

## Chapter 34 Article V. Stormwater Management\*

\*Cross references: Utilities, ch. 82.

State law references: Authority to provide for stormwater and sewage collection and disposal systems, Ga. Const. art. IX, § II, ¶ III(a)(6).

### Sec. 34-181. Authority

The authority for this article is provided for by the Georgia Constitution, article IX, section II, paragraphs I and III and Official Code of Georgia Annotated (O.C.G.A.) § 36-1-20(a).

(Ord. No. 75, § XX, XX-XX-2021)

### Sec. 34-182. Findings

- 1) Uncontrolled stormwater runoff may have a significant, adverse impact on the health, safety, and welfare of Forsyth County and the quality of life of its citizens. More specifically, surface water runoff can carry pollutants and nutrients into receiving waters. The potential impacts of these pollutant and nutrient loadings include:
  - a) Sediment can alter natural systems, scouring vital habitat and smothering stream life.
  - b) Increased bacteria can pose a significant health risk.
  - c) Excessive nutrients can accelerate algae growth and eutrophication of receiving waters, affecting adversely flora and fauna.
  - d) Pollutants and nutrients can negatively affect vital habitat for fish, birds, wildlife and native plant communities.
  - e) Metals can be toxic to aquatic life.
  - f) Oil and grease can reduce oxygen levels.
  - g) The temperature of receiving waters can increase, affecting animal and plant habitat adversely.
- 2) Uncontrolled stormwater drainage can increase the incidence of flooding and the level of floods which occur, endangering roads, other public and private property and human life.
- 3) Altered land surfaces can change the rate and volume of runoff. These changes may result in the following:
  - a) Stream banks can erode and slump, resulting in widening of streams;
  - b) Tree root systems can be undercut;
  - c) Erosion rates can increase; or,
  - d) Streambeds can become more uniform and shallower, providing less varied aquatic habitats.
- 4) Adverse water quality and quantity consequences described in subsections (a) through (c) of this section could result in substantial economic losses. Potential losses include, but are not limited to, increases in water treatment costs, as well as state and federal fines associated with water quality violations.
- 5) Many future problems can be avoided through proper stormwater management.

- 6) Every parcel of real property, both public and private, either uses or benefits from the maintenance of the County storm sewer system.
- 7) Current and anticipated growth will contribute to and increase the need for improvement and maintenance of the storm sewer system.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-183. Purpose and Intent**

The purpose of this article includes the following:

- 1) Protect, maintain, and enhance the short term and long-term public health, safety, environment, and general welfare. This objective will be achieved by:
  - a) Providing for regulation and management of the County's storm sewer system, including public and private stormwater management systems in the County's service area;
  - b) Establishing minimum requirements and procedures to control the adverse effects of increased post-construction stormwater runoff and nonpoint source pollution associated with new development and redevelopment;
  - c) Providing proper management of post-construction stormwater runoff to minimize damage to public and private property and infrastructure;
  - d) Protecting, preserving, and enhancing water quality and fish and wildlife habitat within the County and in downstream receiving waters; and,
  - e) Protecting those downstream from water quality and quantity impacts.
- 2) Comply with regional (Metropolitan North Georgia Water Planning District), state (Department of Natural Resources), and federal (U.S. Environmental Protection Agency) stormwater regulations developed pursuant to the Clean Water Act. These requirements include:
  - a) Manage the water quantity, velocity, and quality of post-construction stormwater runoff;
  - b) Prohibit illicit connections to the County's separate storm sewers;
  - c) Control discharges of spills, dumping, or disposal of materials other than stormwater to the County's municipal separate storm sewer system; and,
  - d) Control, through intergovernmental agreements, contribution of pollutants from one municipal/county system to another.
- 3) Require that new development and redevelopments maintain the predevelopment hydrologic response in their post-development state as nearly as practicable in order to reduce streambank erosion, nonpoint source pollution, and increases in stream temperature.
- 4) Establish procedures that minimize damage from flooding caused by development while recognizing that natural fluctuations in water levels are beneficial.
- 5) Require construction of stormwater systems that aesthetically and functionally approximate natural systems.
- 6) Establish provisions for the long-term responsibility for and maintenance of stormwater management systems to ensure they continue to function as designed, are maintained, and pose no threat to public safety.
- 7) Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow-up.

(Ord. No. 75, § XX, XX-XX-2021)

## Sec. 34-184. Definitions

For this Article, the terms below shall have the following meanings:

“Accidental Discharge” means a discharge prohibited by this Article into the County's municipal separate storm sewer system, which occurs by chance and without planning or consideration prior to occurrence.

“Addendum” means the Forsyth County Addendum to the Georgia Stormwater Management Manual (“GSMM”), which has been prepared to provide County-specific clarification to the GSMM.

“Administrator” means the person appointed to administer and implement this Article in accordance with Section 34-186.

“Applicant” means a person submitting a land development application for approval.

“BMP” or “Best Management Practice” means both stormwater management facilities\structural devices to store or treat stormwater runoff and non-structural programs or practices which are designed to manage stormwater quantity and prevent or reduce the pollution of the waters of the State of Georgia.

“BMP landscaping plan” means a design for vegetation and landscaping that is critical to the performance and function of the BMP including how the BMP will be stabilized and established with vegetation. It shall include a layout of plants and plant names (local and scientific).

“Channel” means a natural or artificial watercourse with a definite bed and banks that conveys continuously or periodically flowing water.

“Clean Water Act” means the Federal Water Pollution Control Act, (33 USC 1251 et seq.), and any subsequent amendments thereto.

“Construction Sequencing Plan” means a document noting the sequence of construction and identification of infiltration zones for protection during staged installation of permanent post-construction stormwater management facilities to ensure suitable site conditions such as avoiding soil compaction by heavy equipment in areas designated for infiltration-based stormwater management facilities.

“Conveyance” means stormwater features designed for the movement of stormwater through the stormwater system, such as concrete or metal pipes, ditches, depressions, swales, catch basins, curbs, gutters, storm drains, etc.

“County’s Municipal Separate Storm Sewer System” means Forsyth County’s municipal separate storm sewer system.

“Department” means the Forsyth County Department of Engineering.

“Department Director” means the Director of the Forsyth County Department of Engineering.

“Designated Hazardous Waste” means any solid waste identified as such in regulations promulgated by Georgia Department of Natural Resources Board. The Board may identify as designated hazardous waste any solid waste which the Board concludes is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed, based on the factors set forth in regulations promulgated by the administrator of the EPA pursuant to the federal act which are codified as 40 *Code of Federal Regulations* (C.F.R.) Section 261.11(a)(3), in force and effect on February 1, 1996, if such solid waste contains any substance which is listed on any one or more of the following lists:

- 1) List of Hazardous Constituents, codified as 40 C.F.R. Part 261, Appendix VIII, in force and effect on February 1, 1996
- 2) Ground-water Monitoring List, codified as 40 C.F.R. Part 264, Appendix IX, in force and effect on February 1, 1996
- 3) List of Hazardous Substances and Reportable Quantities, codified as 40 C.F.R. Table 302.4, and all appendices thereto, in force and effect on February 1, 1996
- 4) List of Regulated Pesticides, codified as 40 C.F.R. Part 180, in force and effect on February 1, 1996
- 5) List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 C.F.R. Part 355, Appendix A, in force and effect on February 1, 1996
- 6) List of Chemicals and Chemical Categories, codified as 40 C.F.R. Part 372.65 in force and effect on February 1, 1996

“Detention” means the temporary storage of stormwater runoff in a stormwater detention facility for the purpose of controlling the peak discharge.

“Detention Facility” means a stormwater management facility designed for the storage and gradual release of stormwater runoff at controlled rates.

“Development” means new development or redevelopment which include any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

“Discharge” means the release of treated or untreated stormwater runoff or other material to the County’s municipal separate storm sewer system.

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

“Easement” means an acquired legal right for the specific use of land owned by others.

“Erosion and Sedimentation Control Plan” means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.

“Extended Detention” means the storage of stormwater runoff for an extended period of time.

“Extreme Flood Protection” means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

“Flooding” means a volume of surface water that exceeds the banks or walls of a stormwater management facility or open channel and overflows onto adjacent lands.

“GSMM” means the latest edition of the Georgia Stormwater Management Manual and its appendices.

“Hotspot” means a land use or activity on a site that has the potential to produce higher than normally found levels of pollutants in stormwater runoff. As defined by the administrator, hotspot land use may include gasoline stations, vehicle service and maintenance areas, industrial facilities (both permitted under the Industrial Stormwater General Permit and others), material storage sites, loading and transfer facilities, landfills, construction sites, recycling and garbage facilities, and commercial parking lots with high-intensity use.

“Illegal Connection” means a connection to the County's municipal separate storm sewer system that allows for an illicit discharge, except as exempted in Section 34-187.

“Illicit Discharge” means any direct or indirect non-stormwater discharge to the County's municipal separate storm sewer system, except discharges pursuant to a National Pollutant Discharge Elimination System (NPDES) permit (other than the NPDES permit for discharges from the County's municipal separate storm sewer system).

“Impervious Surface” means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into the soil.

“Industrial Stormwater General Permit” means the NPDES permit issued by Georgia Environmental Protection Division to an industry for stormwater discharges associated with industrial activity. The permit regulates pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies based on Standard Industrial Classification (SIC) Code.

“Infiltration” means the process of percolating stormwater runoff into the subsoil.

“Inspection and Maintenance Agreement” means a written agreement providing for the long-term inspection, operation, and maintenance of the stormwater management system and its components on a site.

“Land Development Application” means the application for a land development permit on a form provided by Forsyth County along with the supporting documentation required in the Addendum and this Article

“Land Development Permit” means the authorization necessary to begin construction-related, land-disturbing activity.

“Land Disturbing Activity” means any activity that may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, and filling of land. Land disturbing activity does not include agricultural practices as described O.C.G.A. Section 12-7-17(5) or silvicultural land management activities as described O.C.G.A. Section 12-7-17(6) within areas zoned for these activities.

“Linear Feasibility Program” means a feasibility program documented by the Linear Transportation Policy, which was developed by Forsyth County and submitted to the Georgia Environmental Protection Division. The feasibility program sets reasonable criteria for determining when implementation of stormwater management standards for linear transportation projects being constructed by Forsyth County is infeasible.

“Linear Transportation Policy” means the latest edition of Forsyth County's Policy on Practicability Analysis for Linear Transportation Projects. This policy sets reasonable criteria for determining when implementation of stormwater management standards for linear transportation projects being constructed by Forsyth County is infeasible.

“Linear Transportation Projects” means construction projects on traveled ways including but not limited to roads, sidewalks, multi-use paths and trails, and airport runways and taxiways.

“Maintenance” means any action necessary to preserve stormwater management systems in proper working condition, in order to serve the intended purposes set forth in this Article and the Addendum, or to prevent stormwater management system failures.

“Maximum Extent Practicable” or “MEP” means the controls necessary for the reduction of pollutants discharged from an MS4. These controls may consist of a combination of BMPs, control techniques, system design and engineering methods, and such other provisions for the reduction of pollutants discharged from an MS4 as described in Forsyth County's Stormwater Management Plan.

“MS4 Permit” means the NPDES permit issued by Georgia Environmental Protection Division for discharges from the County’s municipal separate storm sewer system.

“Municipal Separate Storm Sewer System” or “MS4” means a conveyance or system of conveyances including roads with drainage infrastructure, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains, owned or operated by a municipality or other public body, designed or used for collecting or conveying stormwater runoff and is not a combined sewer or part of a publicly owned treatment works.

“New Development” means land disturbing activities, structural development (construction, installation or expansion of a building or other structure), and/or creation of impervious surfaces on a previously undeveloped site.

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

“Overbank Flood Protection” means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain).

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

“Person” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

“Pollution” means the contamination or other significant alteration of any water's physical, chemical or biological properties, including 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.

“Post-construction Stormwater Management” means stormwater BMPs that are used on a permanent basis to provide stormwater management once construction has been completed in accordance with a stormwater management plan.

“Post-development” means the conditions anticipated to exist on site immediately after completion of the proposed development.

“Practicability Policy” means the latest edition of Forsyth County’s Policy on Practicability Analysis for Runoff Reduction.

“Predevelopment” means the conditions that exist on a site immediately before the implementation of the proposed development. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time before the first item being approved or permitted shall establish pre-development conditions.

“Predevelopment Hydrology” means (a) for new development, the runoff curve number determined using natural conditions hydrologic analysis based on the natural, undisturbed condition of the site immediately before implementation of the proposed development; and (b) for redevelopment, the existing conditions hydrograph may

take into account the existing development when defining the runoff curve number and calculating existing runoff, unless the existing development causes a negative impact on downstream property.

“Previously Developed Site” means a site that has been altered by paving, construction, and/or land disturbing activity.

“Private” means property or facilities owned by individuals, corporations, and other organizations and not by city, county, state or federal government or any agency or subdivision thereof.

“Procedure” means a procedure adopted by Forsyth County, by and through the Department Director, to implement a regulation or regulations adopted under this Article, or to carry out other responsibilities as may be required by this Article or other codes, ordinances or resolutions of the County.

“Redevelopment” means structural development (construction, installation, or expansion of a building or other structure), creation or addition of impervious surfaces, replacement of impervious surfaces not as part of routine maintenance, and land disturbing activities associated with structural or impervious development on a previously developed site. Redevelopment does not include such activities as exterior remodeling.

“Routine Maintenance” means activities to keep an impervious surface as near as possible to its constructed condition. This includes ordinary maintenance activities, resurfacing paved areas, and exterior building changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

“Runoff” means stormwater runoff.

“Sediment” means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, ice or gravity from its site or origin.

“Site” means an area of land where development is planned, which may include all or portions of one or more parcels of land. For subdivisions and other common plans of development, the site includes all areas of land covered under an applicable land development permit.

“Stormwater” means stormwater runoff.

“Stormwater Concept Plan” means an initial plan for post-construction stormwater management at the site that provides the groundwork for the stormwater management plan including the natural resources inventory, site layout concept, initial runoff characterization, and first round stormwater management system design.

“Stormwater Management” means the collection, conveyance, storage, treatment and disposal of stormwater runoff.

“Stormwater Management Facility” means BMP structural devices constructed to provide stormwater management and which are designed to manage stormwater quantity and prevent or reduce the pollution of the waters of the State of Georgia.

“Stormwater Management Plan” means a comprehensive document prepared by a design professional registered in the State of Georgia that conveys the overall strategy for managing stormwater, such that runoff hazards are not created, existing runoff-related problems are not exacerbated, and stormwater quality is not adversely affected, either upstream or downstream from or within the boundaries of the property being developed.

“Stormwater Management Standards” means those standards set forth in Section 34-189.

“Stormwater Management System” means the entire set of preserved natural features, non-structural stormwater design features, structural stormwater design features, and stormwater management facilities for collection,



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

“Stormwater Runoff” means the flow on the surface of the ground, resulting from precipitation.

“Subdivision” means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

“Subdivision, major” means a subdivision of seven or more lots which may or may not involve the construction of a new public or private street; or any subdivision of less than seven lots that involves the construction of a new public or private street.

“Subdivision, minor” means a subdivision of six or fewer lots which does not involve the construction of a new public or private street.

“Trout Stream” means waters designated by the Wildlife Resources Division of the Georgia Department of Natural Resources as Primary Trout Waters or Secondary Trout Streams. Primary Trout Waters are waters supporting a self-sustaining population of Rainbow, Brown or Brook Trout. Secondary Trout Streams are those with no evidence of natural trout reproduction but are capable of supporting trout throughout the year.

“Water Quality” means those characteristics of stormwater runoff that relate to the physical, chemical, biological or radiological integrity of water.

“Water Quantity” means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

Other terms used but not defined in this Article shall be interpreted based on how such terms are defined and used in the GSMM and Forsyth County’s MS4 permit.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-185. Adoption and Implementation of this Article, GSMM and Addendum; Conflicts and Inconsistencies**

- 1) The provisions of this Article shall apply throughout the unincorporated area of Forsyth County; specific applicability and exemptions information is defined in Section 1 of the Addendum.
- 2) The Department Director or his or her designee shall be responsible for the administration of the provisions of this Article, GSMM, and Addendum.
- 3) This Article is not intended to modify or repeal any other article, ordinance, rule, regulation or other provision of law, including but not limited to any applicable stream buffers under state and local laws, and the Georgia Safe Dams Act and Rules for Dam Safety. In the event of any conflict or inconsistency between any provision in Forsyth County’s MS4 permit and this Article, the provision from the MS4 permit shall control. In the event of any conflict or inconsistency between any provision of this Article and the GSMM, the provision from this Article shall control. In the event of any other conflict or inconsistency between any provision of this Article and any other ordinance, rule, regulation or other provision of law, the provision that is more restrictive or imposes higher protective standards for human health or the environment shall control.
- 4) This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.



- 5) If any provision of this Article is invalidated by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this Article.
- 6) In implementing this Article, Forsyth County shall use and require compliance with all relevant design standards, calculations, formulas, methods, and other guidance from the GSMM as well as all related appendices.
- 7) The current version of the GSMM will provide the primary guidance for the design and evaluation of stormwater management systems unless otherwise noted in the Addendum.
- 8) An Addendum shall be developed and updated as needed by the Department to provide County-specific clarification to the GSMM. The provisions of the GSMM and the Addendum are incorporated by reference as a part of this Ordinance as fully and completely as if set forth verbatim herein. The Addendum will include, but not be limited to, the following information:
  - a) Applicability Criteria for Stormwater Management Standards and Exemptions.
  - b) Guidance and specifications for the preparation of stormwater management plans. Acceptable techniques for obtaining, calculating, and presenting the information required in the plans shall be described.
  - c) Guidance in selecting environmentally sound practices for managing stormwater. Description of specific techniques and practices shall be included. Development and use of techniques emphasizing use of natural systems shall be encouraged.
  - d) Minimum specifications for designing, constructing, and maintaining stormwater management facilities in Forsyth County. These specifications shall be established in accordance with current good engineering practices and will be consistent with the intent of the GSMM.
  - e) Minimum easement requirements.
  - f) More complete definitions of some concepts included in this Article.
  - g) Development performance standards for stormwater management facilities and practices. Methodology/criteria for evaluation will include:
    - i) Hydrologic and hydraulic evaluations
    - ii) Evaluation of stormwater management facilities
    - iii) Evaluation of downstream impacts
- 9) The Addendum is not designed to replace the need for engineering judgement. Rather, other accepted engineering procedures may be used to conduct hydrologic and hydraulic studies if approved by the Department Director.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-186. Designation of Administrator**

- 1) The Department shall have the authority to administer and enforce all regulations and procedures adopted to implement this Article, including the right to maintain an action or procedure in any court of competent jurisdiction to compel compliance with or restrain any violation of this Article.
- 2) The Department can:
  - a) Establish or oversee establishment of development standards and guidelines.
  - b) Determine the way stormwater management facilities should be operated.
  - c) Inspect private systems that discharge to the County's municipal separate storm sewer system.
  - d) Advise other departments on issues related to stormwater.
  - e) Protect facilities and properties controlled by the Department and prescribe how they are used by others.

- f) Develop programs or procedures to control the discharge of pollutants into the County's municipal separate storm sewer system.
- g) Adopt and implement the stormwater management program for the County.

(Ord. No. 75, § XX, XX-XX-2021)

### **Sec. 34-187. Prohibition of Illicit Discharges**

- 1) It is unlawful for any person to throw, drain, run or otherwise discharge to any component of the County's municipal separate storm sewer system or to cause, permit or suffer to be thrown, drained, run, or allow to seep or otherwise discharge into such system all matter of any nature excepting only such stormwater or surface water as authorized in this Article. It shall be the responsibility of the discharger to provide to the Department Director with the appropriate certifications that discharges to the County's municipal separate storm sewer system meet the requirements of this Article.
- 2) The Department Director may exempt the following discharges from the prohibition provision of subsection (1) of this section unless such discharges are identified by the Director as possible pollution sources.
  - a) Water line flushing performed by a government agency, diverted stream flows, rising ground waters, and unpolluted ground water infiltration
  - b) Unpolluted pumped ground water
  - c) Discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and street wash water
  - d) Discharges or flows from firefighting
  - e) Other unpolluted water
- 3) In the event of an accidental discharge or an unavoidable loss to the County's municipal separate storm sewer system of any designated hazardous waste material, the person concerned shall notify the fire and emergency management departments through the 911 system immediately after the event is discovered. If the material discharged is not considered a designated hazardous waste material but is other than unpolluted stormwater runoff, then it should be reported to the Department as soon as practicable. Notification shall include the nature, quantity and time of occurrence of the discharge. The person concerned shall take immediate steps to stop the discharge and contain, treat, or take other actions to minimize effects of the discharge on the County's municipal separate storm sewer system and receiving streams. The person shall also take immediate steps to ensure no recurrence of the discharge. A written report describing the occurrence, its impact on water quality and the cleanup, shall be prepared by the person concerned and submitted within fifteen (15) days of the occurrence to the Department.

(Ord. No. 75, § XX, XX-XX-2021)

### **Sec. 34-188. Prohibition of Illegal Connections**

- 1) It is unlawful for any person, company, corporation, and/or entity to connect any pipe, open channel, any other conveyance system that discharges anything except stormwater runoff or unpolluted water which is approved by the Department Director, based on the exemptions listed in Section 34-187, Subsection (2), to the County's municipal separate storm sewer system.
- 2) Connections to the County's municipal separate storm sewer system which are in violation of this Article must be disconnected. The owner of the property where the connection originates shall be responsible for redirecting such connections to an approved location.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-189-1. Stormwater Management Standards**

The design of the stormwater management system shall be in accordance with the stormwater management standards found in Section 2.2 of the Addendum and Section 2.2.2.2 of the GSMM.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-189-2. Compliance with the Approved Stormwater Management Plan**

All development shall be:

- 1) Consistent with the approved stormwater management plan and all applicable land disturbance and building permits, and
- 2) Conducted only within the area specified in the approved stormwater management plan.

No changes may be made to an approved stormwater management plan without review and advanced written approval by the Administrator.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-190. Violations and Enforcement**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who has violated or continues to violate the provisions of this Article, may be subject to the enforcement actions outlined in this Section.

- 1) Any development-related (subdivision/utility/other) permit may be suspended or revoked if one or more of the following violations are committed:
  - a) Violation of conditions of stormwater management plan approval
  - b) Construction is not in strict accordance with the intent of approved plans
  - c) Noncompliance with any correction notice or stop work order
  - d) Existence of immediate danger in the downstream area, as judged by the Department Director
- 2) Verbal Warning – A notice consisting of a direct conversation or telephone call to notify the responsible person/property owner of a minor violation in order to seek an explanation, suggest corrective action or to notify the violator that subsequent violations of the same type will be dealt with more severely. Verbal warnings may be used to correct minor inadvertent noncompliance. A written record of the verbal warning shall be made in the form of a memorandum to the file, an on-site inspection form or a phone call log.
- 3) Notice of Violation – A written notice to the responsible person/property owner that the County has observed a violation of this Article. The written notice shall set forth measures necessary to achieve compliance with the plan, and correction of the violation must be started immediately, or the owner shall be deemed in violation of this Article. The notice of violation shall contain:
  - i) Name and address of the owner or the applicant or the responsible person.
  - ii) Address or other description of the site upon which the violation is occurring.
  - iii) Statement specifying the nature of the violation.
  - iv) Description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this Article and the date for the completion of such remedial action.

- v) Statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.
  - vi) Statement that the determination of violation may be appealed to the Department by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient). A violation of this Article, including any noncompliance for correction or alleviation of violations specified in the Department's first notice within the specified time for the alleviation in the notice, shall constitute a misdemeanor. In the absence of a time specified for the correction, all violations must be corrected or alleviated as specified in the first notice within thirty (30) days from the date of such notice. Failure to comply shall also constitute a misdemeanor and Forsyth County may impose a penalty not to exceed \$1,000.00 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation. The maximum penalty and punishment for any single violation of this Article may not exceed that provided for in O.C.G.A. § 36-1-20(b) as that subsection now provides or as it may be hereafter amended. Each day the noncompliance or violation is not corrected constitutes a separate violation.
- 4) For flagrant violations of this Article, Forsyth County may issue a citation to the applicant or other responsible person, requiring such person to appear in Forsyth County Magistrate Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment for sixty (60) days, or both.
  - 5) The County may institute appropriate action or proceedings at law or equity for the enforcement of this Article or to correct violations of this Article. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense. Nothing contained in this Article shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief. Administration and enforcement of stormwater activities in Forsyth County are in accordance with the Executive Reorganization Act of 1972, O.C.G.A. 12-2-1 et seq., and the Georgia Administrative Procedure Act, O.C.G.A. 50-13-1 et seq., all as amended, but also includes the authority to require corrective action and/or remediation of conditions creating adverse water quality impacts, or otherwise in violation of these rules, regulations and authorizing statutes.
  - 6) Upon notice from the issuing authority or its agent, work on any project that is being done contrary to the provisions of this Article or in a dangerous or unsafe manner shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-191. Right of Entry for Maintenance Inspections**

The terms of the inspection and maintenance agreement shall provide for Forsyth County's right of entry for maintenance inspections and other specified purposes. If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then Forsyth County shall have the right to enter the property and make inspections.

- 1) The Department Director or their designee, bearing proper credentials and identifications shall be permitted to enter, in accordance with state and federal law, all properties for regular inspections, periodic investigations, observation, measurement, enforcement, and sampling and testing, in accordance with provisions of this Article. The Director or their designee shall duly notify the owner of such property or the representative on site, except in the case of an emergency.

- 2) Measurements, tests, and analyses performed by the Department or required of discharger to the County's municipal separate storm sewer system shall be in accordance with 40 CFR 136, unless another method is approved by the Department.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-192. Maintenance**

Stormwater management systems shall be maintained by the owner so that the stormwater management systems perform as they were originally designed as required by Section 7 (Inspection and Maintenance) of the Addendum which outlines inspection and maintenance obligations of existing and new stormwater management systems.

Inspection and maintenance agreements shall provide terms for what constitutes a failure to maintain a stormwater management system and the enforcement options available to Forsyth County. If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then:

- 1) An owner's failure to maintain the stormwater management system so that it performs as it was originally designed shall constitute and be addressed as a violation of, or failure to comply with, owner's property maintenance obligations.
- 2) To address such a failure to maintain the stormwater management system, Forsyth County shall have all the powers and remedies that are available to it for other violations of an owner's property maintenance obligations, including without limitation prosecution, penalties, abatement, and emergency measures.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-193. Variances from requirements**

- 1) The Department Director may grant a variance from the requirements of this Article if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of this Article will result in unnecessary hardship and will not fulfill the intent of this Article.
- 2) A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, including why a variance should be granted. The request shall include all information necessary to evaluate the proposed variance. The Department Director may ask for any additional documents or information from the applicant. Failure to provide requested documents or information shall result in an automatic denial.
- 3) The Department Director will conduct a review of the request for a variance and may approve, deny, or request additional information for the variance.

(Ord. No. 75, § XX, XX-XX-2021)

## **Sec. 34-194. Appeals**

- 1) Any person aggrieved by a decision of the Department Director, including any decision with reference to the granting or denial of a variance from the terms of this Article, may appeal the decision by filing a written notice of appeal with the Department Director within seven (7) days of the issuance of such decision. A notice of appeal shall state the specific reason why the decision of the Department Director is alleged to be in error.
- 2) If the Department Director does not reverse his or her decision, then the person may file an appeal in the Planning and Development Department to be heard by the Zoning Board of Appeals.

- 3) If the Zoning Board of Appeals does not reverse the decision, then the person may appeal to the Forsyth County Board of Commissioners. The hearing shall be held within the next two meetings of the Board of Commissioners or a date mutually agreed upon in writing by the appellant and the Chair of the County Board of Commissioners. The County Board of Commissioners shall then make its findings within thirty (30) days of the appeal hearing. The appellant shall not be relieved of his obligations during the appeal process.
- 4) If the appellant is dissatisfied with the Board of Commissioners decision, the decision may then be appealed to the County Superior Court.

(Ord. No. 75, § XX, XX-XX-2021)

### **Sec. 34-195. Property Owner Liability; Supplemental Charges**

Any person in violation of any portion of this Article shall pay for all costs associated with the violation, including, but not limited to, sampling, testing, containment, cleanup, injury, legal and other costs.

(Ord. No. 75, § XX, XX-XX-2021),

Secs. 34-196--34-220. Reserved