

**ARTICLE VIII  
POST-DEVELOPMENT STORMWATER MANAGEMENT  
FOR NEW DEVELOPMENT AND RE-DEVELOPMENT**

**AN ORDINANCE OF THE CITY OF AUSTELL MAYOR AND CITY COUNCIL, AMENDING SECTION 5, ARTICLE VIII, “POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND RE-DEVELOPMENT” OF THE CODE OF ORDINANCES, AS AMENDED, TO DELETE ARTICLE VIII IN ENTIRETY, INCLUDING ANY AMENDMENTS THERETO, AND REPLACE IT WITH A NEW SECTION 5, ARTICLE VIII, “POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND RE-DEVELOPMENT” TO REPEAL CONFLICTING PROVISIONS; AND FOR OTHER PURPOSES**

**WHEREAS**, Section 5, Article VIII of the City of Austell Code of Ordinances sets out the requirements and procedures to control the adverse effects of post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment by focusing on the types of frequently occurring storm events that generate the most water quality impacts; and

**WHEREAS**, the use of green infrastructure and runoff reduction practices improves water quality in our streams and reduces the magnitude and frequency of flooding and combined sewer overflow events through the infiltration, evapotranspiration, and reuse of stormwater runoff; and

**WHEREAS**, the use of trees, shrubs and other vegetation associated with green infrastructure mitigates impacts of urban heat islands, reduces energy demand by decreasing the amount of energy used for heating and cooling, improves air quality, increases carbon sequestration, and improves aesthetics; and

**WHEREAS**, the City of Austell is required to remove barriers to green infrastructure in accordance with National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System permit requirements; and

**WHEREAS**, the Metropolitan North Georgia Water Planning District Act, O.C.G.A. §12-5-570, *et seq.*, requires that the City of Austell adopt and administer the Metropolitan North Georgia Water Planning District’s model Post-Development Stormwater Management for New Development and Redevelopment or equally effective; and

**WHEREAS**, in an effort to streamline the permitting process in accordance with the goals of Austell Public Works, a stormwater consultation meeting early in the permitting process will ultimately speed up the time that it takes to acquire a permit; and

**WHEREAS**, ongoing maintenance of stormwater management facilities is necessary to ensure proper functionality; and

**WHEREAS**, the Director of Austell Public Works recommends that the following sections of the City of Austell’s Code of Ordinances be amended in order to effectuate the changes outlined above.

**NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTELL, GEORGIA that the following sections are hereby deleted and replaced its entirety with the following:**

- Section 5-101. Introduction.
- Section 5-102. Purpose and Intent.
- Section 5-103. Definitions.
- Section 5-104. Applicability.
- Section 5-105. Designation of Ordinance Administrator.
- Section 5-106. Reserved.
- Section 5-107. Reserved.
- Section 5-108. Stormwater Design Manual.
- Section 5-109. Permit Procedures and Requirements.
- Section 5-110. Stormwater Consultation Meeting.
- Section 5-111. Submittal Requirements for Stormwater Management Plans.
- Section 5-112. Off-Site Facilities.
- Section 5-113. Performance Criteria for Stormwater Management.
- Section 5-114. High Risk Operation and Hotspot Requirements.
- Section 5-115. Single Family Residential Plan Requirements.
- Section 5-116. Minimum Requirements.
- Section 5-117. Stormwater Management Inspection and Maintenance.
- Section 5-118. Performance and Maintenance Bonds.
- Section 5-119. Construction Inspections of Post-Development Stormwater Management System
- Section 5-120. Ongoing Inspection and Maintenance of Stormwater Management Facilities and Practices.
- Section 5-121. Notice of Violation.
- Section 5-122. Enforcement.
- Section 5-123. Penalties.

**SECTION 5-103. INTRODUCTION.**

It is hereby determined that:

- a. Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition;
- b. Land development projects and other land use conversions can also contribute to increased nonpoint source pollution and degradation of receiving waters;
- c. The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;
- d. These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment projects by the use of structural and nonstructural measures, such as the conservation or restoration of open space and greenspace areas;
- e. Localities in the State of Georgia are required to comply with a number of both State and Federal laws, regulations, and permits which require a locality to address the impacts of post-development stormwater runoff quality and nonpoint source pollution; and
- f. Therefore, the City of Austell has established this set of regulations governing the management of post-development stormwater runoff and the ongoing maintenance of stormwater control systems for the purpose of protecting local water resources from runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.”

**SECTION 5-104. PURPOSE AND INTENT.**

- a. The purpose of this Article is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment by focusing on the types of frequently occurring storm events that generate the most water quality impacts.
- b. Proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. This ordinance seeks to meet those purposes through the following objectives:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
2. Establish post-construction stormwater management and site planning and design criteria to protect natural resources from the direct impacts of the land development process, and to preserve and/or restore natural hydrologic conditions on development sites;
3. Encourage the use of nonstructural stormwater management methodologies, stormwater better site design practices, peak rate and/or runoff reduction, and the preservation of greenspace and other conservation areas by establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establish design and application criteria for the construction and use of structural stormwater control facilities that meet the minimum post-development stormwater management standards;
5. Coordinate site design plans with the City of Austell's greenspace protection plan;
6. Establish provisions for the long-term responsibility for operation, inspection, maintenance, and repair of private structural stormwater control facilities and threat to public safety or the environment;
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 compliance; and
8. Protect public health and safety by reducing the risk of localized flooding and reducing the amount of runoff entering public rights of way.

#### **SECTION 5-105. DEFINITIONS.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

**Conservation Easement:** An agreement between a land owner and the City of Austell, other government agency, or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

**Demolition:** The removal of an existing building, structure, or other impervious surface.

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

**Detention Facility:** A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

**Developer:** A person who undertakes land development activities.

**Development:** A land development or land development project.

**Director:** The Director of Austell Public Works or his/her designee.

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

**Erosion, Sedimentation, and Pollution Control Plan:** A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.

**Extended Detention:** The detention of stormwater runoff for an extended period, typically 24 hours or greater.

**Extreme Flood Protection:** Measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

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

**Grading:** Altering ground surfaces to specified elevations, dimensions and slopes; this includes, but is not limited to, stripping, cutting, filling, stockpiling and shaping or any combination thereof and includes the land in its cut or filled condition.

**Greenfield:** Land in its natural condition.

**Greenspace:** Permanently protected areas of the site that are preserved in a vegetated state.

**Green Infrastructure:** An interconnected natural system and/or engineered system that strengthens and mimics natural hydrologic functions and processes through the use of plants and soil to slow, filter, evapotranspire, and infiltrate stormwater runoff close to its source; or the capture and reuse of stormwater runoff.

**High Risk Operation:** An area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater as consistent with facilities operating under a Standard Industrial Code or requiring coverage under the Georgia General National Pollution Discharge Elimination System Stormwater Permit for Discharges from Industrial Activities or as identified as a highly visible pollutant source per the City of Austell's Stormwater Management Plan developed in accordance with the requirements of the City of Austell's National Pollution Discharge Elimination System Municipal Separate Storm Sewer System permit.

**Hotspot:** An area with, or having potential for a high level of pollution and/or contamination within a larger area of low adverse environmental impact or normal environmental quality.

**Hydrologic Soil Group:** A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

**Impervious Cover:** A surface composed of any material that significantly impedes or prevents the natural percolation of water into soil, which includes, but is not limited to, rooftops, buildings, streets and roads, and standard concrete or asphalt surface.

**Industrial Stormwater Permit:** A National Pollutant Discharge Elimination System permit issued to an entity which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**Inspection and Maintenance Agreement:** A written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which, when properly recorded in the deed records of the Superior Court of Cobb County or Douglas County, whichever is applicable, constitutes a restriction on the title to a site or other land involved in a land development project.

**Jurisdictional Wetland:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, as determined by the United States Army Corps of Engineers.

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

**Land Development Activities:** Those actions or activities which comprise, facilitate, or result in land development.

**Land Development Project:** A discrete land development undertaking.

**National Pollutant Discharge Elimination System Permit:** The applicable national pollutant discharge elimination system permit issued by the Georgia State Environmental Protection Division and in effect at the time of application for a post-development stormwater plan approval.

**New Development:** A land development activity on a previously undeveloped site.

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

**Nonstructural Stormwater Management Practice:** 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.

**Off-site Facility:** A stormwater management facility located outside the boundaries of the site.

**On-site Facility:** A stormwater management facility located within the boundaries of the site.

**Overbank Flood Protection:** Measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (for example, flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding up to the 25-year frequency storm events.

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

**Percolation:** The process of absorption of stormwater runoff into the subsoil.

**Permit:** The permit issued by Austell Public Works to the applicant which is required for undertaking any land development activity.

**Person:** Except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county, or other political subdivision of the State, any interstate body, or any other legal entity.

**Post-Development:** The time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

**Pre-Development:** The time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the City of Austell. Where phased development or plan approval occurs, which includes but is not limited to demolition, preliminary grading, roads and utilities, the existing conditions at the time prior to issuance of the first project-related approval or permit shall represent pre-developed conditions, in accordance with Section 5-113(d).

**Project:** the portion of the proposed development in terms of the area of land to be disturbed.

**Q:** The peak rate of discharge.

**Redevelopment:** A land development project or addition on a previously developed site.

**Regional Stormwater Management Facility:** Stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for site-specific on-site controls may be either eliminated or reduced.

**Responsible Party:** The owner or owner's agent.

**Runoff:** The flow of surface water resulting from precipitation.

**Runoff Reduction:** The interception, evapotranspiration, infiltration or capture and reuse of stormwater runoff.

**Single Family Residential:** The development or redevelopment of a lot containing a single one or two family dwelling as defined in.

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



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

**Stormwater Management:** The collection, retention, detention, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flooding, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

**Stormwater Management Facility:** Any infrastructure that controls or conveys stormwater runoff.

**Stormwater Management Measure:** Any stormwater management facility or nonstructural stormwater practice.

**Stormwater Management Plan:** The document(s) describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this ordinance.

**Stormwater Management Site Plan:** An engineering drawing depicting how and where stormwater management facilities and practices will be installed on the site.

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

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

**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 and quality, the period of release, or the velocity of flow of such runoff.

**Subdivision:** 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.

**SECTION 5-104. APPLICABILITY.**

- a. **Development and Redevelopment.** This Article shall apply to all development and redevelopment, except single family residential development, unless exempt pursuant to Section 5-104(d). The standards found in this Article apply to any new development or redevelopment site that meets one or more of the following:
1. New development that involves the creation of any impervious cover; or
  2. New development that involves land development activities of one disturbed acre or more; or
  3. Redevelopment that involves land development activity of one disturbed acre or more; or
  4. Redevelopment that includes the creation, addition, or demolition and replacement of 500 square feet or more of impervious cover; or
  5. Demolition that leaves in place more than 500 square feet of impervious cover within the area of demolition, unless building permit application for replacement structure or use which includes appropriate stormwater management is in place.
- b. **Single Family Residential.** Section 5-113(a), Section 5-113(b), Section 5-115, and Section 5-116 of this Article shall apply to a single family residential development, unless exempt pursuant to Section 5-104(d). For the purposes of this Article, a single family residential development shall include the following:
1. Development or redevelopment of any site involving the construction of a single- family residence; or
  2. Addition or modification that involves the creation, addition, or demolition and replacement of 1,000 square feet or more of impervious cover to any single family residential site.
- A single family residential development shall not include development or redevelopment of a site intended to be developed as a larger common plan of development or sale as defined in Section 22-1 of the City of Austell's Comprehensive Zoning Ordinance
- c. **High risk operation and hotspot.** This Article shall apply to any new development or redevelopment, regardless of size, that meets the definition of Hotspot or High Risk Operation, which includes, but is not limited to, fueling stations or industrial facilities with potential for runoff pollution.
- d. **Exemptions.** The following activities are exempted from Sections (a), (b) and (c) above, but shall be subject to the minimum requirements in Section 5-116:

1. Agricultural or silvicultural land management activities within properly zoned agricultural areas resulting in less than 1,000 square feet of impervious surface;
2. Regrading or reshaping existing athletic fields or public parks resulting in less than 1,000 square feet of new impervious surface;
3. Installations, repairs, or modifications to storm drains, drainage structures, storm water management facilities, or other drainage facilities to improve drainage capabilities;
4. Installations, repairs, or modifications to sanitary sewer facilities to expand or improve sanitary sewer service capabilities;
5. Work specifically related to the installation, repair, or maintenance of utility service connections, including but not limited to sewer, water, electric, telephone, and gas, to existing facilities;
6. Installations of dumpster pads with drains connected to sanitary sewers;
7. Installations or modifications to existing structures to accommodate Americans with Disability Act requirements, including but not limited to elevator shafts, handicapped access ramps and parking, and enlarged entrances or exits;
8. Installations or modifications to existing structures to address health and safety issues or compliance with City of Austell Code of Ordinance requirements, including but not limited to fire escapes, stairways, and additional exits;
9. Installations to existing structures of incidental mechanical or electrical equipment placed on areas of previously existing impervious surfaces;
10. Installation of hardscape less than 5,000 square feet, such as uncovered parking, pedestrian, or patio areas, which utilize pervious pavement or other appropriate infiltration techniques;
11. Incidental maintenance or repair of existing impervious paved surfaces which impact less than 1,000 square feet;
12. Overlays or resurfacing of existing impervious paved surfaces;
13. Any work permitted in the public rights of way such as the installations of sidewalks, driveway aprons, and street cuts, or projects on private property necessitated by activities in the public rights of way;

14. Sidewalks or trails 15 feet wide or less where runoff is directed via sheet flow toward vegetated areas at least twice as wide as the paved area, provided that the potential for erosion is adequately addressed;
15. Stream bank stabilization or restoration activities, or activities solely for the purpose of environmental remediation;
16. Replacement of an existing driveway to access a single family residential development;  
or
17. Any minor work which in the professional judgment of the Director, or his/her designee, is deemed in the best interest of the City of Austell.

**SECTION 5-105. DESIGNATION OF ORDINANCE ADMINISTRATOR.**

The Director of Austell Public Works, or his/her designee, is hereby appointed to administer and implement the provisions of this Article.

**SECTION 5-106. RESERVED**

**SECTION 5-107. RESERVED.**

**SECTION 5-108. STORMWATER DESIGN MANUAL.**

Austell Public Works will utilize the policy, criteria and information, including technical specifications and standards, in the Georgia Stormwater Management Manual, the applicable sections of the Coastal Stormwater Supplement and any relevant rules, regulations, or policies of the City of Austell including pertinent sections of the City of Austell Code of Ordinances, or procedures of Austell Public Works in effect at the time of application for the proper implementation of the requirements of this ordinance. The manual may be updated and expanded periodically based on improvements in science, engineering, monitoring and local maintenance experience.

**SECTION 5-109. PERMIT PROCEDURES AND REQUIREMENTS.**

- a. No owner or developer shall perform any land development activities without first meeting the requirements of this Article prior to commencing the proposed activity.
- b. Any owner or developer proposing a land development activity shall obtain a building permit or other appropriate approval from the City of Austell.
- c. A permit application shall be accompanied by the following items in order to be considered:

- a. Stormwater consultation meeting certification in accordance with Section 5-110;
  - b. Stormwater management plan in accordance with Section 5-111;
  - c. Inspection and maintenance agreement in accordance with Section 5-117;
  - d. Performance bond in accordance with Section 5-118, if applicable; and
  - e. Permit application and plan.
- d. The approved stormwater management plan shall obligate the responsible party to accomplish all land clearing, construction, development and drainage in accordance with the stormwater management plan. Any and all permits for development activities may be revoked at any time if the construction of stormwater management facilities is not conducted in strict accordance with approved plans.
  - e. Applicant or responsible party shall obtain all state and federal permits required for the proposed development activity in addition to the plans and permits required by Austell Public Works.
  - f. Austell Public Works shall inform the applicant or responsible party whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved. If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, Austell Public Works shall notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same.
  - g. Upon a finding by Austell Public Works that the permit application, stormwater management plan and inspection and maintenance agreement meet the requirements of this ordinance, the Austell Public Works may issue a permit for the land development project, provided all other legal requirements for the issuance of such permit have been met.
  - h. Notwithstanding the issuance of the permit, in conducting the land development project, the applicant or responsible party shall be subject to the following requirements:
    - a. The applicant or responsible party shall comply with all applicable requirements of the approved plan and this ordinance and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
    - b. The land development project shall be conducted only within the area specified in the approved plan;
    - c. Austell Public Works shall be allowed access to the site for inspection and enforcement; and

- d. No changes may be made to an approved plan without review and written approval by Austell Public Works.
- i. Upon completion of the project, the applicant or responsible party shall submit the stormwater engineer's certification and as-built plan as required by Section 5-119(b). If the as-built differs substantially from the approved plan but is still acceptable to Austell Public Works, then the applicant or responsible party shall update the recorded inspection and maintenance agreement upon approval of Austell Public Works."

**SECTION 5-110. STORMWATER CONSULTATION MEETING.**

- a. When a development, redevelopment or demolition of a site that meets at least one of the applicability criteria found in Section 5-104(a) is proposed, the owner, developer, engineer, or agent shall participate in a consultation meeting with Austell Public Works to discuss the post-development stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and ideas for stormwater management designs utilizing green infrastructure and runoff reduction techniques. The owner, developer, engineer, or agent shall receive a consultation meeting certification at the conclusion of the consultation meeting.

This consultation meeting shall be held prior to approval of a preliminary plat or the submittal of an application for a permit in accordance with the following procedure:

1. Austell Public Works shall schedule a consultation meeting within five (5) business days from the date a written meeting request is received.
  2. Failure of Austell Public Works to schedule a consultation meeting within the time required by this section shall waive the requirements of Section 5-110(a) and a copy of the written meeting request submitted to Austell Public Works by the owner, developer, engineer, or agent attached to the permit application shall meet the requirement of the consultation meeting certification in Section 5-109(c)(1).
  3. If no consultation meeting is requested or attended by the owner, developer, engineer, or agent prior to the submittal of a permit application, Austell Public Works may delay review of the permit application until such meeting is held; provided however that when the land development activity involves only an application for the erection of a structure governed by City of Austell Comprehensive Zoning ordinance, the requirements of Section 5-109(c)(1) and Section 5-110(a) shall not apply.
- b. To assist Austell Public Works' review of the land development project and to assist the applicant or responsible party with the creation of a stormwater management plan, the following information should be submitted prior to or at the time of the consultation meeting:

1. Existing conditions / proposed site plans. Existing conditions and proposed site layout sketch plans, which shall illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas, and other impervious surfaces.
2. Infiltration rates. Infiltration rates shall be determined by soil surveys, on-site soil analysis, or percolation test. If a site has been previously developed or graded or contains urban soil types, a percolation test is required.
3. Natural resources inventory. A written or graphic inventory of the natural resources in existence prior to the commencement of the project. This inventory shall address resources both on the site and in the surrounding area that is or may be impacted by the project. This inventory shall also include a description of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks, including but not limited to drinking water well setbacks and septic setbacks. Particular attention should be paid to environmentally sensitive features that present constraints for development.
4. Stormwater management system concept plan. A written or graphic concept plan of the proposed post-development stormwater management system that identifies the scope and magnitude of the project and related stormwater requirements, and identifies how stormwater better site design techniques will be used to reduce the need for structural stormwater controls. The plan shall also include: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

**SECTION 5-111. SUBMITTAL REQUIREMENTS FOR STORMWATER MANAGEMENT PLANS.**

- a. The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this ordinance, including the performance criteria set forth in Section 5-113.
- b. This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a Professional Engineer licensed in the State of Georgia, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the Georgia Stormwater Management

Manual, the Coastal Stormwater Supplement, and the City of Austell's submittal requirements for commercial and single-family residential development. Plans and studies shall be presented in a format that itemizes each of the requirements in Section 5-111(c), including performance criteria set forth in Section 5-113.

- c. The stormwater management plan must ensure that the requirements and criteria in this ordinance are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the applicable design requirements and forms found in the Georgia Stormwater Management Manual, the Coastal Stormwater Supplement, and the City of Austell's submittal requirements for commercial and single-family residential development. This includes but is not limited to the following:
1. Common address and legal description of site;
  2. Vicinity map;
  3. Existing conditions/proposed site plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces;
  4. Infiltration rates. Infiltration rates shall be determined by soil surveys, on-site soil analysis, or a percolation test. If site has been previously developed or graded or contains urban soil types, a percolation test is required;
  5. Natural resources inventory. A written or graphic inventory of the natural resources in existence prior to the commencement of the project. This inventory shall address resources both on the site and in the surrounding area that is or may be impacted by the project. This inventory shall also include a description of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks, including but not limited to drinking water well setbacks and septic setbacks. Particular attention should be paid to environmentally sensitive features that present constraints for development;
  6. Existing conditions hydrologic analysis. The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, in accordance with the Georgia Stormwater Management Manual, which shall include: a topographic map of existing site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each sub-basin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and



structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, predevelopment conditions shall be modeled using the established guidelines in Section 5-113;

7. Post-development hydrologic analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall be calculated in accordance with the Georgia Stormwater Management Manual, and include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each sub-basin affected by the project; calculations for determining the runoff volumes that need to be addressed for each sub-basin for the development project to meet the post-development stormwater management performance criteria in Section 5-113; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For a subdivision of land or planned development, post-development runoff volumes, rates, and velocities shall be calculated based on the built out conditions of the entire parcel to be subdivided, regardless of future ownership of individual lots. Estimates of impervious surfaces shall be made based on maximum allowable lot coverage in accordance with the City of Austell's Comprehensive Zoning ordinance when meeting the performance criteria in Section 5-113 (c) through Section 5-113 (i). The developer of said subdivided parcel may provide the Runoff Reduction/Water Quality measures in accordance with Section 5-113 (a) and Section 5-113 (b) for individual lots and must be reflected accordingly on the final plat;
8. Stormwater management system. The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: a map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in Section 5-113; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including

stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans, TMDL implementation plans, and/or local greenspace protection plan;

9. Post-development downstream analysis. A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is ten percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the stormwater design manual;
10. Construction phase erosion, sedimentation, and pollution control plan. An erosion, sedimentation, and pollution control plan in accordance with the City of Austell Soil Erosion, Sedimentation, and Pollution Control ordinance, the Georgia Erosion and Sedimentation Control Act, and any National Pollutant Discharge Elimination System permit for construction activities. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls. Prior to the approval of the stormwater management plan, the applicant or responsible party shall submit a proposed staged construction and inspection control schedule for approval; otherwise, the construction and inspection control schedule will be for the entire drainage system. No stage work related to the construction of stormwater management facilities or Best Management Practices shall proceed until the next proceeding stage of work, according to the sequence specified in the approved staged construction and inspection control schedule, as inspected and approved. Runoff reduction and water quality measures shall be installed in the final phase of construction to prevent clogging;
11. Stormwater landscaping plan. A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved;

12. Operations and maintenance plan. Detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. This plan will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include a narrative describing how stormwater management system is designed to function, including capture, runoff control, water quality treatment, channel protection and flood protection, a narrative describing ongoing operations and maintenance procedures for all stormwater management facilities and practices as shown on the Stormwater Management Site Plan, an inspection and maintenance schedule, description of maintenance tasks, identification of responsible parties for ongoing maintenance, description of funding source, and a review of access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan;
13. Maintenance access easements. The applicant or responsible party must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Such easements shall be reflected in all plats and surveys;
14. Inspection and maintenance agreements. The owner must execute an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management facility or practice in accordance with Section 5-117; and
15. Evidence of acquisition of applicable local and non-local permits. The applicant or responsible party shall certify and provide documentation to Austell Public Works that all applicable environmental permits have been acquired for the site prior to approval of the site development and stormwater management plan.

#### **SECTION 5-112. OFF-SITE FACILITIES.**

- a. The stormwater management plan for each land development project shall provide for stormwater management measures located on the site of the project, unless provisions are made to manage stormwater by an off-site or regional stormwater management facility. The off-site or regional stormwater management facility, if applicable, must comply with the following:
  1. The off-site or regional stormwater management facility must be located on property legally dedicated for the purpose;

2. The off-site or regional stormwater management facility must be designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by on-site practices;
  3. There must be a legally-obligated entity responsible for long-term operation and maintenance of the off-site or regional stormwater facility; and
  4. On-site measures shall be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the off-site facility.
- b. A stormwater management plan that shows the adequacy of the off-site or regional stormwater management facility must be submitted to Austell Public Works.
- c. To be eligible for a modification, the applicant must demonstrate to the satisfaction of Austell Public Works that the use of an off-site or regional stormwater management facility will not result in the following impacts to upstream or downstream areas:
1. Increased threat of flood damage to public health, life, and property;
  2. Deterioration of existing culverts, bridges, dams, and other structures;
  3. Accelerated streambank or streambed erosion or siltation;
  4. Degradation of in-stream biological functions or habitat; or
  5. Water quality impairment in violation of state water quality standards, and/or violation of any state or federal regulations.

**SECTION 5-113. PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT.**

For new developments, the following performance criteria shall be applied to the area of the site impacted by the proposed work. For redevelopment, the following performance criteria shall be applied to the area of the site impacted by the proposed work, provided that the impacted area does not exceed 35 percent of the previously developed area. If the impacted area exceeds 35 percent of the previously developed area, the following performance criteria shall be applied to the entire development, including the previously developed area:

- a. Stormwater runoff reduction. The stormwater runoff volume generated by the first 1.0” of rainfall shall be retained on-site in order to help maintain pre-development site hydrology and help protect the local watershed from several indirect impacts of the land development process, including decreased groundwater recharge, decreased base flow and degraded water quality. A stormwater management system is presumed to comply with this criteria if:

1. It includes green infrastructure practices that provide for the interception and evapotranspiration, infiltration, or capture and reuse of stormwater runoff, that have been selected, designed, constructed and maintained in accordance with the information presented in the latest edition of the Georgia Stormwater Management Manual and applicable sections of the Coastal Stormwater Supplement; or constitutes an alternative practice responsibly designed and documented by the engineer to reproduce the intent of the Georgia Stormwater Management Manual and applicable sections of the Coastal Stormwater Supplement; and
  2. It is designed to provide the amount of stormwater runoff reduction from the runoff generated by the first 1.0” of rainfall as specified in the latest edition of the Georgia Stormwater Management Manual and applicable sections of the Coastal Stormwater Supplement.
- b. Water quality protection. All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if it satisfies the stormwater runoff reduction criteria in Section 5-113(a). However, if any of the stormwater runoff volume generated by the first 1.0” of rainfall cannot be reduced or retained on the development site, due to site characteristics or constraints, such as, a high water table, surface bedrock, contaminated soils, low soil infiltration rates, or the presence of a High Risk Operation or Hotspot, the remaining volume shall be increased by a multiplier of 1.2 and shall be intercepted and treated in one or more stormwater management practices that provide at least an 80 percent reduction in total suspended solids loads in accordance with the following criteria:
1. The practice shall be sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;
  2. Appropriate structural stormwater controls or nonstructural management practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual and applicable sections of the Coastal Stormwater Supplement; or constitutes an alternative practice responsibly designed and documented by the engineer to reproduce the intent of the Georgia Stormwater Management Manual and applicable sections of the Coastal Stormwater Supplement; and
  3. Runoff from a High Risk Operation or Hotspot land use activity identified by Austell Public Works is adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural management practices and pollution prevention practices.
- c. Stream channel protection. Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following approaches:

1. Preservation, restoration and/or reforestation with native vegetation of the applicable stream buffer pursuant to the City of Austell Stream Buffer ordinance.
2. 24-hour extended detention storage of the one-year, 24-hour return frequency storm event; and
3. Erosion prevention measures such as energy dissipation and velocity control.

For redevelopment projects that create, add, or demolish and replace less than 5,000 square feet of impervious surface and meet the performance criteria of Section 5-113 (a) and Section 5-113 (b), stream channel protection is not required.

- d. Overbank flooding protection. For new development (greenfield), overbank flood and property protection shall be provided by attenuating the post-development peak discharge rate to the pre-development rate up to the 25-year, 24-hour return frequency storm event.

For redevelopment, overbank flood and property protection shall be provided by reducing the peak discharge rate up to the 25-year, 24-hour storm event in accordance with the following formula:

$$\frac{\%PIC}{2} = \%PDRR$$

PIC = Pre-development Impervious Cover

PDRR = Peak Discharge Rate Reduction

For sites where previous demolition has removed impervious surfaces, pre-development peak discharge rate calculations and percentage of impervious coverage shall be calculated based on pre-demolition conditions. For sites that have been demolished and have remained fallow and stabilized with vegetation for a minimum of 5 years, they shall be considered as having pre-development conditions of 20% impervious cover for purposes of calculating peak discharge rate reduction.

For land development permitted post-2004 and served by appropriate stormwater management facilities, subsequent redevelopment of the same area is not required to further reduce the peak discharge rate, provided that the site continues to meet the reduction previously achieved.

For redevelopment projects that create, add, or demolish and replace less than 5,000 square feet of impervious surface and meet the performance criteria of Section 5-113(a) and Section 5-113 (b), overbank flooding protection is not required.

- e. Extreme flooding protection. Extreme flood and public safety protection shall be provided by attenuating and safely conveying the 100-year, 24-hour return frequency storm event without any increase in peak discharge rate, such that flooding is not exacerbated.

For redevelopment projects that create, add, or demolish and replace less than 5,000 square feet of impervious surface and meet the performance criteria of Section 5-113 (a) and Section 5-113 (b), extreme flooding protection is not required.

- f. Structural stormwater controls.
  - 1. All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual and applicable sections of the Coastal Stormwater Supplement. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from Austell Public Works before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, Austell Public Works may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.
  - 2. Applicant or responsible party shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.
- g. Stormwater credits for nonstructural measures. The applicant or responsible party may take credit for the use of stormwater better site design practices and reduce the water quality volume and runoff reduction requirements. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual and applicable sections of the Coastal Stormwater Supplement.
- h. Drainage system guidelines. Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public rights-of-way. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:

1. Methods to calculate stormwater flows shall be in accordance with the Georgia Stormwater Management Manual;
  2. All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan, pursuant to Section 5-111, using the methods included in the Georgia Stormwater Management Manual; and
  3. Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the Georgia Stormwater Management Manual and applicable sections of the Coastal Stormwater Supplement.
- i. Rules for dam safety and any other applicable federal, state, or local requirement. Any land development activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

#### **SECTION 5-114. HIGH RISK OPERATION AND HOTSPOT REQUIREMENTS.**

In addition to the provisions of this Article, developments and redevelopments that meet the definition of High Risk Operation or Hotspot shall meet the following criteria:

- a. No portion of the area of risk shall bypass the stormwater management system;
- b. At a minimum, treatment method must be as specified in the Georgia Stormwater Management Manual and be designed for the specific pollutant of risk; and
- c. The Director may, at his/her discretion, create additional and specific policies regarding these types of operations.

#### **SECTION 5-115. SINGLE FAMILY RESIDENTIAL PLAN REQUIREMENTS.**

In addition to the requirements in Sections 5-113(a), 5-113(b), and 5-116, single family residential developments not otherwise exempt from this Article, under Section 5-104(d), shall submit a grading plan and an erosion, sediment, and pollution control plan to Austell Public Works identifying the following:

- a. Existing and proposed ground contours and elevations;
- b. Sanitary and storm sewers, structures and easements;
- c. configuration and finished floor elevations for existing and proposed building structures;
- d. Location, configuration and finished elevations for existing and proposed paved areas;



- e. Erosion and sediment control practices in conformance with the Manual for Erosion and Sediment Control in Georgia, Chapter 6; and
- f. Plan shall be signed and sealed by State of Georgia registered architect, landscape architect, engineer or land surveyor.

**SECTION 5-116. MINIMUM REQUIREMENTS.**

For all development and redevelopment activities, including single family residential and those which are otherwise exempt from this Article, the following minimum requirements shall apply:

- a. Lots and buildings shall be developed in a manner to ensure that storm water exiting individual parcels or lots under post-developed conditions does not adversely impact the adjacent parcels or lots as a result of concentrated flows, flooding, erosion, or deposits of silt or sediment;
- b. The stormwater discharge from a downspout, cistern, or any water collection device shall be located a distance of no less than 10 feet from common property line and oriented so direction of concentrated flow is not toward the adjacent property line;
- c. Discharge from any downspout described in (a) must be dissipated, infiltrated, or diverted such that flows will not be concentrated; and
- d. No person shall erect, construct, or otherwise permit any obstruction that prevents the natural or contained flow of water to any component of the stormwater system of the City of Austell, unless such obstruction is allowed as part of a permit approved pursuant to this article.

**SECTION 5-117. STORMWATER MANAGEMENT INSPECTION AND MAINTENANCE.**

- a. Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder for which Austell Public Works requires ongoing maintenance, the owner or responsible party shall execute an inspection and maintenance agreement. Such agreement shall be submitted prior to the issuance of any such permit and shall be binding on all appropriate successors in title of the site.

Inspection and maintenance agreements may terminate or be amended by subsequent development approved by Austell Public Works. Any applicant for development will be required to obtain an inspection and maintenance agreement for all proposed and existing stormwater management facilities on the property.

- b. The inspection and maintenance agreement must be approved by Austell Public Works; and upon approval, recorded in the deed records of the Superior Court of Cobb County or Douglas County, whichever is applicable, prior to issuance of permit.
- c. Responsibility for the operation and maintenance of the stormwater management facility or practice shall remain with the property owner and shall pass to any successor in title. If portions of the site are sold or otherwise transferred, the inspection and maintenance responsibility shall pass to the appropriate successor in title. Such transfers shall designate for each portion of the site, the responsible party to be permanently responsible for its inspection and maintenance and shall be recorded in the deed records for the property. The inspection and maintenance agreement shall identify by name or official title the person responsible for carrying out the inspection and maintenance.
- d. Where a stormwater maintenance facility exists on any property to be subdivided, including, but not limited to, subdivisions, planned developments, multi-family developments, or mixed use developments, the facility shall be owned in accordance with the following:
  1. If a property owners' association is created, in accordance with the Georgia Property Owners' Association Act (O.C.G.A. § 44-3-220, et seq.), the stormwater maintenance facility shall be treated as a common area, and the following provisions, at a minimum, shall be included in the property owners' association's bylaws or covenants:
    - a. Governance by the Georgia Property Owners' Association Act (O.C.G.A. § 44-3-220, et seq.) or a successor to that Act that grants lien rights to the association for maintenance expenses and tax obligations;
    - b. Automatic compulsory membership in the property owners' association of all lot purchasers and their successors in title;
    - c. A fair and uniform method of assessment and collection/payment for dues, maintenance, and related costs;
    - d. Perpetual and continued inspection and maintenance liability for the required stormwater facility;
    - e. Filing of all required covenants, declarations, and restrictions with the Clerk of the Superior Court of Cobb County or Douglas County, whichever is applicable; and
    - f. Prior arrangements for the transfer of ownership of the stormwater maintenance facility in fair and equal parts to all lot owners in the case of the property owners' association dissolving.

2. If a property owners association is not created, the stormwater maintenance facility shall be owned by all appropriate successors in title to the land in the development sold or otherwise transferred. Costs associated with the inspection and maintenance of the stormwater facility shall be assessed equitably among all of the lots in the development.
- e. The inspection and maintenance agreement shall comply with the requirements of Austell Public Works and include, at a minimum, a description of the property, appropriate details of the stormwater management plan, an operations and maintenance plan, and a plan for annual inspection.
  - f. In addition to enforcing the terms of the inspection and maintenance agreement Austell Public Works may also enforce all of the provisions for ongoing inspection and maintenance in Section 5-120 of this Article.
  - g. Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder, the owner or responsible party shall execute an indemnification and hold harmless agreement, in a form provided by Austell Public Works, which shall state at a minimum, that the owner or responsible party shall indemnify and hold harmless the City of Austell or Austell Public Works for any up-stream or down-stream damages due to structural, design, installation, maintenance or any other failure of the stormwater management facility.”

**SECTION 5-118. PERFORMANCE AND MAINTENANCE BONDS.**

Bonding requirements shall be in parallel with those included for Erosion Control Application Requirements, pursuant to Section 5-50 B. 7. Prior to release of the bond, all stormwater facilities shall be intact and functioning as designed and in accordance with this Article.

**SECTION 5-119. CONSTRUCTION INSPECTIONS OF POST-DEVELOPMENT STORMWATER MANAGEMENT SYSTEM.**

- a. Inspections to ensure plan compliance during construction. Periodic inspections of the stormwater management system construction shall be conducted by the staff of Austell Public Works or conducted and certified by a professional engineer who has been approved by Austell Public Works. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.
  1. All inspections shall be documented with written reports that contain the following information:
    - a. The date and location of the inspection;
    - b. Whether construction is in compliance with the approved stormwater management plan;

- c. Variations from the approved construction specifications; and
  - d. Any other variations or violations of the conditions of the approved stormwater management plan.
2. If any violations are found, the responsible party shall be notified in writing of the nature of the violation and the required corrective actions.
- b. Final inspection and as built plans. Upon completion of a project, and prior to final inspection or issuance of a certificate of occupancy, the applicant or responsible party is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants or responsible parties are required to submit an electronic format as determined by Austell, and a paper and electronic format of the actual “as built” plans for any stormwater management facilities or practices after final construction is completed. The plan must show the as built configuration for all stormwater management facilities and practices and must be certified by a professional engineer. A final inspection by Austell Public Works is required before the release of any performance securities can occur.

**SECTION 5-120. ONGOING INSPECTION AND MAINTENANCE OF STORMWATER FACILITIES AND PRACTICES.**

- a. Absence of an inspection and maintenance agreement. The absence of an inspection and maintenance agreement shall not relieve the owner or responsible party from performing proper maintenance and inspection of the stormwater management facility. If the owner or responsible party fails or refuses to meet the requirements of this ordinance, the Austell Public Works may correct the violation as provided in Section 5-120(e) hereof.
- b. Pre-existing facilities. For facilities constructed prior to the effective date of this ordinance, the owner or responsible party shall perform proper maintenance of the stormwater management facility as required by the indemnification agreement. If the owner or responsible party fails or refuses to meet the requirements of this ordinance, Austell Public Works may correct the violation as provided in Section 5-120(e) hereof.
- c. Maintenance inspection of storm water facilities and practices. The following shall apply to all sites regardless of the existence of an inspection and maintenance agreement:
  - 1. Stormwater management facilities and practices included in a stormwater management plan must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this Article.
  - 2. A stormwater management facility or practice shall be inspected on a periodic basis by the owner or responsible party. Such inspection shall be conducted in accordance with the approved inspection and maintenance agreement pursuant to Section 5-117, or, in

the absence of an inspection and maintenance agreement, in accordance with the requirements of this Article. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the Austell Public Works shall notify the party responsible for carrying out the maintenance plan by registered or certified mail, or by delivery in person of a notice of violation to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. Failure of Austell Public Works to provide such notice shall not relieve the owner or responsible party from performing proper maintenance and inspection of the stormwater management facility. If the owner or responsible party fails or refuses to meet the requirements of the inspection and maintenance agreement, Austell Public Works may correct the violation as provided in Section 5-120(e) hereof; and

3. An annual inspection shall be performed and attested to by a qualified professional (certified Level II Georgia Soil and Water Conservation Commission Specialist) with results reported to Austell Public Works. Any deficiencies noted in either operation or maintenance of the facility must be included in the report along with the proposed remedies required and a time table for their implementation. If substantial deficiencies are found, a follow-up inspection to confirm correction of said deficiencies shall be performed and reported to Austell Public Works.
  4. Inspection programs by Austell Public Works may be established on any reasonable basis, including but not limited to routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to reviewing maintenance and repair records, sampling discharges, surface water, groundwater, and material or water in stormwater management facilities, and evaluating the condition of stormwater management facilities and practices.
- d. Records of maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall maintain records of all maintenance and repairs and provide copies to Austell Public Works upon request.
  - e. Failure to maintain. If an owner or responsible party fails or refuses to meet the requirements of the inspection and maintenance agreement or indemnity agreement, Austell Public Works, after 30 days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. Austell Public Works may assess the owner of the facility for the cost of repair work which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

**SECTION 5-121. NOTICE OF VIOLATION.**

- a. Notice of violation. If Austell Public Works determines that an owner or responsible party has failed to comply with the terms and conditions of a permit, an approved stormwater management plan, inspection and maintenance agreement, indemnity agreement, or any provision of this Article, it shall issue a written notice of violation to such owner or other responsible party. Where a person is engaged in activity covered by this Article without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible party in charge of the activity being conducted on the site. The notice of violation shall contain:
1. The name and address of the owner or the applicant or the responsible party;
  2. The address or other description of the site upon which the violation is occurring;
  3. A statement specifying the nature of the violation;
  4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
  5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
  6. A statement that the determination of violation may be appealed to the municipal court by filing a written notice of appeal within 30 days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, or where a person is taking action without a required permit, such a notice of violation must be appealed within 24 hours).

**SECTION 54-122. ENFORCEMENT.**

- a. Any action or inaction which violates the provisions of this Article or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of any of the penalties described in Section 5-123 may be in addition to and shall not prevent such equitable relief.
- b. All development and redevelopment activities, including single family residential development, shall comply with the following:

1. Lots and buildings shall be developed in a manner to ensure that storm water exiting individual parcels or lots under post-developed conditions does not adversely impact the adjacent parcels or lots as a result of concentrated flows, flooding, erosion, or deposits of silt or sediment;
2. The stormwater discharge from a downspout, cistern, or any water collection device shall be located a distance of no less than 10 feet from common property line and oriented so direction of concentrated flow is not toward the adjacent property line;
3. Discharge from any downspout described in (a) must be dissipated, infiltrated, or diverted such that flows will not be concentrated; and
4. No person shall erect, construct, or otherwise permit any obstruction that prevents the natural or contained flow of water to any component of the stormwater system of the City of Austell, unless such obstruction is allowed as part of a permit approved pursuant to this article.

Failure to comply with the requirements of this subsection shall be a violation of this Article subject to the enforcement provisions and penalties outlined in this Article.

- c. Right-of-entry for inspection. Austell Public Works may 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.

### **Section 5-123. Penalties.**

- a. Penalties. In the event the remedial measures described in the notice of violation have not been completed within the time provided in the notice of violation for appeal to the municipal court, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed.
- b. Notice. Upon expiration of the notice, Austell Public Works may notify the person in violation of its intent to seek penalties and of any other enforcement to be taken under this section. Before taking any of the following actions or imposing any of the following penalties, Austell Public Works shall first notify the owner or other responsible party in writing of its intended action, and shall provide not more than 72 hours (except, that in the event the violation constitutes an immediate danger to public health or public safety, or taking action without a required permit 24 hours' notice shall be provided) to cure such violation. In the event the owner or other responsible party fails to cure such violation after such notice and cure period, Austell Public Works may take any one or more of the following actions or impose any one or more of the following penalties:

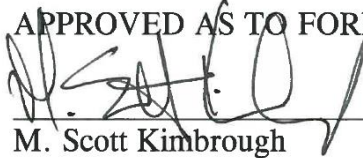
1. Stop work order. Austell Public Works may issue a stop work order which shall be served on the owner or other responsible party. It shall stop all activities at the site except for the work required to remedy the violation or violations. The stop work order shall remain in effect until the owner or other responsible party has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein.
2. Withhold certificate of occupancy. Austell Public Works shall notify Austell Community Development to refuse the issuance of a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the owner or other responsible party has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
3. Suspension, revocation or modification of permit. Austell Public Works may suspend, revoke, or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the owner or other responsible party has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein. Suspension, revocation or modification of a permit shall not prohibit the responsible party from taking the necessary remedial measures to cure the violations.
4. Civil penalties. In the event the owner or other responsible party fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the time provided in the notice of violation, or such greater period as Austell Public Works shall deem appropriate after Austell Public Works has taken one or more of the actions described above, Austell Public Works may issue a citation for the violation of this Article and impose a penalty not to exceed \$2,500.00 per violation, depending on the severity of the violation, for each day the violation remains un-remedied after receipt of the notice of violation.
5. Criminal penalties. For intentional and flagrant violations of this ordinance, Austell Public Works may issue a citation to the owner or other responsible party, requiring such person to appear in municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense. Imposition of criminal penalties shall be a separate and distinct action from the imposition of civil penalties pursuant to subsection (4) of this section.
6. Liability. Implementation of this section does not reduce liability under any other applicable state or federal law, rule, or requirement.



- c. 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. Each remedy listed in this subsection may be sought and imposed for each day of violation and Austell Public Works may seek cumulative remedies.

**ADOPTED** by the City Council of the City of Austell this 5th day of January 2015.


APPROVED AS TO FORM:

  
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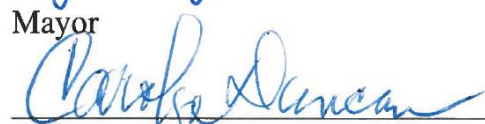
M. Scott Kimbrough  
City Attorney

  
\_\_\_\_\_

Joe Jerkins  
Mayor

  
\_\_\_\_\_

Randy L. Bowens  
Director, Public Works

  
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Carolyn Duncan  
City Clerk

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Certified By:   
Carolyn Duncan, City Clerk

Date: January 5, 2015

