by which land surface is worn away by the action of wind, water, ice or gravity.
19. *Erosion and Sediment Control Plan*. A plan for the control of soil erosion and sediment resulting from land disturbing activity.
20. *Existing Grade*. The vertical location of the existing ground surface prior to cutting or filling.
21. *Filling*. The placement of any soil or other solid material, either organic or inorganic, on a natural ground surface or excavation.
22. *Finished Grade*. The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

23. *Flood*. A temporary rise in the level of rivers, streams, lakes, marshes and ocean, which results in inundation of areas not ordinarily covered by water.
24. *Floodplain*. Any land area susceptible to being inundated by flood waters from any source.
25. *Floodway*. The channel of a river or other watercourse and the adjacent land areas subject to erosive velocities and damage from flood-borne debris that must be reserved in order to discharge the base flood (Intermediate Regional Flood), without ultimately increasing the water surface elevation more than one foot.
26. *Grading*. Altering ground surfaces to specified elevations, dimensions, and/or slopes; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
27. *Greenbelt*. An area of land to be dedicated to the City of Perry, Georgia or a land trust which shall remain undisturbed, insofar as possible, from its natural state to form a screen or buffer.
28. *Hazardous Materials*. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
29. *Hotspot*. An area where the land use or activities generate or have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater or as specified by the City of Perry, Georgia.
30. *Illicit Discharge*. Any discharge as defined in 40 CFR Part 122.26(b)(2) to a MS4 that is not entirely composed of stormwater, except those discharges authorized under a NPDES permit (other than the NPDES permit for discharges from the MS4).
31. *Illicit Connections*. Any man-made conveyance connecting a discharge directly to a MS4.
32. *Impervious Surface*. A manmade structure or surface which prevents the infiltration of stormwater into the ground below the structure or surface. Structures or surfaces which are constructed so as to only minimally affect the infiltration of stormwater are not considered impervious surfaces.
33. *Industrial Activity*. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).
34. *Intermediate Regional Flood*. A 100-year frequency flood, as defined on the flood hazard map, which has a one-percent chance of being equaled or exceeded in any given year.
35. *Intermittent Stream*. Any stream which flows for only part of the year and does not support aquatic life whose life history requires residence in flowing water for a continuous period of at least six months.
36. *Issuing Authority*. The Jurisdiction which has been certified by the Director of the Environmental Protection Division of the Department of Natural Resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended.
37. *Jurisdictional Wetland*. An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.
38. *Jurisdictional Wetland Determination*. A delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by section 404 of the Clean Water Act, 33 U.S.C. § 1344, as amended.
39. *Land Disturbing Activity*. Any activity which results in changes in the volume or flow rates of rainfall runoff, soil erosion from water or wind; or the movement of sediments into state waters or onto land within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land.
40. *Live Retention*. That quantity of water capable of being effectively contained by a designated facility for stormwater storage for a specified period of time.

41. *Local Design Manual*. A manual containing specific guidelines and standards for stormwater management that are either watershed or county-wide specific, for the proper implementation of the requirements of this [article].
42. *Lot*. A tract, portion or parcel of land separated from other tracts, portions or parcels by description on a subdivision plat of record or survey map or described by metes and bounds, and intended to be used to facilitate transfer of ownership or for building development. For the purposes of this [article], the term does not include any portion of a dedicated right-of-way.
43. *Maintenance of Stormwater Facility*. Preserving the enclosing walls or impounding embankment of the retention facility in good condition; ensuring structural soundness, functional adequacy and freedom from sediment; and rectifying any unforeseen erosion problems.
44. *Municipal Separate Storm Sewer System (MS4)*. A conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains, owned or operated by a municipality or other public, designed or used for collecting or conveying storm water runoff and is not a combined sewer or part of a Publicly Owned Treatment Works.
45. *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit*. A permit issued by the U.S. Environmental Protection Agency (or by the state of Georgia under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
46. *Natural Ground Surface*. The ground surface in its original state before any grading, excavation or filling.
47. *Nephelometric Turbidity Units (NTU)*. Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.
48. *Non-Stormwater Discharge*. Any discharge to the storm drain system that is not composed entirely of stormwater.
49. *Non-Structural Best Management Practice*. Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.
50. *Owner*. The person in whom is vested the fee ownership, dominion or title of property, by proprietor; this term may also include a tenant, if chargeable under his lease for the maintenance of the property, and any agent of the owner or tenant, including a developer.
51. *Perennial Stream*. Any stream which flows continuously throughout the year or supports aquatic life whose life history requires residence in flowing water for a continuous period of six months or longer.
52. *Permit*. The authorization necessary to conduct a land-disturbing activity under the provisions of this [article].
53. *Person*. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality, or other political subdivision of this state, any interstate body or any other legal entity.
54. *Pollution*. The contamination or other significant alteration of any water's physical, chemical or biological properties, including, but not limited to, a change in temperature, taste, color, turbidity, or odor of such waters or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to render such waters harmful, detrimental or injurious to the public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
55. *Pollutant*. Any impurity or waste material that degrades the physical, chemical, biological or radiological integrity of surface or subsurface waters.

56. *Pretreatment*. The onsite reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in stormwater prior to or in lieu of discharging or otherwise introducing such pollutants into the publicly owned drainage system.
57. *Project*. The entire proposed development project regardless of the size of the area of land to be disturbed.
58. *Reach*. A longitudinal segment of a stream or river measured along specified points on the stream or river.
59. *Redevelopment*. A land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.
60. *Regulated Activity*. Any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the U.S. excepting those activities exempted in section 404 of the Federal Clean Water Act.
61. *Public Right-of-way*. "Public Right-of-way" shall mean a strip or parcel of land occupied by or intended to be occupied by a street, crosswalk, pedestrian path, cart path, utility system, water main, sanitary sewer or storm drain sewer main, drainage ditches and watercourses or any other valid public use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a record or final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions or areas of such other lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or other use involving maintenance by a public [agency, shall be dedicated or deeded to public] use by the maker of the plat on which such right-of-way is established.
62. *Roadway Drainage Structure*. Bridges, culverts and ditches associated with roadway construction, which allow stream flows to move freely under a stream crossing or to convey stormwater runoff from a roadway to a stream.
63. *Runoff Coefficient*. The ratio of runoff to rainfall.
64. *Sediment*. Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.
65. *Sedimentation*. The action or process of forming or depositing sediment.
66. *Sedimentation Facility*. A facility specifically developed for the purpose of allowing the deposition of sediment resulting from the land development process.
67. *Shear Failure*. Failure of an earthen bank caused by the steepness of the slope.
68. *Stabilization*. The process of establishing an enduring soil cover of vegetation and/or mulch or other ground cover and/or combination with installing temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
69. *State Waters*. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, wetlands, wet weather streams, and all other bodies of surface or subsurface water, including any waters which are subject to the ebb and flow of the ocean tides, natural or artificial, lying within or forming a part of the boundaries of the State of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
70. *Stormwater*. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
71. *Stormwater Design Manual*. The Georgia Stormwater Management Manual, current edition, as published by the Atlanta Regional Commission and the City of Perry, Georgia design standards. The Georgia Stormwater Management Manual is available online at [www.georgiastormwater.org](http://www.georgiastormwater.org).

72. *Stormwater Facility*. A facility which provides for storage of stormwater runoff and controlled release of this runoff during and after a flood storm.
73. *Stormwater Pollution Prevention Plan (SWPPP)*. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.
74. *Stormwater Runoff*. The portion of a precipitation on the land which reaches the drainage system.
75. *Stream*. Natural, running water flowing continuously or intermittently in a channel on or below the surface of the ground.
76. *Structural Erosion and Sediment Control Practices*. Measures for the stabilization of erosive or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps, land grading, etc.
77. *Structural Stormwater Control*. A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity, the quality, the period of release or the velocity of flow.
78. *Structure*. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.
79. *Subdivision*. Subdivision includes all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purposes, whether immediate or future, of sale, gift, or building development and includes all divisions or development of land involving a new street or a change in an existing street. It shall also include resubdivision, the process of subdividing and the land or area subdivided; provided, however, divisions of land into parcels of five acres or more where no new street is involved are not included in this definition.
80. *Substantial Improvement*. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
  - a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
  - b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places; or
  - c. Any project that properly obtains a waiver from these requirements.
81. *Undisturbed Natural Buffer*. A tract of land in its natural, undisturbed state where vegetation cannot be removed or planted without a city permit. No herbicides, pesticides, or other chemicals, either natural or manmade can be used in this buffer.
82. *Utility*. Any public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems, and railroads or other utilities identified by the City of Perry, Georgia.
83. *Vegetation*. All plant growth.
84. *Vegetative Erosion and Sediment Control Practices*. Measures for the stabilization of erosive or sediment producing areas by covering the soil with:
  - a. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or

- b. Temporary seeding, producing short-term vegetative cover; or
  - c. Sodding, covering areas with a turf of perennial sod-forming grass.
85. *Watercourse.* Any natural or man-made conveyance channel, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which stormwater flows either continuously or intermittently and which has a definite channel, bed and banks, and including any areas adjacent thereto subject to inundation by reason of overflow or floodwater.
86. *Wetlands.* Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The ecological parameters for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

7-1.3 *Illicit discharge prohibition.*

(A) *General Provisions.*

- (1) *Purpose.* The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the City of Perry through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable. The objectives of this article are:
- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
  - (b) To prohibit illicit connections and discharges to the MS4; and
  - (c) To establish legal authority to carry out all inspection; surveillance and monitoring; and enforcement procedures as necessary to ensure compliance with this article.
- (2) *Applicability.* This article shall apply to all non-stormwater discharges entering the storm drain system generated on any developed or undeveloped lands unless explicitly exempted by the City of Perry, Georgia under subsection 7-1.4(B)(1) of this article.

(B) *Discharge Prohibitions.*

- (1) *Prohibition of Illegal Discharges.* No person shall discharge or cause to be discharged into the MS4 or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (a) The following discharges are exempt from discharge prohibitions established by this article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one mg/L chlorine), firefighting activities, and any other water source not containing pollutants.
- (b) Discharges specified in writing by the administrator as being necessary to protect public health and safety.
- c. Dye testing is an allowable discharge, but requires a verbal notification to the administrator 24 hours prior to the time of the test followed by written notice within 10 days.
- d. Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (USEPA), provided that the discharger is in full compliance



with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that approval has been granted for any discharge to the storm drain system. Proof of compliance with said permit may be required in a form acceptable to the administrator prior to the allowing of discharges to the MS4.

- e. Any stormwater discharge regulated under an NPDES stormwater discharge permit for industrial activities provided that the discharger is in full compliance with all requirements of the permit. Proof of compliance with said permit may be required in a form acceptable to the administrator prior to the allowing of discharges to the MS4.
- f. Any stormwater discharge regulated under an NPDES stormwater discharge permit for construction activities or other local land disturbance permit provided that the discharger is in full compliance with all requirements of the permit. Proof of compliance with said permit may be required in a form acceptable to the administrator prior to the allowing of discharges to the MS4.

(2) *Prohibition of Illicit Connections.* The construction, use, maintenance or continued existence of illicit connections to the MS4 or watercourses is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(C) *Suspension of MS4 Access.*

- (1) *Suspension due to Illicit Discharges in Emergency Situations.* The administrator may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the administrator may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.
- (2) *Suspension Due to the Detection of Illicit Discharge.* Any person discharging to the MS4 or watercourses in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The administrative will notify a violator of the proposed termination of its MS4 access. The violator may petition the administrator for a reconsideration and hearing. A person commits a violation of this Article if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior written approval of the administrator.

(D) *Monitoring of Discharges.*

- (1) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- (2) *Access to Facilities.*
  - (a) The administrator shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the administrator.
  - (b) Facility operators shall allow the administrator ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
  - (c). The administrator shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the administrator to conduct monitoring and/or sampling of the facility's stormwater discharge.
  - (d) The administrator has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in

a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the administrator and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delay in allowing the administrator access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits a violation if the person denies the administrator reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.
- (g) If the administrator has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then City of Perry may seek issuance of a search warrant from any court of competent jurisdiction.

(E) *Requirement to Prevent, Control and Reduce Stormwater Pollutants.*

- (1) *Specification of Best Management Practices.* The City of Perry may adopt requirements identifying Best Management Practices for any activity, operation, or facility, which may cause or contribute to pollution or contamination of stormwater, the MS4 or watercourses, or waters of the U.S.
- (2) *Pollution Prevention in New Facilities.* The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMPs.
- (3) *Pollution Prevention in Existing Facilities.* Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4 or watercourses.
- (4) *Discharge Permits from Regulatory Agencies other than the City of Perry, Georgia.* Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. BMPs designated for compliance with the NPDES permit or BMPs implemented as a result of action taken in compliance of this Article shall be included in a SWPPP as necessary for compliance with requirements of the NPDES permit.

(F) *Watercourse Protection.* Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(G) *Notification of Spills.* Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the MS4 or watercourses, or water of the United States said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the administrator in person, by phone,

facsimile or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the administrator within three business days of the phone notice. The notification of the discharge of materials to the administrator shall be in addition to notification of other applicable city, county, regional, state and federal authorities. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(H) *Enforcement.*

(1) *Notice of Violation.* Whenever the administrator finds that a person has violated a prohibition or failed to meet a requirement of this article, the administrator may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (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 a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

- (2) *Appeal of Notice of Violation.* Any person receiving a Notice of Violation may appeal the determination of the administrator to the City Manager. The notice of appeal must be received within 10 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the reviewing authority or their designee shall be final.
- (3) *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 10 days of the decision of the reviewing authority upholding the decision of the administrator, then representatives of the administrator shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the administrator or designated contractor to enter upon the premises for the purposes set forth above.
- (4) *Cost of Abatement of the Violation.* Within 30 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 amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the reviewing authority or by the expiration of the time in which to file an 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.
- (5) *Injunctive Relief.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the administrator may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

- (6) *Compensatory Action.* In lieu of enforcement proceedings, penalties, and remedies authorized by this article, City of Perry, Georgia may impose alternative compensatory actions upon a violator, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.
- (7) *Violations Deemed a Public Nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- (8) *Criminal Prosecution.* Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$2,500 dollars per violation per day.

The City of Perry, Georgia may recover all attorneys' fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

- (9) *Remedies not Exclusive.* The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

#### 7-1.4. *Post construction stormwater runoff.*

##### (A) *General Provisions.*

- (1) *Purpose.* The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This article seeks to meet that purpose through the following objectives:
  - (a) Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream and drainage channels;
  - (b) Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality;
  - (c) Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable; and
  - (d) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.
- (2) *Applicability.* This article shall be applicable to all development plan applications, unless eligible for an exemption or granted a waiver by the administrator under the specifications of subsection 7-1.4(C) of this article. This article also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.
  - (a) New development that involves the creation of 5,000 square feet or more of impervious cover, or that disturbs one acre or more of land;
  - (b) Redevelopment that includes the creation, addition or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of one acre or more;
  - (c) Any new development or redevelopment, regardless of size, that is defined by the administrator to be a hotspot land use; or

- (d) Land development activities that are smaller than the minimum applicability criteria set forth in items a. and b. above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.
  - (e) Any development project regardless of size deemed by the administrator that shall contribute to a known or suspected water quality or quantity impairment.
- (3) *Exempt Activities.* The following activities are exempt from this article:
- (a) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;
  - (b) Additions or modifications to existing single-family or duplex residential structures;
  - (c) Agricultural or silvi-cultural land management activities within areas zoned for these activities; and
  - (d) Repairs to any stormwater management facility or practice deemed necessary by the administrator.

When a site development plan is submitted that qualifies as a redevelopment project as defined in Article II of this article, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current Local Stormwater Design Manual (LDM). These criteria are dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the administrator.

- (4) *Development of a Local Stormwater Design Manual (LDM).* The City of Perry may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this article and will provide such information in the form of a LDM. The LDM will serve to supplement and/or clarify information set forth in the Georgia Stormwater Management Manual.

The LDM will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the City of Perry, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards during the design and permitting phase of a land development project.

(B) *Permit Procedures and Requirements.*

- (1) *Permit Required.* No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this article prior to commencing the proposed activity.
- (2) *Application Requirements.* Unless specifically excluded by this article, any landowner or operator desiring a permit for a land disturbance activity shall submit to the City of Perry a permit application on a form provided for that purpose. Unless otherwise excepted by this article, a permit application must include the minimum requirements as defined in this article or LDM in order for the permit application to be considered.
- (3) *Application Review Fees.* The City of Perry may require the submittal of a review fee for review of the stormwater management plan. This review fee shall be based on the amount of land to be disturbed at the site, and the fee structure shall be established by the Mayor and Council of the City of Perry. All of the monetary contributions shall be credited to a local budgetary category to support local plan review, inspection and program administration, and all fees shall be paid prior to the issuance of any development permits.
- (4) *Application Procedure.* All applications received by the City of Perry will be received and processed in the manner outlined in this Ordinance.

(5) *Permit Duration.* Permits issued under this section shall be valid from the date of issuance through the date the administrator notifies the permit holder that all stormwater management practices have passed the final inspection required under permit condition. Should no activity take place on the site, the permit shall expire within one year of issuance.

(C) *Waivers to Stormwater Management Requirements.*

(1) *Waivers for Providing Stormwater Management.* Every applicant shall provide for stormwater management as required by this article, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the administrator for approval.

The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions apply or the applicant presents sufficient engineering data and analysis to support their request for a waiver as determined by the local jurisdiction:

- (a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this article.
- (b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the administrator and local ordinance (or some other legally enforceable document) that requires the implementation of the plan.
- (c) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
- (d) The administrator finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
- (e) Non-structural practices will be used on the site that reduce: a) the generation of stormwater from the site; b) the size and cost of stormwater storage; and c) the pollutants generated at the site. These non-structural practices shall be explained in detail in the local or state design manual and the amount of credit available for using such practices shall be determined by the administrator.

(2) *Conditions of Waiver.* In instances where one of the conditions above applies, the administrator may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the administrator that the waiver will not result in the following impacts to downstream waterways:

- (a) Deterioration of existing culverts, bridges, dams, and other structures;
- (b) Degradation of biological functions or habitat;
- (c) Accelerated streambank or streambed erosion or siltation; and
- (d) Increased threat of flood damage to public health, life, and property.

(3) *Mitigation Requirements for Waivers.* Where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the administrator. Mitigation measures may include, but are not limited to, the following:

- (a) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat.

- (b) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this article.
  - (c) Monetary contributions (Fee-in-Lieu) to fund stormwater management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of stormwater management practices, etc.).
- (4) *Fee in Lieu of Stormwater Management Practices.* Where the administrator waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant may be required to pay a fee in an amount as determined by the administrator.

When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the City of Perry agree on a greater alternate contribution) established by the City of Perry's Mayor and Council. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any development permits.

- (5) *Dedication of Land.* In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City of Perry for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City of Perry prior to the recording of plats or, if no record plat is required, prior to the issuance of the development permits.
- (D) *General Performance Criteria for Stormwater Management.* Unless judged by the administrator to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:
- (1) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize previous areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
  - (2) All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a state water without adequate control of stormwater runoff. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the administrator. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACOE) or the Georgia Department of Natural Resources (DNR).
  - (3) Annual groundwater recharge rates shall be maintained to the maximum extent practical, by promoting infiltration through the use of structural and non-structural methods where allowable.
  - (4) For new development, stormwater treatment practices shall be designed to remove pollutants to levels prescribed in the current LDM. It is presumed that a BMP complies with this performance standard if it is:
    - (a) Sized to capture the prescribed water quality volume (WQ<sub>v</sub>);
    - (b) Designed according to the specific performance criteria outlined in the LDM;
    - (c) Constructed properly; and
    - (d) Maintained regularly.
  - (5) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the current LDM.

- (6) Stormwater discharges to critical areas with sensitive resources (i.e., fisheries, shellfish beds, swimming beaches, recharge areas, etc.) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- (7) Certain industrial sites are required to prepare and implement a SWPPP, and shall file a notice of intent (NOI) under the provisions of the NPDES Industrial Stormwater General Permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.
- (8) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural stormwater treatment practices (STPs) and pollution prevention practices.
- (9) Prior to design, applicants are encouraged to consult with the administrator to determine if they are subject to additional stormwater design requirements.
- (10) The calculations for determining peak flows as found in the LDM shall be used for sizing all stormwater management practices.

(E) *Basic Stormwater Management Design Criteria.*

- (1) *Minimum Control Requirements.* All stormwater management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 10-year, 100-year) as identified in the LDM are met, unless the administrator grants the applicant a waiver or the applicant is exempt from such requirements. In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the administrator reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.
- (2) *Site Design Feasibility.* Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Applicants shall consult the current LDM for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.
- (3) *Conveyance Issues.* All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. The current LDM shall provide detailed guidance on the requirements for conveyance for each of the approved stormwater management practices.
- (4) *Landscaping Plans Required.* All stormwater management practices that utilize wetlands vegetation as part of the functional treatment process (e.g. constructed wetlands, etc.) must submit a separate landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by an individual having a professional certification by the Society of Wetlands Scientists and has completed three projects of a similar nature that have been successfully implemented or equivalent qualifications as determined by the administrator.
- (5) *Maintenance Agreements.* All stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities. An example of the covenant can be found in the LDM.
- (6) *Non-Structural Stormwater Practices.* The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the current LDM and applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.



(F) *Requirements for Stormwater Management Plan Approval.*

- (1) *Stormwater Management Plan Required for All Developments.* No application for development will be approved unless it includes a stormwater management plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be certified by a professional engineer licensed in the State of Georgia and must indicate whether stormwater will be managed on-site or off-site and if on-site, the general location and type of practices.

The stormwater management plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final stormwater management plan. This final plan must be signed by a professional engineer licensed in the State of Georgia, who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Submittal Checklist found in the current LDM. No development permits shall be issued until a satisfactory final stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the administrator after determining that the plan or waiver is consistent with the requirements of this article.

- (2) *Stormwater Management Plan Requirements.* A stormwater management plan shall be required with all Land Disturbance Activity (LDA) permit applications and will include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The intent of this planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the applicant will prepare a design report which shall include elements sufficient to ensure compliance with this article as outlined in the current LDM. The administrator reserves the right to extend these requirements to ensure compliance with this article if the requirements in the current LDM prove to be insufficient. However, in these cases, the administrator must provide a written explanation of the additional elements needed to the applicant.
- (3) *Performance Bond/Security; letter of credit; negotiable instrument.* The City of Perry may, at its discretion, require the submittal of a performance security, bond, letter of credit or negotiable instrument in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security, bond, letter of credit or negotiable instrument shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus 25% as agreed to by the applicant and the City of Perry. The performance security, letter of credit or negotiable instrument shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

The installation performance security, letter of credit or negotiable instrument shall be released in full only upon submission of "as-built plans" and written certification by a professional engineer licensed in the State of Georgia and/or registered land surveyor licensed in the State of Georgia that the stormwater practice will function in accordance with the approved plan and other applicable provisions of this article. The administrator will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this article. Provisions for a partial pro-rata release of the performance security, letter of credit or negotiable instrument based on the completion of various development stages may be done at the discretion of the administrator.

(G) *Construction Inspection.*

- (1) *Notice of Construction Commencement.* The applicant must notify the administrator in advance before the commencement of construction. If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the administrator.

- (2) *As-Built Plans.* All applicants are required to submit actual "as-built" plans for any stormwater management practices located both on-site and off-site after final construction is completed in a format specified in the current LDM. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer licensed in the State of Georgia. A final inspection by the administrator is required before the release of any performance securities can occur.
- (3) *Landscaping and Stabilization Requirements.* Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten days from the substantial completion of such clearing and construction. The following criteria shall apply to revegetation efforts:
  - (a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
  - (b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
  - (c) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one year is achieved.

In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed in accordance with other such requirements in the City of Perry Code of Ordinances. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(H) *Maintenance and Repair of Stormwater Facilities.*

- (1) *Maintenance Easement.* Prior to the issuance of any Certificate of Occupancy or Final Plat that has a stormwater management facility as part of the project, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the administrator, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article.
- (2) *Maintenance Covenants.* Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the administrator and recorded into the Final Plat prior to final approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.
 

The City of Perry, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
- (3) *Requirements for Maintenance Covenants.* Stormwater management facilities may be required to undergo annual inspections to document maintenance and repair needs and ensure compliance with the requirements of this article and accomplishment of its purposes. These needs may include: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes; grass cutting and vegetation removal; and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the administrator, and the

inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility. The requirement for such inspections shall be outlined in the maintenance covenant.

- (4) *Inspection of Stormwater Facilities.* Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or an applicable NPDES stormwater permit; 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 drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.
  - (5) *Right-of-Entry for Inspection.* When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system or sanitary sewer, the property owner shall grant to the administrator the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this [article] is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this article.
  - (6) *Records of Installation and Maintenance Activities.* Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least three years. These records shall be made available to the administrator during inspection of the facility and at other reasonable times upon request.
  - (7) *Failure to Maintain Practices.* If a responsible party fails or refuses to meet the requirements of the maintenance covenant, City of Perry, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the administrator shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall affect maintenance and repair of the facility in an approved manner and within the established deadline. After proper notice, City of Perry may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the City of Perry.
- (I) *Enforcement and Penalties.*
- (1) *Violations.* Any development activity that is commenced or is conducted contrary to this article may be restrained by injunction or otherwise abated in a manner provided by law.
  - (2) *Notice of Violation.* When the administrator determines that an activity is not being carried out in accordance with the requirements of this article, the administrator shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
    - (a) The name and address of the owner or applicant;
    - (b) The address when available or a description of the building, structure or land 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 development activity into compliance with this [article] and a time schedule for the completion of such remedial action;
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed as provided herein; and
- (f) A statement that the determination of violation may be appealed to the County by filing a written notice of appeal within three days of service of notice of violation.

Persons receiving a notice of violation may be required to halt all construction activities via a Stop Work Order.

- (3) *Stop Work Orders.* This "stop work order" will be in effect until the administrator confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner as determined by the administrator can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.
- (4) *Civil and Criminal Penalties.* In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be punished by a fine of not less than two thousand five hundred dollars (\$2,500). Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- (5) *Restoration of Lands.* Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Perry may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- (6) *Holds on Occupation Permits.* Occupation permits will not be granted until all corrections to all stormwater practices have been made and accepted by the administrator.

#### 7-1.5. Flood damage prevention.

##### (A) *Statutory Authorization, Findings of Fact, Purpose and Objectives.*

- (1) *Statutory Authorization.* The Legislature of the State of Georgia has, in O.C.G.A. § 36-1-20(a), delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Mayor and Council of the City of Perry do hereby adopt the following floodplain management regulations.

- (2) *Findings of Fact.*
  - (a) The flood hazard areas of the City of Perry are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
  - (b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.
- (3) *Statement of Purpose.* It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
  - (a) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (d) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(4) *Objectives.* The objectives of this article are:

- (a) To protect human life and health;
- (b) To minimize expenditures of public money for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodplains;
- (f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- (g) To ensure that potential homebuyers are notified that property is in a potential flood area; and
- (h) Comply with the requirements of the National Flood Insurance Program (NFIP) so as to ensure the availability of flood insurance for residents and property owners.

(5) *Methods of Reducing Flood Losses.* In order to accomplish its purposes, this article includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (e) Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or may increase flood hazards in other areas.

(B) *General Provisions.*

- (1) *Lands to Which This Article Applies.* This article shall apply to all areas of special flood hazard as designated by the City of Perry within the zoning and building code jurisdiction of the City of Perry.
- (2) *Basis for Establishing the Areas of Special Flood Hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) or Flood Insurance Rate Maps (FIRM), dated September 28, 2007, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this article. The Flood Insurance Study is on file at the administrator. In addition, the local administrator shall reasonably utilize any base flood evaluation and floodway data available from a federal, state, or other source, in order to identify a special flood hazard not otherwise identified by the Federal Emergency Management Agency. This data is also on file with the administrator.

- (3) *Establishment of Development Permit.* A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.
- (4) *Compliance.* No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.
- (5) *Abrogation and Greater Restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (6) *Interpretation.* In the interpretation and application of this article all provisions shall be:
  - (a) Considered as minimum requirements;
  - (b) Liberally construed in favor of the governing body; and
  - (c) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (7) *Warning and Disclaimer of Liability.* The degree of flood protection required by this article 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 man-made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of Perry or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.
- (8) *Penalties for Violation.* Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than two thousand five hundred [dollars] (\$2,500), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Perry or its Agent from taking such other lawful actions as is necessary to prevent or remedy any violation.

(C) *Administration.*

- (1) *Designation of Flood Damage Prevention Article Administrator.* The Mayor and Council of the City of Perry hereby appoints the administrator to administer and implement the provisions of this article.
- (2) *Permit Procedures-Application Phase.* No application for land development within any area of special flood hazard will be approved unless it includes a floodplain management/flood damage prevention plan. This plan shall be made to the administrator on forms furnished by him prior to any development activities. This plan shall be in accordance with the criteria established in this section. This plan must be submitted with the stamp and signature of a Professional Engineer licensed in the state of Georgia, who will verify that, all designs are consistent with the requirements of this article.

The approved floodplain management/flood prevention damage plan shall contain certification by the applicant that all land development activities will be done according to the plan or previously approved revisions. Any and all land development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and building activities are not in strict accordance with approved plans.

The floodplain management/flood damage prevention plan shall include, but not be limited to the following: plans drawn to scale of the site in question and the nature, location, and dimensions of existing or proposed structures; earthen fill placement; storage of materials or equipment; and drainage and stormwater management facilities. Specifically, the following information is required:

- (a) Site plan, including but not limited to:

1. 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;
  2. Proposed locations of water supply, sanitary sewer, and utilities;
  3. If applicable, the base flood elevation and location of the base flood boundary; and
  4. If applicable, the location and elevation of the floodway.
- (b) Foundation design detail, including but not limited to:
1. Proposed elevation in relation to mean sea level (or highest adjacent grade) of the lowest finished floor, including basement, of all structures; and
  2. For crawl-space foundation, location and total net area of foundation openings as required in Section 7-1.5(D)(2) of this article.
- (c) Proposed elevation in relation to mean sea level to which any substantial improvements to an existing non-residential structure will be flood-proofed, as required in Section 7-1.5(D) of this article;
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed land development; and
- (e) All appropriate certifications required under this article.
1. If the project proposes to alter the configuration of the watercourse for which a detailed flood study has been developed (or the boundaries of a floodway), the applicant shall submit the proposed grading and drainage plans, stormwater management plans, floodplain studies, and all supporting computer modeling to the FEMA Region IV office for a conditional letter of map revision. The project will not receive final approval until the proposed alteration of the watercourse (and/or floodway boundaries) has been approved by FEMA.
  2. If a proposed project will alter the boundaries of the area of special flood hazard as shown on the FEMA flood insurance rate maps, the applicant shall submit the approved grading and drainage plans, stormwater management plans, floodplain studies, and all supporting computer modeling to the FEMA Region IV office for a conditional letter of map revision, within 30 days of receiving final approval.
  3. Within 30 days following completion of the entire project or a phase thereof, the applicant shall submit engineer's certified copies of the final, constructed grading and drainage plans and stormwater management plans to the FEMA Region IV office for issuance of a final letter of map revision.
  4. The administrator shall be provided copies of all related correspondence, and shall sign the required community acknowledgement form.
- (3) *Permit Procedures-Construction Phase.* Upon placement of the lowest floor, or flood-proofing by construction means, it shall be the duty of the permit holder to submit to the Floodplain Management Administrator a certification of the NGVD 88 (National Geodetic Vertical Datum) elevation of the lowest floor or flood-proofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a professional engineer and certified by same. When flood proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop work order for the project.
- (4) *Duties and responsibilities of the administrator.* Duties of the administrator shall include, but not be limited to:

- (a) Review all development permits to assure that the permit requirements of this article have been satisfied.
- (b) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.
- (c) Notify adjacent communities, the State Floodplain Coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.
- (d) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (e) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Section 7-1.5(C)(3).
- (f) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 7-1.5(C)(3).
- (g) Review certified plans and specifications for compliance.
- (h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.
- (i) When base flood elevation data or floodway data have not been provided in accordance with Section 7-1.5(B)(2) then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of section 7-1.5(D). Review all development permits to assure that the permit requirements of this chapter have been satisfied.
- (j) Advise permittees that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permit be provided and maintained on file with the development permit.
- (k) Notify adjacent communities, the state department of natural resources (and any other appropriate agencies, such as regional planning, water management, or flood control districts) prior to any alteration or relocation of a watercourse, and submit evidence of such notification along with a copy of the notice to the FEMA Region IV office.
- (l) Assure that the flood-carrying capacity of the watercourse is not diminished by the proposed alteration or relocation.
- (m) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with this Section.
- (n) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood proofed, in accordance with this Section.
- (o) When flood proofing is utilized for a particular building, obtain certification from a registered professional engineer or architect, in accordance with this Section.
- (p) Determine whether a building or development site is located within an area of special flood hazard by referencing the FEMA flood insurance study and accompanying maps, or other available and appropriate data. If detailed topographic mapping is available, the boundary of the area of special flood hazard shall be plotted on such mapping utilizing the base flood elevations provided for the area in question. This more detailed definition of the boundary of the base flood shall be utilized as best available data for purposes of regulating the area of



special flood hazard. If there are significant discrepancies between the boundary as shown on the FEMA maps and the topographic mapping available, the administrator shall so advise the FEMA Region IV office.

- (q) Within A zones along rivers, streams, lakes, swamps, and marshes, determine the appropriate base flood elevation for each individual building site utilizing the flood data tables (for lakes) and the stream profiles contained in the FEMA flood insurance study. The base flood elevations printed on the FEMA maps are illustrative only. The administrator shall interpolate the base flood elevation at a site between two given base flood elevation markers by referring to the stream profiles and measuring the distance of the site upstream or downstream from a cross section shown on the FEMA map.
- (r) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and the natural grade of actual field conditions) make the necessary interpretation, utilizing the most accurate topographic mapping available. The elevations published in the FEMA flood insurance study, as portrayed in the profile sheets, shall be the ruling reference for delineating the boundary of the floodplain. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article. Property may not be excluded from the area of special flood hazard as a result of filling unless a letter of map revision has been approved by FEMA.
- (s) Where the administrator has determined all or a portion of a property to be located outside of the flood hazard area, yet it is shown as being within the flood hazard area on the FEMA maps, the applicant shall be advised of the need to obtain a letter of map amendment or revision from the FEMA Region IV Office and shall be given an application packet utilizing forms provided by FEMA. While the property may be exempt from the requirements of this chapter, flood insurance purchase will remain mandatory until FEMA authorizes a letter of map amendment or revision.
- (t) When base flood elevation data or floodway data have not been provided in accordance with section 7-1.5(B)(2), obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this chapter. Base flood elevations may be estimated using topographic maps or scientific engineering methodology. Base flood elevation and delineation of the boundaries of the special flood hazard areas shall be developed and provided for subdivision proposals and other proposed developments (including industrial parks, shopping centers, public facilities, and manufactured home parks and subdivisions) that are greater in size than the lesser of 50 lots or five acres. Also, floodway data shall be developed for all definable streams subject to a flood study. Base flood elevation, flood hazard area boundary mapping, and floodway data, if developed, shall be submitted to the FEMA Region IV office within 30 days of receipt and acceptance by the community for review as a possible map revision.
- (u) When a development project will cause a reconfiguration of the flood hazard area due to grading, filling, channel alteration, or relocation, development of a stormwater management system, or the excavation of lakes, require the applicant to submit and obtain approval from FEMA of a conditional letter of map revision. Where a floodway is being impacted, this must be obtained prior to construction. Following completion of all or each phase of such a development, the administrator shall require the applicant to submit to FEMA the as-built topographic and hydrologic information to obtain a final letter of map revision.
- (v) The office of the administrator shall serve as the official map repository for FEMA flood insurance rate maps, flood boundary and floodway maps (if applicable), and flood hazard boundary maps for the community, together with letters of map amendment (LOMAs) and letters of map revision (LOMRs). At least one copy of all current and superseded maps, LOMAs, and LOMRs shall be maintained for public use and viewing.
- (w) All records pertaining to the provisions of this Section shall be maintained in the administrator and shall be open for public inspection. Copies of all development permits and summary

supporting documentation shall be filed by geographic area for ease of coordinating all floodplain development activities.

(D) *Provisions for Flood Hazard Reduction.*

(1) *General Standards.* In all areas of special flood hazard the following provisions are required:

- (a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (b) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this article shall meet the requirements of "new construction" as contained in this article; and
- (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

(2) *Specific Standards.* In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 7-1.5(B)(2), the following provisions are required:

- (a) **Residential Construction.** New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than 36 inches above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with standards of Section 7-1.5(D)(2).
- (b) **Non-Residential Construction.** New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than 36 inches above the level of the base flood elevation. Buildings located in all A-Zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the Base Flood Elevation (plus any community free board) elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.
- (c) **Elevated Buildings.** New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations shall be designed to preclude finished living space and designed to allow for

the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

1. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet 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 shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and
  - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
2. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator);
3. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and
4. Where elevation requirements exceed six feet above the highest adjacent grade, a copy of the legally recorded deed restriction (prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the building's originally approved design) shall be presented as a condition of issuance of the final Certificate of Occupancy.

(d) Manufactured Homes and Recreational Vehicles.

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.
2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
  - (i) The lowest floor of the manufactured home is elevated no lower than 36 inches above the level of the base flood elevation, or
  - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the ground.
  - (iii) The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of Section 7-1.5(D)(2)(d).
3. All recreational vehicles placed on sites must either:
  - (i) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
  - (ii) Meet all the requirements for new construction, including anchoring and elevation requirements of Section 7-1.5(D)(2)(a) or 7-1.5(D)(2)(d)(i) & (iii) above; or
  - (iii) Be on the site for fewer than 180 consecutive days.

(3) *Standards for Streams with designated Special Flood Hazard Areas.*

- (a) Prohibit encroachments within the floodplain or floodway, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge;
- (b) Reserved.
- (c) Reserved.
- (d) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 7-1.5(D); and,
- (e) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards, the elevation standards, and the encroachment standards of this Article are met.

(4) *Standards for Streams without designated Special Flood Hazard Areas.*

- (a) When base flood elevation data or floodway data have not been provided in accordance with Section 7-1.5(B)(2), then the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Section 7-1.5(D). If data is not available from other sources, then the following provisions shall apply.
  - 1. No encroachments, including fill material or structures, shall be located within the established 100 year floodplain, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge, and appropriate State and Federal regulations are followed.
  - 2. New construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than 36 inches above the calculated flood elevation. The flood elevation will be calculated following guidelines provided in the FEMA publication "Managing Floodplain Development in Approximate Zone A Areas, A Guide for Obtaining and Developing Base (100-Year) Flood Elevations."

(5) *Standards for Subdivision Proposals (AO Zones).* Located within the areas of special flood hazard established in Section 7-1.5(B), are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

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

of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Section 7-1.5(D)(2)(b).

(6) *Standards for Subdivision Proposals.*

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots or five acres.

(7) *Critical Facility.* Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation at the site. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(E) *Variance Procedures.*

- (1) *Designation of Variance and Appeals Board.* The City of Perry or its Agent as established by the Mayor and Council of the City of Perry shall hear and decide appeals and requests for variances from requirements of this article.
- (2) *Duties of Variance and Appeals Board.* The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the administrator in the enforcement or administration of this article. Any person aggrieved by the decision of the board may appeal such decision to the Mayor and Council of the City of Perry.
- (3) *Variance Procedures.* In passing upon such applications, the City of Perry or its Agent shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:
  - (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger of life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location, where applicable;
  - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

- (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (4) *Conditions for Variances.*
- (a) Variances shall only be issued when there is:
    - 1. A showing of good and sufficient cause;
    - 2. A determination that failure to grant the variance would result in exceptional hardship; and
    - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or articles.
  - (b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an "historic structure," a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
  - (c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
  - (d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency or Georgia Emergency Management Agency upon request.
- (5) *Variance Notification.* Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
- (a) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance, and
  - (b) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the administrator with the clerk of superior court for the county in which the property is located and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. The administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.
- (6) *Historic Structures.* 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 is the minimum to preserve the historic character and design of the structure.
- (7) *Special Conditions.* Upon consideration of the purposes of this article, the City or its Agent may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (8) *No-Impact Certification Within Designated Special Flood Hazard Areas.* Variances shall not be issued within any designated Special Flood Hazard Area if an increase in flood levels during the base flood discharge would result.

## **Sec. 7-2. Soil erosion, sedimentation and pollution control.**

7-2.1. Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

- 1. *Best Management Practices (BMPs):* These include 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 Commission as of January 1 of the year in which the land-disturbing activity was permitted.

2. *Board*: The Board of Natural Resources.
3. *Buffer*: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
4. *Certified Personnel*: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
5. *Coastal Marshlands*: Shall have the same meaning as in O.C.G.A. 12-5-282.
6. *Commission*: The Georgia Soil and Water Conservation Commission (GSWCC).
7. *CPESC*: Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.
8. *Cut*: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
9. *Department*: The Georgia Department of Natural Resources (DNR).
10. *Design Professional*: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
11. *Director*: The Director of the Environmental Protection Division or an authorized representative.
12. *District*: The Ocmulgee Soil and Water Conservation District.
13. *Division*: The Environmental Protection Division (EPD) of the Department of Natural Resources.
14. *Drainage Structure*: A device composed of a virtually non-erodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.
15. *Erosion*: The process by which land surface is worn away by the action of wind, water, ice or gravity.
16. *Erosion, Sedimentation and Pollution Control Plan*: A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in section 7-2.3(C) of this ordinance.
17. *Fill*: A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
18. *Final Stabilization*: All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.
19. *Finished Grade*: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
20. *Grading*: Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
21. *Ground Elevation*: The original elevation of the ground surface prior to cutting or filling.

22. *Land-Disturbing Activity*: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in section 7-2.2(E).
23. *Larger Common Plan of Development or Sale*: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
24. *Local Issuing Authority*: The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.
25. *Metropolitan River Protection Act (MRPA)*: A state law referenced as O.C.G.A. 12-5-440 et seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
26. *Natural Ground Surface*: The ground surface in its original state before any grading, excavation or filling.
27. *Nephelometric Turbidity Units (NTU)*: Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.
28. *NOI*: A Notice of Intent form provided by EPD for coverage under the State General Permit.
29. *NOT*: A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
30. *Operator*: The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.
31. *Outfall*: The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.
32. *Permit*: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
33. *Person*: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.
34. *Phase or Phased*: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
35. *Project*: The entire proposed development project regardless of the size of the area of land to be disturbed.
36. *Properly Designed*: Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
37. *Roadway Drainage Structure*: A device such as a bridge, culvert, or ditch, composed of a virtually non-erodible material such as concrete, steel, plastic, or other such material that conveys water under a



roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

38. *Sediment*: Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
39. *Sedimentation*: The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
40. *Soil and Water Conservation District Approved Plan*: An erosion, sedimentation and pollution control plan approved in writing by the Ocmulgee Soil and Water Conservation District.
41. *Stabilization*: The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
42. *State General Permit*: The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.
43. *State Waters*: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
44. *Structural Erosion, Sedimentation and Pollution Control Practices*: Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.
45. *Trout Streams*: All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at [www.epd.georgia.gov](http://www.epd.georgia.gov). Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.
46. *Vegetative Erosion and Sedimentation Control Measures*: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:
  - (a) Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
  - (b) Temporary seeding, producing short-term vegetative cover; or
  - (c) Sodding, covering areas with a turf of perennial sod-forming grass.Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.
47. *Watercourse*: Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.
48. *Wetlands*: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

7-2.2. Exemptions. This ordinance shall apply to any land-disturbing activity undertaken by any person on 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 clearing for such quarrying;
- (C) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- (D) The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;
- (E) Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (F) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of section 7-2.3(C) of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
- (G) Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
- (H) Any project involving less than one (1) 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 (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by 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. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

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

- (K) Any public water system reservoir.

7-2.3. Minimum requirements for erosion, sedimentation and pollution control using best management practices.

- (A) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance 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 7-2.3(B) & (C) of this ordinance. 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 ordinance and the NPDES General Permit.

(B) *Minimum requirements/BMPs*

- (1) Best management practices as set forth in sections 7-2.3(B) & (C) of this ordinance 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 storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, 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 subsection (b).
- (2) A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single

family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) 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 subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
  - (4) The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
  - (5) The LIA may set more stringent buffer requirements than stated in C.15,16 and 17, 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 run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;
  - (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
  - (11) Cuts and fills may not endanger adjoining property;
  - (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
  - (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
  - (14) Land-disturbing activity plans for erosion, 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 153.2(2) of this ordinance;

- (15) Except as provided in paragraph (16) and (17) of this subsection, 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 determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, 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 where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; 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 ground-water table year round; for which ground water 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 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 stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
  - (b) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
- (16) There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- (a) No land-disturbing activities shall be conducted within 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 stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

- (b) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.
- (17) There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.
- (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; 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
  - (b) The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
  - (c) The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

(d) Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.

(D) 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 Sections 7-2.3(B) & (C) of this ordinance.

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

#### 7-2.4. 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, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, 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 City of Perry without first obtaining a permit from the administrator 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 administrator 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 7-2.4(C) of this ordinance. 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 7-2.3(B) & (C) of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by 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 (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.

(4) Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 7-2.3(C)(15), (16) and (17) have been obtained, all

fees have been paid, and bonding, if required as per Section 7-2.4(B)(6), have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the revised Plan submittal.

- (5) If a permit applicant has had two or more violations of previous permits, this ordinance 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.* Plans must be prepared to meet the minimum requirements as contained in Sections 7-2.3(B) & (C) of this ordinance, 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 ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. 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.

- (1) 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.

(D) *Permits.*

- (1) Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- (2) 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 ordinance, any variances required by 7-2.3(C)(15), (16) and (17) are obtained, bonding requirements, if necessary, as per Section 7-2.4(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.
- (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, 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.
- (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.



- (5) 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 ordinance. 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.
- (6) 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).

#### 7-2.5. Inspection and enforcement.

- (A) The administrator 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 ordinance, 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 ordinance.
- (B) The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- (C) The administrator shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, 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 Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review 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.

#### 7-2.6. 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 ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.
- (B) *Stop-work orders.*
- (1) For the first and second violations of the provisions of this ordinance, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director 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; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
  - (2) For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
  - (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
  - (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
- (C) *Bond forfeiture.* If 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 ordinance 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 7-2.4(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 ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, 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. 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 ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

#### 7-2.7. 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 ordinance.
- (D) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, 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 paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

7-2.8. 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 Perry Planning Commission within thirty (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 de novo to the Superior Court of Houston County, Georgia.

7-2.9. Liability.

- (A) Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.
- (B) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.
- (C) No provision of this ordinance 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.

**Sec. 7-3. Water resource protection.**

7-3.1. Purpose. The intent of this article is to establish minimum development standards and criteria which will afford reasonable protection of environmentally sensitive natural resources found throughout the City of Perry. It has been determined the wise management of these resources as defined in this section is essential to maintaining the health, safety, general welfare and economic well-being of the public.

7-3.2. Establishment of Water Resource Districts. The City of Perry's Water Resource Districts shall include the following:

- (A) Groundwater Recharge Area District
- (B) Wetlands Protection District

The boundaries of these Water Resource Districts are shown on a set of maps designated as "Water Resource Districts" and are included as part of the City of Perry's Official Zoning Map, which is on file with the administrator.

7-3.3. Definitions. In addition to the general definitions provided in this article, the following definitions shall apply to this Section:

- (A) *Aquifer*. Any stratum or zone of rock beneath the surface of the earth capable of containing or producing water from a well.
- (B) *Drastic*. The standardized system for evaluating groundwater pollution potential using the hydrogeologic settings described in the U.S. Environmental Protection Agency Document EPA-600-87-035 (Note: The Drastic methodology is the most widely used technique for evaluating pollution susceptibility).
- (C) *Generalized Wetlands Map*. The current U.S. Fish and Wildlife Service National Wetlands Inventory Maps for the City of Perry, Georgia.
- (D) *Jurisdictional Wetland*. An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.
- (E) *Jurisdictional Wetland Determination*. A delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers as required by Section 404 of the Clean Water Act, 33 U.S.C. § 1344, as amended.
- (F) *Pollution Susceptibility*. The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area.
- (G) *Pollution Susceptibility Map*. The relative vulnerability to pollution prepared by the Department of Natural Resources using the Drastic methodology. (Georgia Department of Natural Resources Hydrologic Atlas 20: Groundwater Pollution Susceptibility Map of Georgia.)
- (H) *Recharge Area*. Any portion of the earth's surface where water infiltrates into the ground to replenish an aquifer.
- (I) *Regulated Activity*. Any activity which will or which may reasonably be expected to result in the discharge of dredged or fill material into the waters of the U.S. excepting those activities exempted in Section 404 of the Federal Clean Water Act.
- (J) *Significant Recharge Areas*. Those areas mapped by the Georgia Department of Natural Resources in Hydrologic Atlas 18 (1989 Edition).
- (K) *Water Resource Districts*. A Water Resource District is a map overlay which imposes a set of requirements in addition to those of the underlying zoning district.
- (L) *Wetlands*. Those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The ecological parameters for designating wetlands include hydric soils, hydrological vegetation and hydrological conditions involving a temporary or permanent source of water to cause soil saturation.

7-3.4. Groundwater Recharge Area District.

- (A) *Findings of fact*. Recharge areas are vulnerable to urban development activities as well as agricultural activities. Pesticides, herbicides, animal waste and septic tank effluents contribute to deterioration in the groundwater quality and can threaten the health of residents relying on well water. Development usually means an increase in the amount of land covered with impervious surfaces. Paving land in recharge areas can alter or impair their recharge characteristics thereby decreasing groundwater supplies.

- (B) *Purpose.* The purpose of this overlay district is to establish criteria to protect significant groundwater recharge areas from pollution by spills, discharges, leaks, impoundments, application of chemicals, injections and other development pressures.
- (C) *District delineation.* The Groundwater Recharge Area District is delineated according to the Georgia Department of Natural Resources' "Most Significant Groundwater Recharge Areas of Georgia Hydrologic Atlas 18 (1989 Edition)." Each recharge area shall be determined to have a pollution susceptibility of high, medium, or low based on the "Georgia Pollution Susceptibility Map Atlas 20, 1992 Edition." Said maps are hereby adopted and made a part of this ordinance.
- (D) *Permitted uses.* All uses allowed in the underlying zoning districts are permitted in the Groundwater Recharge Area Protection District. The following are additional requirements for specific uses:

- (1) New above-ground chemical or petroleum storage tanks, having a minimum volume of six hundred sixty (660) gallons, shall have secondary containment for one hundred ten (110) percent of the volume of such tanks or one hundred ten (110) percent of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt provided they comply with all federal requirements.
- (2) New agricultural waste impoundment sites shall be lined if they are within:
  - (a) A high pollution susceptibility area;
  - (b) A medium pollution susceptibility area and exceed fifteen (15) acre-feet in size; and
  - (c) A low pollution susceptibility area and exceed fifty (50) acre-feet in size.

As a minimum, the liner shall be constructed of compacted clay having a thickness of one (1) foot and a vertical hydraulic conductivity of less than  $5 \times 10^{-7}$  cm/sec or other criteria established by the National Resource and Conservation Service.

- (3) New homes served by septic tank/drain field systems shall be on lots having the following minimum size limitations as identified on Table MT-1 of the Department of Human Resources' Manual for On-Site Sewage Management Systems (hereafter DHR Table MT-1). The minimum set forth in Table MT-1 may be increased further based on consideration of other factors (set forth in Sections A—F) of the DHR Manual.
  - (a) One hundred fifty (150) percent of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a high pollution susceptibility area;
  - (b) One hundred twenty-five (125) percent of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a medium pollution susceptibility area;
  - (c) One hundred ten (110) percent of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a low pollution susceptibility area.
- (4) New manufactured home parks served by septic tank/drain field systems shall have lots or spaces having the following size limitation as identified on Table MT-2 of the Department of Human Resources' (DHR) Manual for On-site Sewage Management Systems (hereafter DHR Table MT-2). The minimums set forth in Table MT-2 may be increased further based on consideration of other factors (set forth in sections A—F) of the DHR Manual.
  - (a) One hundred fifty (150) percent of the subdivision minimum lot or space calculated based on application of DHR Table MT-2 if they are within a high pollution susceptibility area;
  - (b) One hundred twenty-five (125) percent of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a medium pollution susceptibility area; and
  - (c) One hundred ten (110) percent of the subdivision minimum lot size or space size calculated based on application of DHR Table MT-2 if they are within a low pollution susceptibility area.

- (5) No construction may proceed on a building or manufactured home to be served by a septic tank unless the Houston County Health Department first approves the proposed septic tank installation as meeting the requirements of the Georgia Department of Human Resources Manual for On-Site Sewage Management (hereinafter DHR Manual and subsections 7-3.4(D)(3) & (4) above.
  - (6) New facilities which handle hazardous materials, of the types (listed in Section 312 of the Resource Conservation and Recovery Act of 1976, excluding underground storage tanks) and in amounts ten thousand (10,000) pounds or more on any one day shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and any local fire prevention code requirements.
  - (7) Permanent stormwater infiltration basins shall not be constructed in areas having high pollution susceptibility.
- (E) *Exemptions.* Any lot of record approved prior to the adoption of this article is exempt from the minimum lot size requirements contained in subsections 7-3.4(D)(3) & (4).

#### 7-3.5. Wetlands Protection District.

- (A) *Findings of fact.* The wetlands within the City of Perry are indispensable and fragile natural resources with significant development constraints due to flooding, erosion and soil limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; natural resource education; scientific study, and recreational opportunities.
- (B) *Purpose.* The purpose of this overlay district is to promote them from alterations which will significantly affect or reduce the primary functions for water quality, floodplain and erosion control, groundwater recharge, aesthetic natural areas and wildlife habitat areas.
- (C) *District delineation.* The Wetlands Protection District is hereby established which shall correspond to all lands within the jurisdiction of the City of Perry, Georgia that are mapped as wetland areas by the U.S. Fish and Wildlife National Wetlands Inventory Maps. This map shall be referred to as the Generalized Wetlands Map and is hereby adopted by reference and declared to be part of this article, together with all explanatory matter thereon as attached thereto.

The Generalized Wetlands Map does not necessarily represent the boundaries of jurisdictional wetlands with the City of Perry and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this Ordinance does not relieve the landowner from federal or state permitting requirements.

- (D) *Wetland development permit requirements.* No regulated activity or use except those identified in Section 5.5 shall be allowed within the Wetland Protection District without a development permit from the City of Perry. If the area proposed for development is located within fifty (50) feet of a Wetlands Protection District boundary as determined by the administrator using the Generalized Wetlands Map, a U.S. Army Corps of Engineers determination shall be required. If the Corps determines that wetlands are present on the proposed development site, the development permit will not be granted until Section 404, permit or letter of permission, is issued.
- (E) *Permitted uses.* The following uses are permitted by right within the Wetland Protection District to the extent they are not prohibited by any other ordinance or law and provided they do not require structures, grading, fill, draining or dredging as provided herein. (These activities listed in this section are exempted from Section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate acquisition of an individual 404 Permit. However, under Section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances.)
  - (1) Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.

- (2) Conservation or preservation soil, water, vegetation, fish or other wildlife, provided it does not affect waters of the State of Georgia or of the United States in such a way that would require an individual 404 Permit.
  - (3) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding and canoeing.
  - (4) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.
  - (5) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed, and that approved agricultural best management practices are followed.
  - (6) Education, scientific research and nature trails.
- (F) *Prohibited uses.* The following uses are prohibited in a Wetland District:
- (1) Receiving areas for toxic or hazardous waste or other contaminants.
  - (2) Hazardous or sanitary landfills.