

ARTICLE XXII

Stormwater Management Requirements and Controls

Section 230. General Provisions.

Article XXII – Adopted 10.18.05

230.1. Findings of Fact.

It is hereby determined that:

- a. 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;
- b. This stormwater runoff contributes to increased quantities of water-borne pollutants; and
- c. 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.

230.2. Purpose. The purpose of this ordinance 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 ordinance 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.

230.3 Compatibility with Other Permit and Ordinance Requirements. This ordinance 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 ordinance should be considered minimum requirements, and where any provision of this ordinance 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.

230.4 Severability. The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance 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 ordinance.

230.5 Responsibility for Administration. Unless otherwise stated, the City of Perry's Code Enforcement Officer shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City of Perry's Code Enforcement Officer may be delegated by the City of Perry's Code Enforcement Officer to persons or entities acting under the authority of City of Perry.

230.6 Effects of Compliance. The standards set forth herein pursuant to this ordinance unless otherwise noted are minimum standards; therefore this ordinance 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.

231. Definitions. When used in this ordinance, 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 ordinance, 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 of 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.* City of Perry, 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 ordinance.

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 ordinance, 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 ordinance.

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.

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 no vegetation can 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.

Section 232. Illicit Discharge Prohibition.

232.1 General Provisions.

232.1.1. 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.

232.1.2. 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 Section 232.2.1 (a) of this Article.

232.2. Discharge Prohibitions.

232.2.1. 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 de-chlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.

- b. Discharges specified in writing by the City of Perry's Code Enforcement Officer as being necessary to protect public health and safety.
- c. Dye testing is an allowable discharge, but requires a verbal notification to the City of Perry's Code Enforcement Officer 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 Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer prior to the allowing of discharges to the MS4.

232.2.2. 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.

232.3. Suspension of MS4 Access.

232.3.1.Suspension due to Illicit Discharges in Emergency Situations. The City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer 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.

Section 232.3.2. 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 City of Perry's Code Enforcement Officer will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer.

232.4 Monitoring of Discharges

232.4.1.Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

232.4.2. Access to Facilities

a. The City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer.

b. Facility operators shall allow the City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer shall have the right to set up on any permitted facility such devices as are necessary in the

opinion of the City of Perry's Code Enforcement Officer to conduct monitoring and/or sampling of the facility's stormwater discharge.

d. The City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer and shall not be replaced. The costs of clearing such access shall be borne by the operator.

f. Unreasonable delays in allowing the City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

g. If the City of Perry's Code Enforcement Officer 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 ordinance 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.

232.5 Requirement to Prevent, Control & Reduce Stormwater Pollutants

232.5.1. 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.

232.5.2. 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.

232.5.3. 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.

232.5.4. 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 stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

232.6. 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.

232.7. 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 U.S. 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer within three business days of the phone notice. The notification of the discharge of materials to the City of Perry's Code Enforcement Officer 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.

232.8. Enforcement

232.8.1. Notice of Violation. Whenever the City of Perry's Code Enforcement Officer finds that a person has violated a prohibition or failed to meet a requirement of this article, the City of Perry's Code Enforcement Officer 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.

232.8.2. Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the City of Perry's Code Enforcement Officer 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.

232.8.3. 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 City of Perry's Code Enforcement Officer, then representatives of the City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer or designated contractor to enter upon the premises for the purposes set forth above.

232.8.4. 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.

232.8.5. 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 City of Perry's Code Enforcement Officer 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.

232.8.6. Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by this article, City of Perry, Georgia may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

232.8.7. 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.

232.8.8. 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.

232.8.9. 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.

Section 233. POST CONSTRUCTION STORMWATER RUNOFF

233.1. General Provisions

233.1.1. 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.

233.1.2. Applicability. This article shall be applicable to all development plan applications, unless eligible for an exemption or granted a waiver by the City of Perry's Code Enforcement Officer under the specifications of Section 233.3 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer that shall contribute to a known or suspected water quality or quantity impairment.

233.1.3. 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 silvicultural land management activities within areas zoned for these activities; and
- d. Repairs to any stormwater management facility or practice deemed necessary by the City of Perry's Code Enforcement Officer.

When a site development plan is submitted that qualifies as a redevelopment project as defined in Section 231 of this ordinance, 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). This criteria is 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 City of Perry's Code Enforcement Officer.

233.1.4. 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 ordinance 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.

233.2. Permit Procedures and Requirements.

233.2.1. 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.

233.2.2. 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.

233.2.3. 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.

233.2.4. Application Procedure. All applications received by the City of Perry will be received and processed in the manner outlined in the Perry Land Development Ordinance.

233.2.5. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the City of Perry's Code Enforcement Officer 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.

233.3. Waivers to Stormwater Management Requirements.

233.3.1. 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer.

233.3.2. Conditions of Waiver. In instances where one of the conditions above applies, the City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer 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.

233.3.3. 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 City of Perry's Code Enforcement Officer. 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.).

- 233.3.4. Fee in Lieu of Stormwater Management Practices** Where the City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer.

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.

- 233.3.5. 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.

- 233.4. General Performance Criteria for Stormwater Management.** Unless judged by the City of Perry's Code Enforcement Officer to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:

- a. 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 pervious 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.
- b. 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 City of Perry's Code Enforcement Officer. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the Georgia Department of Natural Resources.

- c. 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.
- d. 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:
 - 1. sized to capture the prescribed water quality volume (WQ_v);
 - 2. designed according to the specific performance criteria outlined in the LDM;
 - 3. constructed properly; and
 - 4. maintained regularly.
- e. To protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the current LDM.
- f. 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.
- g. Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.
- h. 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.
- i. Prior to design, applicants are encouraged to consult with the City of Perry’s Code Enforcement Officer to determine if they are subject to additional stormwater design requirements.
- j. The calculations for determining peak flows as found in the LDM shall be used for sizing all stormwater management practices.

233.5. Basic Stormwater Management Design Criteria.

233.5.1. 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 City of Perry’s Code Enforcement Officer 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 City of Perry’s Code Enforcement Officer reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

233.5.2. 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.

233.5.3. 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.

233.5.4. 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 City of Perry's Code Enforcement Officer.

233.5.5. 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.

233.5.6. 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.

233.6 Requirements for Stormwater Management Plan Approval

233.6.1 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 City of Perry's Code Enforcement Officer after determining that the plan or waiver is consistent with the requirements of this article.

233.6.2. 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer must provide a written explanation of the additional elements needed to the applicant.

233.6.3. 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 City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer.

233.7 Construction Inspection.

233.7.1. Notice of Construction Commencement. The applicant must notify the City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer.

233.7.2. 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 City of Perry's Code Enforcement Officer is required before the release of any performance securities can occur.

233.7.3. 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.

233.8. Maintenance and Repair of Stormwater Facilities.

233.8.1. 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 City of Perry's Code Enforcement Officer, 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.

233.8.2. 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 City of Perry's Code Enforcement Officer 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.

233.8.3. 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 City of Perry's Code Enforcement Officer, 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.

233.8.4. Inspection of Stormwater Facilities. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; 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 the 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.

233.8.5. 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 City of Perry's Code Enforcement Officer 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 ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

233.8.6. 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 City of Perry's Code Enforcement Officer during inspection of the facility and at other reasonable times upon request.

233.8.7. 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 City of Perry's Code Enforcement Officer shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall effect maintenance and repair of the facility in an approved manner and within the established deadline. After proper notice, {the Jurisdiction} 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.

233.9 Enforcement and Penalties.

233.9.1. 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.

233.9.2. Notice of Violation. When the City of Perry's Code Enforcement Officer determines that an activity is not being carried out in accordance with the requirements of this article, the City of Perry's Code Enforcement Officer 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 Ordinance 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.

233.9.3. Stop Work Orders. This "stop work order" will be in effect until the City of Perry's Code Enforcement Officer 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 City of Perry's Code Enforcement Officer can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

233.9.4. 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.

233.9.5. 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.

233.9.6. Holds on Occupation Permits. Occupation permits will not be granted until all corrections to all stormwater practices have been made and accepted by the City of Perry's Code Enforcement Officer.

234. FLOOD DAMAGE PREVENTION**234.1 Statutory Authorization, Findings of Fact, Purpose & Objectives.**

234.1.1. Statutory Authorization. The Legislature of the State of Georgia has, in O.C.G.A. § 36-1-20, 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.

234.1.2. 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.

234.1.3. 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.

234.1.4. Objectives. The objectives of this article are:

- a. To protect human life and health;
- b. To minimize expenditure 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 so as to ensure the availability of flood insurance for residents and property owners.

234.1.5. 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.

234.2 General Provisions

234.2.1. 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.

234.2.2. 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 City of Perry Community Development Office. In addition, the local administrator shall reasonably utilize any base flood elevation 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 City of Perry Community Development Office.

234.2.3. 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.

234.2.4. 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.

234.2.5. 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.

234.2.6. 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.

234.2.7. 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 consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of Perry or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

234.2.8. 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 (\$2,500), or both, 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.

234.3 Administration.

234.3.1. Designation of Flood Damage Prevention Article Administrator. The Mayor and Council of the City of Perry hereby appoints the City of Perry's Code Enforcement Officer (or his designee) to administer and implement the provisions of this article and is herein referred to as the Floodplain Article Administrator, the Floodplain Management Administrator and/or the Administrator.

234.3.2. 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 Floodplain Management Administrator on forms furnished by him or her 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:

1. Site plan, including but not limited to:
 - (i) 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;
 - (ii) Proposed locations of water supply, sanitary sewer, and utilities;
 - (iii) If applicable, the base flood elevation and location of the base flood boundary; and
 - (iv) If applicable, the location and elevation of the floodway.
2. Foundation design detail, including but not limited to:
 - (i) Proposed elevation in relation to mean sea level (or highest adjacent grade) of the lowest finished floor, including basement, of all structures; and
 - (ii) For crawl-space foundation, location and total net area of foundation openings as required in Section 234.4.2 of this article.
3. 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 234.4 of this article;
4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed land development; and
5. All appropriate certifications required under this article.
 - a. 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.

b. 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.

c. 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 a issuance of a final letter of map revision.

d. The zoning administrator shall be provided copies of all related correspondence, and shall sign the required community acknowledgement form.

234.3.3. 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.

234.3.4. Duties and Responsibilities of the Floodplain Management 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 234.3.3
- 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 234.3.3.
- 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 Floodplain Management 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 234.2.2 then the Floodplain Management 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 234.4. 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 zoning 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 zoning 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 zoning 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 234.2.2, 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 article III 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 zoning 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 zoning 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 office of the zoning 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.

234.4 Provisions for Flood Hazard Reduction.

234.4.1. 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.

234.4.2. Specific Standards. In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 234.2.2, 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 234.4.2.
- 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.** Standards for 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 234.4.2 (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 234.4.4.2 (a) or (b) (i) and (iii) above; or
- (iii) Be on the site for fewer than 180 consecutive days.

234.4.3. Standards for Streams with designated Special Flood Hazard Areas.

1. 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;
2. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 234.4; and,
3. 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.

234.4.4. 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 234.2.2, 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 234.4. 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*.

234.4.5. Standards for Subdivision Proposals (AO Zones) Located within the areas of special flood hazard established in Section 234.2.2, 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 feet² 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 234.4.2(b).

234.4.6. 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.
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234.4.7. 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.

234.5. Variance Procedures.

234.5.1. 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.

234.5.2. 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 Floodplain Management 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.

234.5.3. 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.

234.5.4. 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 Floodplain Management 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.

234.5.5. 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 Floodplain Management Administrator in the Office of the City of Perry Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.³ The Floodplain Management 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.

234.5.6. 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.

234.5.7. 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.

234.5.8. 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.

Section 235. Landscaping of Stormwater Facilities.**235.1. General Provisions.**

235.1.1. Purpose. The purpose of this section is to establish minimum standards for landscaping for stormwater facilities and to achieve the following intents and purposes:

- a) to improve the appearance of the community;
- b) to provide shade for the ground surfaces;
- c) to preserve natural vegetation and
- d) to buffer adjacent land uses from stormwater facilities.

235.1.2. Applicability. This section shall apply to all stormwater facilities constructed after the adoption date of this ordinance.

235.1.3. Landscaping Requirements. All planting requirements shall be completed prior final plat approval or issuance of certificate of occupancy. Stormwater ponds shall be landscaped in accordance with the following:

- a) All stormwater facilities shall utilize vegetation appropriate for each hydrologic zone as determined in Appendix "A".
- b) Stormwater ponds located within single and two family residential projects shall require a minimum of five (5) units of trees, as defined in Article XX – Tree Preservation and Replacement, for each acre of pond surface. The pond surface acreage shall be determined utilizing the 100-year storm event elevation.
- c) Stormwater ponds located within all projects other than single and two family residential projects shall require a minimum of fifteen (15) units of trees, as defined in Article XX – Tree Preservation and Replacement, for each acre of pond surface. The pond surface acreage shall be determined utilizing the 100-year storm event elevation.
- d) The required trees shall be planted within fifty (50) feet from the top of bank line and not within the maintenance shelf.
- e) The trees required in this section shall be planted evenly around the perimeter of stormwater pond unless given approval by the Zoning Enforcement Officer.
- f) The owner, tenant and/or agent, if any, shall be jointly responsible for maintaining such landscaping in a healthy, neat and orderly condition.
- g) Required stormwater pond trees may be used to meet the tree requirement of Article XX – Tree Preservation and Replacement.

235.2. Landscape Plan.

235.2.1. Plan Approval. The applicant shall submit a landscape plan at the time of site plan submittal for the proposed project.

235.2.2. Plan Requirements. The landscape plan shall contain the following information:

- a) Name, address, and telephone number of the owner/developer.
- b) Name, address, and telephone number of the person/firm preparing the plan.
- c) Scale of the plans.
- d) Indication of north.
- e) All dimensions, property lines.
- f) Indication of all existing trees to remain on the site by species and size
- g) Delineation of all stormwater facilities (swales, ponds, etc.).
- h) Location, size, specifications of all proposed plant materials including botanical and common names, and water use criteria.
- i) Delineate the 100-year storm event elevation.
- j) Show the acreage of the stormwater ponds at the 100 year storm event elevation.
- k) Additional tabulations as necessary for evaluation of the development's compliance with this Section.

235.3. Stormwater Pond Fences.

235.3.1. Material. A fence used to limit access to a stormwater pond shall not be constructed of uncoated chain link.