

FIRST READING March 10, 2020

SECOND READING _____

PASSED _____

AN ORDINANCE NO. BR2020-09

AN ORDINANCE TO ENACT POSTDEVELOPMENT AND REDEVELOPMENT STORMWATER MANAGEMENT CONTROLS AND STANDARDS AND TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR STREAM BUFFER PROTECTIONS AND REGULATION AND TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR RULES AND REGULATIONS GOVERNING ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS TO STORM SEWERS AND TO PROVIDE FOR ENFORCEMENT; AND FOR OTHER PURPOSES

WHEREAS, the purpose of this Ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment and to provide for stream buffer protections and to provide for rules and regulations governing illicit discharges and connections to storm sewers; and

WHEREAS, it has been determined that proper management of post-development stormwater runoff, stream buffers and any discharges or connections to storm sewers will minimize damage to public and private property and

30 infrastructure, safeguard the public health, safety, environment and general welfare
31 of the public, and protect water and aquatic resources;

32 **NOW, THEREFORE, BE IT ORDERED, AND IT IS HEREBY**
33 **ORDAINED** by the Council of the City of Blue Ridge, Georgia, as authorized by
34 the City Charter and general law, as follows:

35 **SECTION 1**

36
37 **ARTICLE 1. POSTDEVELOPMENT STORMWATER MANAGEMENT**
38 **FOR NEW DEVELOPMENT AND REDEVELOPMENT**

39
40 **1. PURPOSE AND INTENT.**

41
42 This article seeks to meet that purpose through the following objectives:

43
44 (a) Establish decision-making processes surrounding land development
45 activities that protect the integrity of the watershed and preserve the health
46 of water resources;

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48 (b) Require that new development and redevelopment maintain the pre-
49 development hydrologic response in their post-development state as nearly
50 as practicable in order to reduce flooding, streambank erosion, nonpoint
51 source pollution and increases in stream temperature, and maintain the
52 integrity of stream channels and aquatic habitats;

53
54 (c) Establish minimum post-development stormwater management
55 standards and design criteria for the regulation and control of stormwater
56 runoff quantity and quality;

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58 (d) Establish design and application criteria for the construction and use
59 of structural stormwater control facilities that can be used to meet the
60 minimum post-development stormwater management standards;

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62 (e) Encourage the use of nonstructural stormwater management
63 and stormwater better site design practices, such as the preservation of

64 greenspace and other conservation areas, to the maximum extent
65 practicable;

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67 (f) Establish provisions for the long-term responsibility for and
68 maintenance of structural stormwater control facilities and
69 nonstructural stormwater management practices to ensure that they
70 continue to function as designed, are maintained, and pose no threat to
71 public safety; and

72
73 (g) Establish administrative procedures for the submission, review,
74 approval and disapproval of stormwater management plans, and for the
75 inspection of approved active projects, and long-term follow up.

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77 **2. APPLICABILITY.**

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79 (a) This article shall be applicable to all land development, including, but
80 not limited to, site plan applications, subdivision applications, and grading
81 applications, unless exempt pursuant to Subsection (b) below. These
82 standards apply to any new development or redevelopment site that meets
83 one (1) or more of the following criteria:

84
85 1. New development that involves the creation of five thousand
86 (5,000) square feet or more of impervious cover, or that involves other
87 land development activities of one (1) acre or more;

88 2. Redevelopment that includes the creation, addition or
89 replacement of five thousand (5,000) square feet or more of
90 impervious cover, or that involves other land development activity of
91 one (1) acre or more;

92 3. Any new development or redevelopment, regardless of size, that
93 is defined by the Zoning and Land Development Director or their
94 designee (“Director”) to be a hotspot land use; or

95 4. Land development activities that are smaller than the minimum
96 applicability criteria set forth in items (1) and (2) above if such
97 activities are part of a larger common plan of development, even
98 though multiple, separate and distinct land development activities may
99 take place at different times on different schedules.

100
101 (b) The following activities are exempt from this article:

- 103 1. Individual single-family residential lots that are not part of a
104 subdivision or phased development project;
- 105
- 106 2. Additions or modifications to existing single-family residential
107 structures; and
- 108
- 109 3. Repairs to any stormwater management facility or practice
110 deemed necessary by the Director.
- 111

112 **3. DESIGNATION OF ARTICLE ADMINISTRATOR.**

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114 The Director or his/her designee is hereby appointed to administer and
115 implement the provisions of this article.

116
117 **4. COMPATIBILITY WITH OTHER REGULATIONS.**

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119 This article is not intended to modify or repeal any other article, rule,
120 regulation or other provision of law. The requirements of this article are in addition
121 to the requirements of any other ordinance, rule, regulation or other provision of
122 law, and where any provision of this article imposes restrictions different from
123 those imposed by any other ordinance, rule, regulation or other provision of law,
124 whichever provision is more restrictive or imposes higher protective standards for
125 human health or the environment shall control.

126
127 **5. STORMWATER DESIGN MANUAL.**

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129 The City of Blue Ridge will utilize the policy, criteria and information
130 including technical specifications and standards in the latest edition of the
131 Georgia Stormwater Management Manual and any relevant local addenda, for the
132 proper implementation of the requirements of this article. The manual may be
133 updated and expanded periodically, based on improvements in science,
134 engineering, monitoring and local maintenance experience.

135
136 **6. DEFINITIONS.**

137
138 *Applicant* means a person submitting a post-development stormwater
139 management application and plan for approval.

140 *Channel* means a natural or artificial watercourse with a definite bed and
141 banks that conducts continuously or periodically flowing water.

142 *Detention* means an agreement between a land owner and the City of Blue
143 Ridge or other government agency or land trust that permanently protects open
144 space or greenspace on the owner's land by limiting the amount and type of
145 development that can take place, but continues to leave the remainder of the fee
146 interest in private ownership.

147 *Detention* means the temporary storage of stormwater runoff in a stormwater
148 management facility for the purpose of controlling the peak discharge.

149 *Detention facility* means a detention basin or structure designed for the
150 detention of stormwater runoff and gradual release of stored water at controlled
151 rates.

152 *Developer* means a person who undertakes land development activities.

153 *Development* means a land development or land development project.

154 *Drainage easement* means an easement appurtenant or attached to a tract or
155 parcel of land allowing the owner of adjacent tracts or other persons to
156 discharge stormwater runoff onto the tract or parcel of land subject to the drainage
157 easement.

158 *Erosion and sedimentation control plan* means a plan that is designed to
159 minimize the accelerated erosion and sediment runoff at a site during land
160 disturbance activities.

161 *Extended Detention* means the detention of stormwater runoff for an
162 extended period, typically twenty-four (24) hours or greater.

163 *Extreme flood protection* means measures taken to prevent adverse impacts
164 from large low-frequency storm events with a return frequency of one hundred
165 (100) years or more.

166 *Flooding* means a volume of surface water that is too great to be confined
167 within the banks or walls of a conveyance or stream channel and that overflows
168 onto adjacent lands.

169 *Greenspace or open space* means permanently protected areas of the site
170 that are preserved in a natural state.

171 *Hotspot* means an area where the use of the land has the potential to generate
172 highly contaminated runoff, with concentrations of pollutants in excess of those
173 typically found in stormwater.

174 *Hydrologic soil group (HSG)* means a Natural Resource Conservation
175 Service classification system in which soils are categorized into four (4) runoff
176 potential groups. The groups range from group A soils, with high permeability and
177 little runoff produced, to group D soils, which have low permeability rates and
178 produce much more runoff.

179 *Impervious Cover* means a surface composed of any material that
180 significantly impedes or prevents the natural infiltration of water into soil.

181 Impervious surfaces include, but are not limited to, rooftops, buildings, streets and
182 roads, and any concrete or asphalt surface.

183 *Industrial Stormwater Permit* means a National Pollutant Discharge
184 Elimination System (NPDES) permit issued to an industry or group of industries
185 which regulates the pollutant levels associated with industrial stormwater
186 discharges or specifies on-site pollution control strategies.

187 *Infiltration* means the process of percolating stormwater runoff into the
188 subsoil.

189 *Inspection and maintenance agreement* means a written agreement
190 providing for the long-term inspection and maintenance of stormwater
191 management facilities and practices on a site or with respect to a land development
192 project, which when properly recorded in the deed records constitutes a restriction
193 on the title to a site or other land involved in a land development project.

194 *Jurisdictional wetland* means an area that is inundated or saturated by
195 surface water or groundwater at a frequency and duration sufficient to support a
196 prevalence of vegetation typically adapted for life in saturated soil conditions,
197 commonly known as hydrophytic vegetation.

198 *Land development* means any land change, including, but not limited to,
199 clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading,
200 excavating, transporting and filling of land, construction, paving, and any other
201 installation of impervious cover.

202 *Land development activities* means those actions or activities which
203 comprise, facilitate or result in land development.

204 *Land development project* means a discrete land development undertaking.

205 *New development* means a land development activity on a previously
206 undeveloped site.

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

215 *Nonstructural stormwater management practice* or *nonstructural*
216 *practice* means any natural or planted vegetation or other nonstructural component
217 of the stormwater management plan that provides for or enhances stormwater
218 quantity and/or quality control or other stormwater management benefits, and
219 includes, but is not limited to, riparian buffers, open and greenspace areas, overland
220 flow filtration areas, natural depressions, and vegetated channels.

221 *Off-site facility* means a stormwater management facility located outside the
222 boundaries of the site.

223 *On-site facility* means a stormwater management facility located within the
224 boundaries of the site.

225 *Overbank flood protection* means measures taken to prevent an increase in
226 the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed
227 the capacity of the channel and enter the floodplain), and that are intended to
228 protect downstream properties from flooding for the two-year through twenty-five-
229 year frequency storm events.

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

233 *Permit* means the permit issued by the City of Blue Ridge to the applicant
234 which is required for undertaking any land development activity.

235 *Person* means, except to the extent exempted from this article, any
236 individual, partnership, firm, association, joint venture, public or private
237 corporation, trust, estate, commission, board, public or private institution, utility,
238 cooperative, city, county or other political subdivision of the State, any interstate
239 body or any other legal entity.

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

243 *Pre-development* refers to the time period, or the conditions that exist, on a
244 site prior to the commencement of a land development project and at the time that
245 plans for the land development of a site are approved by the plan approving
246 authority. Where phased development or plan approval occurs (preliminary
247 grading, roads and utilities, etc.), the existing conditions at the time prior to the
248 first item being approved or permitted shall establish pre-development conditions.

249 *Project* means a land development project.

250 *Redevelopment* means a land development project on a previously developed
251 site, but excludes ordinary maintenance activities, remodeling of existing
252 buildings, resurfacing of paved areas, and exterior changes or improvements which
253 do not materially increase or concentrate stormwater runoff, or cause additional
254 nonpoint source pollution.

255 *Regional stormwater management facility or regional*
256 *facility* means stormwater management facilities designed to control stormwater
257 runoff from multiple properties, where the owners or developers of the individual
258 properties may assist in the financing of the facility, and the requirement for on-
259 site controls is either eliminated or reduced.

260 *Runoff* means stormwater runoff.

261 *Site* means the parcel of land being developed, or the portion thereof on
262 which the land development project is located.

263 *stormwater better site design* means nonstructural site design approaches and
264 techniques that can reduce a site's impact on the watershed and can provide for
265 nonstructural stormwater management. *stormwater better site design* includes
266 conserving and protecting natural areas and greenspace, reducing impervious cover
267 and using natural features for stormwater management.

268 *Stormwater management* means the collection, conveyance, storage,
269 treatment and disposal of stormwater runoff in a manner intended to prevent
270 increased flood damage, streambank channel erosion, habitat degradation and
271 water quality degradation, and to enhance and promote the public health, safety
272 and general welfare.

273 *Stormwater management facility* means any infrastructure that controls or
274 conveys stormwater runoff.

275 *Stormwater management measure* means any stormwater management
276 facility or nonstructural stormwater practice.

277 *Stormwater management plan* means a document describing how existing
278 runoff characteristics will be affected by a land development project and containing
279 measures for complying with the provisions of this article.

280 *Stormwater management system* means the entire set of structural and
281 nonstructural stormwater management facilities and practices that are used to
282 capture, convey and control the quantity and quality of the stormwater runoff from
283 a site.

284 *Stormwater retrofit* means a stormwater management practice designed for
285 a currently developed site that previously had either no stormwater management
286 practice in place or a practice inadequate to meet the stormwater management
287 requirements of the site.

288 *Stormwater runoff* means the flow of surface water resulting from
289 precipitation.

290 *Structural stormwater control* means a structural stormwater management
291 facility or device that controls stormwater runoff and changes the characteristics of
292 that runoff including, but not limited to, the quantity and quality, the period of
293 release or the velocity of flow of such runoff.

294 *Subdivision* means the division of a tract or parcel of land resulting in one
295 (1) or more new lots or building sites for the purpose, whether immediately or in
296 the future, of sale, other transfer of ownership or land development, and includes
297 divisions of land resulting from or made in connection with the layout or
298 development of a new street or roadway or a change in an existing street or
299 roadway.

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301 **7. PERMIT PROCEDURES AND REQUIREMENTS.**

302
303 Permit application requirements:

- 304 1. No owner or developer shall perform any land development activities
305 without first meeting the requirements of this article prior to commencing
306 the proposed activity.
- 307 2. Unless specifically exempted by this article, any owner or developer
308 proposing a land development activity shall submit to the City of Blue Ridge
309 a permit application on a form provided by the city for that purpose.
- 310 3. Unless otherwise exempted by this article, a permit application shall
311 be accompanied by the following items in order to be considered:
- 312 a. *Stormwater* concept plan and consultation meeting certification
313 in accordance with the stormwater concept plan and consultation
314 meeting.
 - 315 b. *Stormwater* management plan in accordance with the
316 stormwater management plan requirements.
 - 317 c. Inspection and maintenance agreement in accordance with this
318 article, if applicable;
 - 319 d. Performance bond in accordance with the performance and
320 maintenance bonds, if applicable; and
 - 321 e. Permit application and plan review fees in accordance with the
322 application procedure described below.

323
324 **8. STORMWATER CONCEPT PLAN AND CONSULTATION**
325 **MEETING.**

326
327 (a) Before any stormwater management permit application is submitted,
328 it is recommended that the land owner or developer meet with the City of
329 Blue Ridge for a consultation meeting on a concept plan for the post-
330 development stormwater management system to be utilized in the proposed
331 land development project. This consultation meeting should take place at the
332 time of the preliminary plan of subdivision or other early step in the
333 development process. The purpose of this meeting is to discuss the post-
334 development stormwater management measures necessary for the proposed
335 project, as well as to discuss and assess constraints, opportunities and
336 potential ideas for stormwater management designs before the formal site
337 design engineering is commenced.

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339 (b) To accomplish this goal the following information should be included
340 in the concept plan which should be submitted to advance of the meeting:

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(c) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(d) *Natural resources inventory.* A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(e) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings. Local watershed plans, and any relevant resource protection plans will be consulted in the discussion of the concept plan.

9. STORMWATER MANAGEMENT PLAN REQUIREMENTS.

(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 article, including the performance criteria set forth in the post-development stormwater management performance criteria set forth below.

380 (b) This plan shall be in accordance with the criteria established in this
381 section and must be submitted with the stamp and signature of a professional
382 engineer (PE) licensed in the state of Georgia, who must verify that the
383 design of all stormwater management facilities and practices meet the
384 submittal requirements outlined in the submittal checklist(s) found in
385 the stormwater design manual.

386
387 (c) The stormwater management plan must ensure that the requirements
388 and criteria in this article are being complied with and that opportunities are
389 being taken to minimize adverse post-development stormwater runoff
390 impacts from the development. The plan shall consist of maps, narrative, and
391 supporting design calculations (hydrologic and hydraulic) for the
392 proposed stormwater management system. The plan shall include all of the
393 information required in the stormwater management site plan checklist
394 found in the stormwater design manual. This includes:

- 395 1. Common address and legal description of site.
- 396 2. Vicinity map.
- 397 3. Existing conditions hydrologic analysis. The existing condition
398 hydrologic analysis for stormwater runoff rates, volumes, and
399 velocities, which shall include: a topographic map of existing site
400 conditions with the drainage basin boundaries indicated; acreage, soil
401 types and land cover of areas for each subbasin affected by the project;
402 all perennial and intermittent streams and other surface water features;
403 all existing stormwater conveyances and structural control facilities;
404 direction of flow and exits from the site; analysis of runoff provided
405 by off-site areas upstream of the project site; and methodologies,
406 assumptions, site parameters and supporting design calculations used
407 in analyzing the existing conditions site hydrology. For
408 redevelopment sites, predevelopment conditions shall be modeled
409 using the established guidelines for the portion of the site undergoing
410 land development activities.
- 411 4. Post-development hydrologic analysis. The post-development
412 hydrologic analysis for stormwater runoff rates, volumes, and
413 velocities, which shall include: a topographic map of developed site
414 conditions with the post-development drainage basin boundaries
415 indicated; total area of post-development impervious surfaces and
416 other land cover areas for each subbasin affected by the project;
417 calculations for determining the runoff volumes that need to be
418 addressed for each subbasin for the development project to meet the
419 post-development stormwater management performance criteria;

420 location and boundaries of proposed natural feature protection and
421 conservation areas; documentation and calculations for any applicable
422 site design credits that are being utilized; methodologies, assumptions,
423 site parameters and supporting design calculations used in analyzing
424 the existing conditions site hydrology. If the land development activity
425 on a redevelopment site constitutes more than fifty (50) percent of the
426 site area for the entire site, then the post-development stormwater
427 management performance criteria must be met for the stormwater
428 runoff from the entire site.

429 5. Stormwater management system. The description, scaled
430 drawings and design calculations for the proposed post-
431 development stormwater management system, which shall include: A
432 map and/or drawing or sketch of the stormwater management
433 facilities, including the location of nonstructural site design features
434 and the placement of existing and proposed structural stormwater
435 controls, including design water surface elevations, storage volumes
436 available from zero to maximum head, location of inlet and outlets,
437 location of bypass and discharge systems, and all orifice/restrictor
438 sizes; a narrative describing how the selected structural stormwater
439 controls will be appropriate and effective; cross-section and profile
440 drawings and design details for each of the structural stormwater
441 controls in the system, including supporting calculations to show that
442 the facility is designed according to the applicable design criteria; a
443 hydrologic and hydraulic analysis of the stormwater management
444 system for all applicable design storms (including stage-storage or
445 outlet rating curves, and inflow and outflow hydrographs);
446 documentation and supporting calculations to show that
447 the stormwater management system adequately meets the post-
448 development stormwater management performance criteria as found
449 in the post-development stormwater management performance
450 criteria; drawings, design calculations, elevations and hydraulic grade
451 lines for all existing and proposed stormwater conveyance elements
452 including stormwater drains, pipes, culverts, catch basins, channels,
453 swales and areas of overland flow; and where applicable, a narrative
454 describing how the stormwater management system corresponds with
455 any watershed protection plans and/or local greenspace protection
456 plan.

457 6. Post-development downstream analysis. A downstream peak
458 flow analysis which includes the assumptions, results and supporting
459 calculations to show safe passage of post-development design flows

460 downstream. The analysis of downstream conditions in the report shall
461 address each and every point or area along the project site's boundaries
462 at which runoff will exit the property. The analysis shall focus on the
463 portion of the drainage channel or watercourse immediately
464 downstream from the project. This area shall extend downstream from
465 the project to a point in the drainage basin where the project area is
466 ten (10) percent of the total basin area. In calculating runoff volumes
467 and discharge rates, consideration may need to be given to any planned
468 future upstream land use changes. The analysis shall be in accordance
469 with the stormwater design manual.

470 7. Construction-phase erosion and sedimentation control plan. An
471 erosion and sedimentation control plan in accordance with the Georgia
472 Erosion and Sedimentation Control Act or NPDES permit for
473 construction activities. The plan shall also include information on the
474 sequence/phasing of construction and temporary stabilization
475 measures and temporary structures that will be converted into
476 permanent stormwater controls.

477 8. Landscaping and open space plan. A detailed landscaping and
478 vegetation plan describing the woody and herbaceous vegetation that
479 will be used within and adjacent to stormwater management facilities
480 and practices. The landscaping plan must also include: the
481 arrangement of planted areas, natural and greenspace areas and other
482 landscaped features on the site plan; information necessary to
483 construct the landscaping elements shown on the plan drawings;
484 descriptions and standards for the methods, materials and vegetation
485 that are to be used in the construction; density of plantings;
486 descriptions of the stabilization and management techniques used to
487 establish vegetation; and a description of who will be responsible for
488 ongoing maintenance of vegetation for the stormwater management
489 facility and what practices will be employed to ensure that adequate
490 vegetative cover is preserved.

491 9. Operations and maintenance plan. Detailed description of
492 ongoing operations and maintenance procedures for stormwater
493 management facilities and practices to ensure their continued function
494 as designed and constructed or preserved. These plans will identify the
495 parts or components of a stormwater management facility or practice
496 that need to be regularly or periodically inspected and maintained, and
497 the equipment and skills or training necessary. The plan shall include
498 an inspection and maintenance schedule, maintenance tasks,
499 responsible parties for maintenance, funding, access and safety issues.

500 Provisions for the periodic review and evaluation of the effectiveness
501 of the maintenance program and the need for revisions or additional
502 maintenance procedures shall be included in the plan.

503 10. Maintenance access easements. The applicant must ensure
504 access from public right-of-way to stormwater management facilities
505 and practices requiring regular maintenance at the site for the purpose
506 of inspection and repair by securing all the maintenance access
507 easements needed on a permanent basis. Such access shall be
508 sufficient for all necessary equipment for maintenance activities.
509 Upon final inspection and approval, a plat or document indicating that
510 such easements exist shall be recorded and shall remain in effect even
511 with the transfer of title of the property.

512 11. Inspection and maintenance agreements. Unless an on-
513 site stormwater management facility or practice is dedicated to and
514 accepted by the City of Blue Ridge as provided in the stormwater
515 management plan requirements below, the applicant must execute an
516 easement and an inspection and maintenance agreement binding on all
517 subsequent owners of land served by an on-site stormwater
518 management facility or practice in accordance with the stormwater
519 management inspection and maintenance agreements.

520 12. Evidence of acquisition of applicable local and non-local
521 permits. The applicant shall certify and provide documentation to the
522 city that all other applicable environmental permits have been
523 acquired for the site prior to approval of the stormwater management
524 plan. This includes, but is not limited to, any disturbance of over one
525 acre shall require submission to the Environmental Protection
526 Division (“EPD”) for review and approval through the Notice of Intent
527 Process.

528
529 **10. STORMWATER MANAGEMENT INSPECTION AND**
530 **MAINTENANCE AGREEMENTS.**

531
532 (a) Prior to the issuance of any permit for a land development activity
533 requiring a stormwater management facility or practice hereunder and for
534 which the city requires ongoing maintenance, the applicant or owner of the
535 site must, unless an on-site stormwater management facility or practice is
536 dedicated to and accepted by the City of Blue Ridge, execute an inspection
537 and maintenance agreement, and/or a conservation easement, if applicable,
538 that shall be binding on all subsequent owners of the site.
539

540 (b) The inspection and maintenance agreement, if applicable, must be
541 approved by the city prior to plan approval, and recorded in the deed records
542 upon final plat approval.

543
544 (c) The inspection and maintenance agreement shall identify by name or
545 official title the person(s) responsible for carrying out the inspection and
546 maintenance. Responsibility for the operation and maintenance of
547 the stormwater management facility or practice, unless assumed by a
548 governmental agency, shall remain with the property owner and shall pass
549 to any successor owner. If portions of the land are sold or otherwise
550 transferred, legally binding arrangements shall be made to pass the
551 inspection and maintenance responsibility to the appropriate successors in
552 title. These arrangements shall designate for each portion of the site, the
553 person to be permanently responsible for its inspection and maintenance.

554
555 (d) As part of the inspection and maintenance agreement, a schedule shall
556 be developed for when and how often routine inspection and maintenance
557 will occur to ensure proper function of the stormwater management facility
558 or practice. The agreement shall also include plans for annual inspections to
559 ensure proper performance of the facility between scheduled maintenance
560 and shall also include remedies for the default thereof.

561
562 (e) In addition to enforcing the terms of the inspection and maintenance
563 agreement, they may also enforce all of the provisions for ongoing inspection
564 and maintenance as found in the right-of-entry for inspection section.

565
566 (d) The City of Blue Ridge, in lieu of an inspection and maintenance
567 agreement, may accept dedication of any existing or future stormwater
568 management facility for maintenance, provided such facility meets all the
569 requirements of this article and includes adequate and perpetual access and
570 sufficient area, by easement or otherwise, for inspection and regular
571 maintenance.

572
573 **11. PERFORMANCE AND MAINTENANCE BONDS.**

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575 The city may require the posting of appropriate bonds by the owner or
576 developer to insure performance of construction and/or maintenance obligations
577 hereunder.

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579 **12. APPLICATION PROCEDURE.**

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(a) Applications for land development permits shall be filed with the City of Blue Ridge.

(b) Permit applications shall include the items set forth in the stormwater management plan requirements above, two (2) copies of the stormwater management plan and the inspection maintenance agreement, if applicable, shall be included.

(c) The application will be checked for completeness within ten business days of its submission. Incomplete applications will be promptly returned to the applicant. Unless approved for independent review, The city shall forward the plans to the Blue Ridge Mountain Soil and Water Conservation District (“BRMSWCD”) Office in Blairsville, Georgia and inform the applicant whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved in a reasonable amount of time, not exceeding 30 days from receiving the review results from the BRMSWCD”).

(d) If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, the city shall notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same, in which event subparagraph (c) above and this subparagraph shall apply to such resubmittal.

(e) Upon a finding by the city that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this article, the city may issue a permit for the land development project, provided all other legal requirements for the issuance of such permit have been met.

(f) Notwithstanding the issuance of the permit, in conducting the land development project, the applicant or other responsible person shall be subject to the following requirements:

1. The applicant shall comply with all applicable requirements of the approved plan and this article and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
2. The land development project shall be conducted only within the area specified in the approved plan;
3. The city shall be allowed to conduct periodic inspections of the project;
4. No changes may be made to an approved plan without review and written approval by the city; and

620 5. Upon completion of the project, the applicant or other
621 responsible person shall submit the engineer's report and certificate
622 and as-built plans determined by the final inspection and as built plans
623 section.

624
625 **13. APPLICATION REVIEW FEES.**

626
627 The fee for review of any stormwater management application shall be based
628 on the fee structure established by the city and shall be made prior to the issuance of
629 any building permit for the development.

630
631 **14. MODIFICATIONS FOR OFF-SITE FACILITIES.**

632
633 (a) The stormwater management plan for each land development project
634 shall provide for stormwater management measures located on the site of the
635 project, unless provisions are made to manage stormwater by an off-site or
636 regional facility. The off-site or regional facility must be located on property
637 legally dedicated for the purpose, must be designed and adequately sized to
638 provide a level of stormwater quantity and quality control that is equal to or
639 greater than that which would be afforded by on-site practices and there must
640 be a legally-obligated entity responsible for long-term operation and
641 maintenance of the off-site or regional stormwater facility. In addition, on-
642 site measures shall be implemented, where necessary, to protect upstream
643 and downstream properties and drainage channels from the site to the off-
644 site facility.

645 (b) A stormwater management plan must be submitted to the city which
646 shows the adequacy of the off-site or regional facility.

647 (c) To be eligible for a modification, the applicant must demonstrate to
648 the satisfaction of the city that the use of an off-site or regional facility will
649 not result in the following impacts to upstream or downstream areas:

- 650 1. Increased threat of flood damage to public health, life, and
651 property;
 - 652 2. Deterioration of existing culverts, bridges, dams, and other
653 structures;
 - 654 3. Accelerated streambank or streambed erosion or siltation;
 - 655 4. Degradation of in-stream biological functions or habitat; or
 - 656 5. Water quality impairment in violation of State water quality
657 standards, and/or violation of any state or federal regulations.
- 658

659 **15. POST-DEVELOPMENT STORMWATER MANAGEMENT**
660 **PERFORMANCE CRITERIA.**

661
662 The following performance criteria shall be applicable to all stormwater
663 management plans, unless otherwise provided for in this article:

664
665 (a) *Water quality.* All stormwater runoff generated from a site shall be
666 adequately treated before discharge. It will be presumed that a stormwater
667 management system complies with this requirement if:

668 1. It is sized to treat the prescribed water quality treatment volume
669 from the site, as defined in the Georgia Stormwater Management
670 Manual;

671 2. Appropriate structural stormwater controls or nonstructural
672 practices are selected, designed, constructed or preserved, and
673 maintained according to the specific criteria in the
674 Georgia Stormwater Management Manual; and

675 3. Runoff from hotspot land uses and activities identified by the
676 City are adequately treated and addressed through the use of
677 appropriate structural stormwater controls, nonstructural practices and
678 pollution prevention practices.

679 (b) *Stream channel protection.* Protection of stream channels from bank
680 and bed erosion and degradation shall be provided by using all of the
681 following three approaches:

682 1. Preservation, restoration and/or reforestation (with native
683 vegetation) of the applicable stream buffer;

684 2. Twenty-four-hour extended detention storage of the one-year,
685 twenty-four-hour return frequency storm event; provided, however,
686 that this requirement may be adjusted or waived by the city for sites
687 that discharge directly into larger streams, rivers, wetlands, or lakes,
688 or to a man-made channel or conveyance system where the reduction
689 in these flows will not have an impact on upstream or downstream
690 streambank or channel integrity.

691 3. Erosion prevention measures such as energy dissipation and
692 velocity control.

693 (c) *Overbank flooding protection.* Downstream overbank flood and
694 property protection shall be provided by controlling (attenuating) the post-
695 development peak discharge rate to the pre-development rate for the twenty-
696 five-year, twenty-four-hour return frequency storm event. If control of the
697 one-year, twenty-four-hour storm is exempted, then peak discharge rate
698 attenuation of the two-year through the twenty-five-year return frequency

699 storm event must be provided; provided however, that this requirement may
700 be adjusted or waived by the city for sites where the post-development
701 downstream analysis shows that uncontrolled post-development conditions
702 will not increase downstream peak flows, or that meeting the requirement
703 will cause greater peak flow downstream impacts than the uncontrolled post-
704 development conditions.

705 (d) *Extreme flooding protection.* Extreme flood and public safety
706 protection shall be provided by controlling and safely conveying the one
707 hundred-year, twenty-four-hour return frequency storm event such that
708 flooding is not exacerbated; provided however that this requirement may be
709 adjusted or waived by the city for sites where the post-development
710 downstream analysis shows that uncontrolled post-development conditions
711 will not increase downstream peak flows, or that meeting the requirement
712 will cause greater peak flow downstream impacts than the uncontrolled post-
713 development conditions.

714 (e) *Structural stormwater controls.*

715 1. All structural stormwater management facilities shall be
716 selected and designed using the appropriate criteria from the
717 Georgia Stormwater Management Manual. All structural stormwater
718 controls must be designed appropriately to meet their intended
719 function. For other structural stormwater controls not included in the
720 Georgia Stormwater Management Manual, or for which pollutant
721 removal rates have not been provided, the effectiveness and pollutant
722 removal of the structural control must be documented through prior
723 studies, literature reviews, or other means and receive approval from
724 city before being included in the design of a stormwater management
725 system. In addition, if hydrologic or topographic conditions, or land
726 use activities warrant greater control than that provided by the
727 minimum control requirements, the city may impose additional
728 requirements deemed necessary to protect upstream and downstream
729 properties and aquatic resources from damage due to increased
730 volume, frequency, and rate of stormwater runoff or increased
731 nonpoint source pollution loads created on the site in question.

732 2. Applicants shall consult the Georgia Stormwater Management
733 Manual for guidance on the factors that determine site design
734 feasibility when selecting and locating a
735 structural stormwater control.

736 (f) *Stormwater credits for nonstructural measures.* The use of one (1) or
737 more site design measures by the applicant may allow for a reduction in the
738 water quality treatment volume required under subsection (a) above. The

739 applicant may, if approved by the city, take credit for the use
740 of stormwater better site design practices and reduce the water quality
741 volume requirement. For each potential credit, there is a minimum set of
742 criteria and requirements which identify the conditions or circumstances
743 under which the credit may be applied. The site design practices that qualify
744 for this credit and the criteria and procedures for applying and calculating
745 the credits are included in the Georgia Stormwater Management Manual.

746 (g) *Drainage system guidelines.* Stormwater conveyance facilities, which
747 may include but are not limited to culverts, stormwater drainage pipes, catch
748 basins, drop inlets, junction boxes, headwalls, gutter, swales, channels,
749 ditches, and energy dissipaters shall be provided when necessary for the
750 protection of public right-of-way and private properties adjoining project
751 sites and/or public right-of-ways. Stormwater conveyance facilities that are
752 designed to carry runoff from more than one (1) parcel, existing or proposed,
753 shall meet the following requirements:

- 754 1. Methods to calculate stormwater flows shall be in accordance
755 with the stormwater design manual;
- 756 2. All culverts, pipe systems and open channel flow systems shall
757 be sized in accordance with the stormwater management plan using
758 the methods included in the stormwater design manual; and
- 759 3. Design and construction of stormwater conveyance facilities
760 shall be in accordance with the criteria and specifications found in
761 the stormwater design manual.

762 (h) *Dam design guidelines.* Any land disturbing activity that involves a
763 site which proposes a dam shall comply with the Georgia Safe Dams Act and
764 Rules for Dam Safety as applicable.

765 766 **16. CONSTRUCTION INSPECTIONS OF POST-DEVELOPMENT** 767 **STORMWATER MANAGEMENT SYSTEM.**

768
769 (a) Inspections to ensure plan compliance during construction. Periodic
770 inspections of the stormwater management system construction shall be
771 conducted by the staff of the City of Blue Ridge or conducted and certified
772 by a professional engineer who has been approved by the city. Construction
773 inspections shall utilize the approved stormwater management plan for
774 establishing compliance.

775
776 (b) All inspections shall be documented with written reports that contain
777 the following information:

- 778 1. The date and location of the inspection;

- 779 2. Whether construction is in compliance with the approved
780 stormwater management plan.
781 3. Variations from the approved construction specifications; and
782 4. Any other variations or violations of the conditions of the
783 approved stormwater management plan.
784

785 (c) If any violations are found, the applicant shall be notified in writing
786 of the nature of the violation and the required corrective actions.
787

788 **17. FINAL INSPECTION AND AS BUILT PLANS.**
789

790 Upon completion of a project, and before a certificate of occupancy shall be
791 granted, the applicant is responsible for certifying that the completed project is in
792 accordance with the approved stormwater management plan. All applicants are
793 required to submit actual "as built" plans for any stormwater management facilities
794 or practices after final construction is completed. The plan must show the final
795 design specifications for all stormwater management facilities and practices and
796 must be certified by a professional engineer. A final inspection by the city is
797 required before the release of any performance securities can occur.
798

799 **18. ONGOING INSPECTION AND MAINTENANCE OF**
800 **STORMWATER FACILITIES AND PRACTICES.**
801

802 (a) Long-term maintenance inspection of stormwater facilities and
803 practices. Stormwater management facilities and practices included in
804 a stormwater management plan which are subject to an inspection and
805 maintenance agreement must undergo ongoing inspections to document
806 maintenance and repair needs and ensure compliance with the requirements
807 of the agreement, the plan and this article.
808

809 (b) A stormwater management facility or practice shall be inspected on a
810 periodic basis by the responsible person in accordance with the approved
811 inspection and maintenance agreement. In the event that the stormwater
812 management facility has not been maintained and/or becomes a danger to
813 public safety or public health, the city shall notify the person responsible for
814 carrying out the maintenance plan by registered or certified mail to the
815 person specified in the inspection and maintenance agreement. The notice
816 shall specify the measures needed to comply with the agreement and the plan
817 and shall specify the time within which such measures shall be completed.
818 If the responsible person fails or refuses to meet the requirements of the

819 inspection and maintenance agreement, the City of Blue Ridge, may correct
820 the violation as provided in the violations, enforcement and penalties section
821 described below.

822
823 (c) Inspection programs by the city may be established on any reasonable
824 basis, including but not limited to: routine inspections; random inspections;
825 inspections based upon complaints or other notice of possible violations; and
826 joint inspections with other agencies inspecting under environmental or
827 safety laws. Inspections may include, but are not limited to: reviewing
828 maintenance and repair records; sampling discharges, surface water,
829 groundwater, and material or water in stormwater management facilities;
830 and evaluating the condition of stormwater management facilities and
831 practices.

832
833 **19. RIGHT-OF-ENTRY FOR INSPECTION.**

834
835 The terms of the inspection and maintenance agreement shall provide for the
836 city to enter the property at reasonable times and in a reasonable manner for the
837 purpose of inspection. This includes the right to enter a property when it has a
838 reasonable basis to believe that a violation of this article is occurring or has
839 occurred and to enter when necessary for abatement of a public nuisance or
840 correction of a violation of this article.

841
842 **20. RECORDS OF MAINTENANCE ACTIVITIES.**

843
844 Parties responsible for the operation and maintenance of a stormwater
845 management facility shall provide records of all maintenance and repairs to the city.

846
847 **21. FAILURE TO MAINTAIN.**

848
849 If a responsible person fails or refuses to meet the requirements of the
850 inspection and maintenance agreement, the city, after thirty (30) days written notice
851 (except, that in the event the violation constitutes an immediate danger to public
852 health or public safety, twenty-four (24) hours' notice shall be sufficient), may
853 correct a violation of the design standards or maintenance requirements by
854 performing the necessary work to place the facility or practice in proper working
855 condition. The city may assess the owner(s) of the facility for the cost of repair
856 work which shall be a lien on the property, and may be placed on the ad valorem
857 tax bill for such property and collected in the ordinary manner for such taxes.

858

859 **22. VIOLATIONS, ENFORCEMENT AND PENALTIES.**

860
861 (a) Any action or inaction which violates the provisions of this article or
862 the requirements of an approved stormwater management plan or permit,
863 may be subject to the enforcement actions outlined in this section. Any such
864 action or inaction which is continuous with respect to time is deemed to be
865 a public nuisance and may be abated by injunctive or other equitable relief.
866 The imposition of any of the penalties described below shall not prevent such
867 equitable relief. The imposition of any of the penalties described below shall
868 not prevent such equitable relief.

869
870 (b) Notice of violation. If the city determines that an applicant or other
871 responsible person has failed to comply with the terms and conditions of a
872 permit, an approved stormwater management plan or the provisions of this
873 article, it shall issue a written notice of violation to such applicant or other
874 responsible person. Where a person is engaged in activity covered by this
875 article without having first secured a permit therefor, the notice of violation
876 shall be served on the owner or the responsible person in charge of the
877 activity being conducted on the site.

878
879 (c) The notice of violation shall contain:

- 880
881 1. The name and address of the owner or the applicant or the
882 responsible person;
883 2. The address or other description of the site upon which the
884 violation is occurring;
885 3. A statement specifying the nature of the violation;
886 4. A description of the remedial measures necessary to bring the
887 action or inaction into compliance with the permit, the stormwater
888 management plan or this article and the date for the completion of
889 such remedial action;
890 5. A statement of the penalty or penalties that may be assessed
891 against the person to whom the notice of violation is directed; and
892 6. A statement that the determination of violation may be
893 appealed to the city by filing a written notice of appeal within thirty
894 (30) days after the notice of violation (except, that in the event the
895 violation constitutes an immediate danger to public health or public
896 safety, twenty-four (24) hours' notice shall be sufficient).

898 (d) Penalties. In the event the remedial measures described in the notice
899 of violation have not been completed by the date set forth for such
900 completion in the notice of violation, any one (1) or more of the following
901 actions or penalties may be taken or assessed against the person to whom the
902 notice of violation was directed. Before taking any of the following actions
903 or imposing any of the following penalties, the city shall first notify the
904 applicant or other responsible person in writing of its intended action, and
905 shall provide a reasonable opportunity, of not less than ten (10) days (except,
906 that in the event the violation constitutes an immediate danger to public
907 health or public safety, twenty-four (24) hours' notice shall be sufficient) to
908 cure such violation. In the event the applicant or other responsible person
909 fails to cure such violation after such notice and cure period, the city may
910 take any one (1) or more of the following actions or impose any one (1) or
911 more of the following penalties.

912
913 1. *Stop work order.* -The City of Blue Ridge may issue a stop work
914 order which shall be served on the applicant or other responsible
915 person. The stop work order shall remain in effect until the applicant
916 or other responsible person has taken the remedial measures set forth
917 in the notice of violation or has otherwise cured the violation or
918 violations described therein, provided the stop work order may be
919 withdrawn or modified to enable the applicant or other responsible
920 person to take the necessary remedial measures to cure such violation
921 or violations.

922 2. *Withhold certificate of occupancy.* The city may refuse to issue
923 a certificate of occupancy for the building or other improvements
924 constructed or being constructed on the site until the applicant or other
925 responsible person has taken the remedial measures set forth in the
926 notice of violation or has otherwise cured the violations described
927 therein.

928 3. *Suspension, revocation or modification of permit.* The city may
929 suspend, revoke or modify the permit authorizing the land
930 development project. A suspended, revoked or modified permit may
931 be reinstated after the applicant or other responsible person has taken
932 the remedial measures set forth in the notice of violation or has
933 otherwise cured the violations described therein, provided such permit
934 may be reinstated [upon such conditions as the City of Blue Ridge may
935 deem necessary] to enable the applicant or other responsible person to
936 take the necessary remedial measures to cure such violations.

937 4. *Civil penalties.* In the event the applicant or other responsible
938 person fails to take the remedial measures set forth in the notice of
939 violation or otherwise fails to cure the violations described therein
940 within ten (10) days, or such greater period as the city shall deem
941 appropriate (except, that in the event the violation constitutes an
942 immediate danger to public health or public safety, twenty-four (24)
943 hours' notice shall be sufficient) after the city has taken one (1) or
944 more of the actions described above, the city may impose a penalty
945 not to exceed one thousand dollars (\$1,000.00) (depending on the
946 severity of the violation) for each day the violation remains
947 unremedied after receipt of the notice of violation.

948 5. *Criminal penalties.* For intentional and flagrant violations of
949 this article, the city may issue a citation to the applicant or other
950 responsible person, requiring such person to appear in city court to
951 answer charges for such violation. Upon conviction, such person shall
952 be punished by a fine not to exceed one thousand dollars (\$1,000.00)
953 or imprisonment for sixty (60) days or both. Each act of violation and
954 each day upon which any violation shall occur shall constitute a
955 separate offense.
956
957

958 ARTICLE II. STREAM BUFFER PROTECTION

959 1. DEFINITIONS.

960 *Buffer* means, with respect to a stream, a natural or enhanced vegetated
961 area established by the land development requirements lying adjacent to the
962 stream.
963

964 *Impervious cover* means any manmade paved, hardened or structural surface
965 regardless of material. Impervious cover includes but is not limited to rooftops,
966 buildings, streets, roads, decks, swimming pools and any concrete or asphalt.
967

968 *Land development* means any land change, including but not limited to
969 clearing, grubbing, stripping, removal of vegetation, dredging, grading,
970 excavating, transporting and filling of land, construction, paving and any other
971 installation of impervious cover.

972 *Land development activity* means those actions or activities which comprise,
973 facilitate or result in land development.

974 *Land Disturbance* means any land or vegetation change, including, but not
975 limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading,

976 excavating, transporting and filling of land, that do not involve construction,
977 paving or any other installation of impervious cover.

978 *Land disturbance activity* means those actions or activities which comprise,
979 facilitate or result in land disturbance.

980 *Floodplain* means any land area susceptible to flooding, which would have
981 at least a one percent probability of flooding occurrence in any calendar year based
982 on the basin being fully developed as shown on the current land use plan; i.e., the
983 regulatory flood.

984 *Parcel* means any plot, lot or acreage shown as a unit on the latest county
985 tax assessment records.

986 *Permit* means the permit issued by the City of Blue Ridge required for
987 undertaking any land development activity.

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

992 *Protection area* or *stream protection area* means, with respect to a stream,
993 the combined areas of all required buffers and setbacks applicable to such stream.

994 *Riparian* means belonging or related to the bank of a river, stream, lake,
995 pond or impoundment.

996 *Setback* means, with respect to a stream, the area established by the land
997 development requirements below, extending beyond any buffer applicable to the
998 stream.

999 *Stream* means any stream, beginning at:

- 1000 1. The location of a spring, seep, or groundwater outflow that sustains
1001 streamflow; or
- 1002 2. A point in the stream channel with a drainage area of twenty-five (25)
1003 acres or more; or
- 1004 3. Where evidence indicates the presence of a stream in a drainage area
1005 of other than twenty-five (25) acres, the City of Blue Ridge may require
1006 field studies to verify the existence of a stream.

1007
1008 *Stream bank* means the sloping land that contains the stream channel and the
1009 normal flows of the stream.

1010 *Stream channel* means the portion of a watercourse that contains the base
1011 flow of the stream.

1012 *Watershed* means the land area that drains into a particular stream.

1013

1014 **2. APPLICABILITY.**

1015

1016 This article shall apply to all land development activity on property
1017 containing a stream protection area as defined by this article. These requirements
1018 are in addition to, and do not replace or supersede, any other applicable buffer
1019 requirements established under state law and approval or exemption from these
1020 requirements do not constitute approval or exemption from buffer requirements
1021 established under state law or from other applicable local, state or federal
1022 regulations.

1023
1024 **3. GRANDFATHER PROVISIONS.**

1025
1026 This article shall not apply to the following activities:

1027
1028 (a) Work consisting of the repair or maintenance of any lawful use of land
1029 that is zoned and approved for such use on or before the effective date of this
1030 article.

1031
1032 (b) Existing development and on-going land disturbance activities
1033 including but not limited to existing agriculture, silviculture, landscaping,
1034 gardening and lawn maintenance, except that new development or land
1035 disturbance activities on such properties will be subject to all applicable
1036 buffer requirements.

1037
1038 (c) Any land development activity that is under construction, fully
1039 approved for development, scheduled for permit approval or has been
1040 submitted for approval as of the effective date of this article.

1041
1042 (d) Land development activity that has not been submitted for approval,
1043 but that is part of a larger master development plan, such as for an office
1044 park or other phased development that has been previously approved within
1045 two years of the effective date of this article.

1046
1047 **4. EXEMPTIONS.**

1048
1049 The following specific activities are exempt from this article. Exemption of
1050 these activities does not constitute an exemption for any other activity proposed on
1051 a property.

1052
1053 (a) Activities for the purpose of building one of the following:
1054 1. A stream crossing by a driveway, transportation route or utility
1055 line;

- 1056 2. Public water supply intake or public wastewater outfall
1057 structures;
- 1058 3. Intrusions necessary to provide access to a property;
- 1059 4. Public access facilities that must be on the water including boat
1060 ramps, docks, foot trails leading directly to the river, fishing platforms
1061 and overlooks;
- 1062 5. Unpaved foot trails and paths;
- 1063 6. Activities to restore and enhance stream bank stability,
1064 vegetation, water quality and/or aquatic habitat, so long as native
1065 vegetation and bioengineering techniques are used.

1066
1067 (b) Public sewer line easements paralleling the creek, except that all
1068 easements (permanent and construction) and land disturbance should be at
1069 least twenty-five (25) feet from the top of the bank. This includes such
1070 impervious cover as is necessary for the operation and maintenance of the
1071 utility, including but not limited to manholes, vents and valve structures.
1072 This exemption shall not be construed as allowing the construction of roads,
1073 bike paths or other transportation routes in such easements, regardless of
1074 paving material, except for access for the uses specifically cited in the
1075 exemptions portion of this article.

1076
1077 (c) Land development activities within a right-of-way existing at the time
1078 this article takes effect or approved under the terms of this article.

1079
1080 (d) Within an easement of any utility existing at the time this article takes
1081 effect or approved under the terms of this article, land disturbance activities
1082 and such impervious cover as is necessary for the operation and maintenance
1083 of the utility, including but not limited to manholes, vents and valve
1084 structures.

1085
1086 (e) Emergency work necessary to preserve life or property. However,
1087 when emergency work is performed under this section, the person
1088 performing it shall report such work to the city public works director or his
1089 designee on the next business day after commencement of the work. Within
1090 ten (10) days thereafter, the person shall apply for a permit and perform such
1091 work within such time period as may be determined by the public works
1092 director or his designee to be reasonably necessary to correct any impairment
1093 such emergency work may have caused to the water conveyance capacity,
1094 stability or water quality of the protection area.

1095

1096 After the effective date of this article, it shall apply to new subdividing and
1097 platting activities.

1098
1099 Any land development activity within a buffer established hereunder or any
1100 impervious cover within a setback established hereunder is prohibited unless a
1101 variance is granted pursuant to the variance section of this article.

1102
1103 **5. LAND DEVELOPMENT REQUIREMENTS.**

1104
1105 Buffer and setback requirements. All land development activity subject to
1106 this article shall meet the following requirements:

- 1107
1108 (a) An undisturbed natural vegetative buffer shall be maintained for fifty
1109 (50) feet, measured horizontally, on both banks (as applicable) of the
1110 stream as measured from the top of the stream bank. However, the
1111 setback from the Toccoa River shall be one hundred (100') feet.
1112
1113 (b) An additional setback shall be maintained for twenty-five (25) feet,
1114 measured horizontally, beyond the undisturbed natural vegetative
1115 buffer, in which all impervious cover shall be prohibited. Grading,
1116 filling and earthmoving shall be minimized within the setback.
1117
1118 (c) No septic tanks or septic tank drain fields shall be permitted within the
1119 buffer or the setback.

1120
1121 **6. VARIANCES.**

- 1122
1123 (a) Variances from the above buffer and setback requirements may be
1124 granted in accordance with the following provisions:

1125
1126 1. If State law requires approval of a variance by the Environmental
1127 Protection Division (“EPD”), this Section shall not apply and the property
1128 owner shall be required to apply for any requested variance with the EPD.

1129
1130 ~~2.~~ Where a parcel was platted prior to the effective date of this
1131 article, and its shape, topography or other existing physical condition
1132 prevents land development consistent with this article, and the
1133 Director finds and determines that the requirements of this article
1134 prohibit the otherwise lawful use of the property by the owner, after
1135 review and recommendation from the Board of Zoning Appeals, the

1136 City Council of Blue Ridge may grant a variance from the buffer and
1137 setback requirements hereunder, provided such variance requires
1138 mitigation measures to offset the effects of any proposed land
1139 development on the parcel.

1140 32. Except as provided above, the city council shall grant no
1141 variance from any provision of this article without first conducting a
1142 public hearing on the application for variance and authorizing the
1143 granting of the variance by an affirmative vote of the city council.

1144
1145 (b) Variances will be considered in the following cases:

1146
1147 1. When a property's shape, topography or other physical
1148 conditions existing at the time of the adoption of this article prevents
1149 land development unless a buffer variance is granted.

1150
1151 2. Unusual circumstances when strict adherence to the minimal
1152 buffer requirements in the article would create an extreme hardship.

1153
1154 3. In specific circumstances when the City Council determines that
1155 it would be appropriate to grant a variance considering all relevant
1156 factors and the intent of this Section.

1157
1158 (c) Variances will not be considered when, following adoption of this
1159 article, actions of any property owner of a given property have created
1160 conditions of a hardship on that property.

1161
1162 (d) At a minimum, a variance request shall include the following
1163 information:

1164 1. A site map that includes locations of all streams, wetlands,
1165 floodplain boundaries and other natural features, as determined by
1166 field survey;

1167 2. A description of the shape, size, topography, slope, soils,
1168 vegetation and other physical characteristics of the property;

1169 3. A detailed site plan that shows the locations of all existing and
1170 proposed structures and other impervious cover, the limits of all
1171 existing and proposed land disturbance, both inside and outside the
1172 buffer and setback. The exact area of the buffer to be affected shall be
1173 accurately and clearly indicated;

1174 4. Documentation of unusual hardship should the buffer be
1175 maintained;

- 1176 5. At least one (1) alternative plan, which does not include a buffer
1177 or setback intrusion, or an explanation of why such a site plan is not
1178 possible;
1179 6. A calculation of the total area and length of the proposed
1180 intrusion;
1181 7. A stormwater management site plan, if applicable; and
1182 8. Proposed mitigation, if any, for the intrusion. If no mitigation is
1183 proposed, the request must include an explanation of why none is
1184 being proposed.

1185
1186 (e) The following factors will be considered in determining whether to
1187 issue a variance:

- 1188 1. The shape, size, topography, slope, soils, vegetation and other
1189 physical characteristics of the property;
1190 2. The locations of all streams on the property, including along
1191 property boundaries;
1192 3. The location and extent of the proposed buffer or setback
1193 intrusion;
1194 4. Whether alternative designs are possible which require less
1195 intrusion or no intrusion;
1196 5. The long-term and construction water-quality impacts of the
1197 proposed variance; and
1198 6. Whether issuance of the variance is at least as protective of
1199 natural resources and the environment.

1200
1201 **7. COMPATIBILITY WITH OTHER BUFFER REGULATIONS AND**
1202 **REQUIREMENTS.**

1203
1204 This article is not intended to interfere with, abrogate or annul any other
1205 article, rule or regulation, statute or other provision of law. The requirements of
1206 this article should be considered minimum requirements, and where any provision
1207 of this article imposes restrictions different from those imposed by any other
1208 ordinance, rule, regulation or other provision of law, whichever provisions are
1209 more restrictive or impose higher protective standards for human health or the
1210 environment shall be considered to take precedence.

1211
1212 **8. ADDITIONAL INFORMATION REQUIREMENTS FOR**
1213 **DEVELOPMENT ON BUFFER ZONE PROPERTIES.**

1214

1215 (a) Any permit applications for property requiring buffers and setbacks
1216 hereunder must include the following:

- 1217 1. A site plan showing:
 - 1218 i. The location of all streams on the property;
 - 1219 ii. Limits of required stream buffers and setbacks on the
1220 property;
 - 1221 iii. Buffer zone topography with contour lines at no great than
1222 five-foot contour intervals;
 - 1223 iv. Delineation of forested and open areas in the buffer zone;
 - 1224 v. Detailed plans of all proposed land development in the
1225 buffer and all proposed impervious cover within the setback;
 - 1226 vi. A description of all proposed land development within the
1227 buffer and setback; and
 - 1228 vii. Any other documentation that the Director or his designee
1229 may reasonably deem necessary for review of the application and
1230 to insure that the buffer zone ordinance is addressed in the
1231 approval process.

1232
1233 (b) All buffer and setback areas must be recorded on the final plat of the
1234 property following plan approval.

1235
1236 **9. RESPONSIBILITY.**

1237
1238 Neither the issuance of a development permit nor compliance with the
1239 conditions thereof, nor with the provisions of this article shall relieve any person
1240 from any responsibility otherwise imposed by law for damage to persons or
1241 property; nor shall the issuance of any permit hereunder serve to impose any
1242 liability upon the City of Blue Ridge, its officers or employees, for injury or
1243 damage to persons or property.

1244
1245 **10. INSPECTION.**

1246
1247 (a) The Director or his designee may cause inspections of the work in the
1248 buffer or setback to be made periodically during the course thereof and shall
1249 make a final inspection following completion of the work. The permittee
1250 shall assist the Director or his designee in making such inspections. The city
1251 shall have the authority to conduct such investigations as it may reasonably
1252 deem necessary to carry out its duties as prescribed in this article, and for
1253 this purpose to enter at reasonable time upon any property, public or private,

1254 for the purpose of investigating and inspecting the sites of any land
1255 development activities within the protection area.

1256
1257 (b) No person shall refuse entry or access to any authorized representative
1258 or agent who requests entry for purposes of inspection, and who presents
1259 appropriate credentials, nor shall any person obstruct, hamper or interfere
1260 with any such representative while in the process of carrying out official
1261 duties.

1262

1263 **11. VIOLATIONS, ENFORCEMENT AND PENALTIES.**

1264

1265 Any action or inaction which violates the provisions of this article or the
1266 requirements of an approved site plan or permit may be subject to the enforcement
1267 actions hereinafter described. Any such action or inaction which is continuous with
1268 respect to time is deemed to be a public nuisance and may be abated by injunctive
1269 or other equitable relief. The imposition of any of the penalties described below
1270 shall not prevent such equitable relief.

1271

1272 **12. NOTICE OF VIOLATION.**

1273

1274 (a) If the Director or his designee determines that an applicant or other
1275 responsible person has failed to comply with the terms and conditions of a
1276 permit, an approved site plan or the provisions of this article, he shall issue
1277 a written notice of violation to such applicant or other responsible person.
1278 Where a person is engaged in activity covered by this article without having
1279 first secured the appropriate permit therefor, the notice of violation shall be
1280 served on the owner or the responsible person in charge of the activity being
1281 conducted on the site.

1282

1283 (b) The notice of violation shall contain:

1284

1285 1. The name and address of the owner or the applicant or the
1286 responsible person;

1287 2. The address or other description of the site upon which the
1288 violation is occurring;

1289 3. A statement specifying the nature of the violation;

1290 4. A description of the remedial measures necessary to bring the
1291 action or inaction into compliance with the permit, the approved site
1292 plan or this article and the date for the completion of such remedial
1293 action;

1294 5. A statement of the penalty or penalties that may be assessed
1295 against the person to whom the notice of violation is directed; and,

1296 6. A statement that the determination of violation may be appealed
1297 to the Director by filing a written notice of appeal within thirty (30)
1298 days after the notice of violation (except that in the event the violation
1299 constitutes an immediate danger to public health or public safety,
1300 twenty-four (24) hours' notice shall be sufficient).

1301
1302 **13. PENALTIES.**

1303
1304 In the event the remedial measures described in the notice of violation have
1305 not been completed by the date set forth for such completion in the notice of
1306 violation, any one (1) or more of the following actions or penalties may be taken
1307 or assessed against the person to whom the notice of violation was directed. Before
1308 taking any of the following actions or imposing any of the following penalties, the
1309 Director or his designee shall first notify the applicant or other responsible person
1310 in writing of its intended action, and shall provide a reasonable opportunity, of not
1311 less than ten days (except that in the event the violation constitutes an immediate
1312 danger to public health or public safety, twenty-four (24) hours notice shall be
1313 sufficient) to cure such violation. In the event the applicant or other responsible
1314 person fails to cure such violation after such notice and cure period, the Director
1315 works may take any one (1) or more of the following actions or impose any one (1)
1316 or more of the following penalties.

1317
1318 (a) *Stop work order.* The Director may issue a stop work order which shall
1319 be served on the applicant or other responsible person. The stop work order
1320 shall remain in effect until the applicant or other responsible person has taken
1321 the remedial measures set forth in the notice of violation or has otherwise
1322 cured the violation or violations described therein, provided the stop work
1323 order may be withdrawn or modified to enable the applicant or other
1324 responsible person to take necessary remedial measures to cure such
1325 violation or violations.

1326
1327 (b) *Withhold certificate of occupancy.* The Director may refuse to issue a
1328 certificate of occupancy for the building or other improvements constructed
1329 or being constructed on the site until the applicant or other responsible
1330 person has taken the remedial measures set forth in the notice of violation or
1331 has otherwise cured the violations described therein.

1333 (c) *Suspension, revocation and modification of permit.* The Director may
1334 suspend, revoke or modify the permit authorizing the land development
1335 project. A suspended, revoked or modified permit may be reinstated after the
1336 applicant or other responsible person has taken the remedial measures set
1337 forth in the notice of violation or has otherwise cured the violations described
1338 therein, provided such permit may be reinstated (upon such conditions as the
1339 Director may deem necessary) to enable the applicant or other responsible
1340 person to take the necessary remedial measures to cure such violations.

1341
1342 (d) *Civil penalties.* In the event the applicant or other responsible person
1343 fails to take the remedial measures set forth in the notice of violation or
1344 otherwise fails to cure the violations described therein within ten days (or
1345 such greater period as the Director shall deem appropriate) (except that in
1346 the event the violation constitutes an immediate danger to public health or
1347 public safety, twenty-four (24) hours notice shall be sufficient) after the
1348 Director has taken one (1) or more of the actions described above, the
1349 Director may impose a penalty not to exceed one thousand dollars
1350 (\$1,000.00) (depending on the severity of the violation) for each day the
1351 violation remains unremedied after receipt of the notice of violation.

1352
1353 (e) *Criminal penalties.* For intentional and flagrant violations of this
1354 article, the Director may issue a citation to the applicant or other responsible
1355 person, requiring such person to appear in city court to answer charges for
1356 such violation. Upon conviction, such person shall be punished by a fine not
1357 to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60)
1358 days or both. Each act of violation and each day upon which any violation
1359 shall occur shall constitute a separate offense.

1360
1361 **14. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW.**

1362
1363 (a) *Administrative appeal.* Any person aggrieved by a decision or order
1364 of Director, may appeal in writing within ten (10) days after the issuance of
1365 such decision or order to the city clerk and shall be entitled to a hearing
1366 before the mayor and city council within forty-five (45) days of receipt of
1367 the written appeal.

1368
1369 (b) *Judicial review.* Any person aggrieved by a decision or order of mayor
1370 and city council, after exhausting all administrative remedies, shall have the
1371 right to appeal de novo to the Superior Court of Fannin County, Georgia.
1372

ARTICLE III. ILLICIT DISCHARGES
AND ILLEGAL CONNECTIONS TO STORM SEWERS

1. GENERAL PROVISIONS.

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

1. Regulate the contribution of pollutants to the City of Blue Ridge separate storm sewer system by any person;
2. Prohibit illicit discharges and illegal connections to the City of Blue Ridge separate storm sewer system;
3. Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the City of Blue Ridge separate storm sewer system, and
4. To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure, compliance with this article.

(b) *Applicability.* The provisions of this article shall apply throughout the incorporated area of the City of Blue Ridge.

(c) *Compatibility with other regulations.* This article is not intended to modify or repeal any other ordinance, rule, regulation, other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other article, rule regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(d) *Severability.* If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be adjudged invalid by a court of

1413 competent jurisdiction, such judgment shall not affect or invalidate the
1414 remainder of any section, subsection, paragraph, subdivision or clause of this
1415 article.

1416
1417 (e) *Responsibility for administration.* The Director or his or her designee
1418 of the City of Blue Ridge shall administer, implement, and enforce the
1419 provisions of this article.

1420
1421 **2. DEFINITIONS.**

1422
1423 *Accidental discharge* means a discharge prohibited by this article which
1424 occurs by chance and without planning or thought prior to occurrence.

1425 *(City of Blue Ridge) separate storm sewer system* means any facility
1426 designed or used for collecting and/or conveying stormwater, including but not
1427 limited to any roads with drainage systems, highways, city streets, curbs, gutters,
1428 inlets, catch basins, piped storm drains, pumping facilities, structural stormwater
1429 controls, ditches, swales, natural and man-made or altered drainage channels,
1430 reservoirs, and other drainage structures, and which is:

- 1431 (a) Owned or maintained by the City of Blue Ridge;
- 1432 (b) Not a combined sewer; and
- 1433 (c) Not part of a publicly-owned treatment works.

1434 *Clean Water Act* means the Federal Water Pollution Control Act (33 U.S.C.
1435 § 1251 et seq.), and any subsequent amendments thereto.

1436 *Construction activity* means activities subject to the Georgia Erosion and
1437 Sedimentation Control Act or NPDES general construction permits. These include
1438 construction projects resulting in land disturbance. Such activities include but are
1439 not limited to clearing and grubbing, grading, excavating, and demolition.

1440 *Illicit discharge* means any direct or indirect non-stormwater discharge to
1441 the City of Blue Ridge separate storm sewer system, except as exempted by the
1442 prohibitions of this article.

1443 *Illegal connection* means either of the following:

- 1444 1. Any pipe, open channel, drain or conveyance, whether on the surface
1445 or subsurface, which allows an illicit discharge to enter the storm drain
1446 system including but not limited to any conveyances which allow any non-
1447 stormwater discharge including sewage, process wastewater, and wash water
1448 to enter the storm drain system, regardless of whether such pipe, open
1449 channel, drain or conveyance has been previously allowed, permitted, or
1450 approved by an authorized enforcement agency; or
- 1451 2. Any pipe, open channel, drain or conveyance connected to the City of
1452 Blue Ridge separate storm sewer system which has not been documented in

1453 plans, maps, or equivalent records and approved by an authorized
1454 enforcement agency.

1455 *Industrial activity* means activities subject to NPDES industrial permits as
1456 defined in 40 CFR, Section 122.26(b)(14).

1457 *National Pollutant Discharge Elimination System (NPDES) stormwater*
1458 *discharge permit* means a permit issued by the Georgia EPD under authority
1459 delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants
1460 to waters of the United States, whether the permit is applicable on an individual,
1461 group, or general area-wide basis.

1462 *Non-stormwater discharge* means any discharge to the storm drain system
1463 that is not composed entirely of stormwater.

1464 *Person* means, except to the extent exempted from this article, any
1465 individual, partnership, firm, association, joint venture, public or private
1466 corporation, trust, estate, commission, board, public or private institution, utility,
1467 cooperative, city, county or other political subdivision of the state, any interstate
1468 body or any other legal entity.

1469 *Pollutant* means anything which causes or contributes to pollution.
1470 Pollutants may include, but are not limited to: paints, varnishes, and solvents;
1471 petroleum hydrocarbons; automotive fluids; cooking grease; detergents
1472 (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous
1473 liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other
1474 discarded or abandoned objects and accumulations, so that same may cause or
1475 contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and
1476 solid wastes; sewage, fecal coliform and pathogens, dissolved and particulate
1477 metals; animal wastes; wastes and residues that result from constructing a building
1478 or structure; concrete and cement; and noxious or offensive matter of any kind.

1479 *Pollution* means the contamination or other alteration of any water's
1480 physical, chemical or biological properties by the addition of any constituent and
1481 includes but is not limited to, a change in temperature, taste, color, turbidity, or
1482 odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or
1483 other substance into any such waters as will or is likely to create a nuisance or
1484 render such waters harmful, detrimental or injurious to the public health, safety,
1485 welfare, or environment, or to domestic, commercial, industrial, agricultural,
1486 recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds,
1487 fish or other aquatic life.

1488 *Premises* means any building, lot, parcel of land or portion of land whether
1489 improved or unimproved including adjacent sidewalks and parking strips.

1490 *State waters* means any and all rivers, streams, creeks, branches, lakes,
1491 reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and
1492 subsurface water, natural or artificial, lying within or forming a part of the

1493 boundaries of the State of Georgia which are not entirely confined and retained
1494 completely upon the property of a single person.

1495 *Stormwater runoff* or stormwater means any surface flow, runoff, and
1496 drainage consisting entirely of water from any form of natural precipitation, and
1497 resulting from such precipitation.

1498 *Structural stormwater control* means a structural stormwater management
1499 facility or device that controls stormwater runoff and changes the characteristics of
1500 that runoff including, but not limited to, the quantity and quality, the period of
1501 release or the velocity of flow.

1502

1503 **3. PROHIBITIONS.**

1504

1505 (a) *Prohibition of illicit discharges.* No person shall throw, drain, or
1506 otherwise discharge, cause, or allow others under its control to throw, drain,
1507 or otherwise discharge into the city separate storm sewer system any
1508 pollutants or waters containing any pollutants, other than stormwater. The
1509 following discharges are exempt from the prohibition provision above:

1510 1. Water line flushing performed by a government agency, other
1511 potable water sources, landscape irrigation or lawn watering, diverted
1512 stream flows, rising ground water, ground water infiltration to storm
1513 drains, uncontaminated pumped ground water, foundation or footing
1514 drains (not including active ground water dewatering systems), crawl
1515 space pumps, air conditioning condensation, springs, natural riparian
1516 habitat or wetland flows, and any other water source not containing
1517 pollutants;

1518 2. Discharges or flows from firefighting, and other discharges
1519 specified in writing by the Director of the City of Blue Ridge as being
1520 necessary to protect public health and safety;

1521 3. The prohibition provision above shall not apply to any non-
1522 stormwater discharge permitted under an NPDES permit or order
1523 issued to the discharger and administered under the authority of the
1524 state and the Federal Environmental Protection Agency, provided that
1525 the discharger is in full compliance with all requirements of the
1526 permit, waiver, or order and other applicable laws and regulations, and
1527 provided that written approval has been granted for any discharge to
1528 the city separate storm sewer system.

1529

1530 (b) *Prohibition of illegal connections.* The construction, connection, use,
1531 maintenance or continued existence of any illegal connection to the city
1532 separate storm sewer system is prohibited.

- 1533 1. This prohibition expressly includes, without limitation, illegal
1534 connections made in the past, regardless of whether the connection
1535 was permissible under law or practices applicable or prevailing at the
1536 time of connection.
- 1537 2. A person violates this article if the person connects a line
1538 conveying sewage to the city separate storm sewer system, or allows
1539 such a connection to continue.
- 1540 3. Improper connections in violation of this article must be
1541 disconnected and redirected, if necessary, to an approved onsite
1542 wastewater management system or the sanitary sewer system upon
1543 approval of the Director of the city.
- 1544 4. Any drain or conveyance that has not been documented in plans,
1545 maps or equivalent, and which may be connected to the storm sewer
1546 system, shall be located by the owner or occupant of that property
1547 upon receipt of written notice of violation from the Director of the city
1548 requiring that such locating be completed. Such notice will specify a
1549 reasonable time period within which the location of the drain or
1550 conveyance is to be completed, that the drain or conveyance be
1551 identified as storm sewer, sanitary sewer or other, and that the outfall
1552 location or point of connection to the storm sewer system, sanitary
1553 sewer system or other discharge point be identified. Results of these
1554 investigations are to be documented and provided to the Director of
1555 the city.

1556
1557 **4. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**
1558

1559 Any person subject to an industrial or construction activity NPDES
1560 stormwater discharge permit shall comply with all provisions of such permit. Proof
1561 of compliance with said permit may be required in a form acceptable to the Director
1562 prior to allowing discharges to the separate storm sewer system.
1563

1564 **5. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES.**
1565

1566 The Director shall be permitted to enter and inspect properties and facilities
1567 at reasonable times as often as may be necessary to determine compliance with this
1568 article.

- 1569 1. If a property or facility has security measures in force which require
1570 proper identification and clearance before entry into its premises, the owner
1571 or operator shall make the necessary arrangements to allow access to
1572 representatives of the Director.

1573 2. The owner or operator shall allow the Director ready access to all parts
1574 of the premises for the purposes of inspection, sampling, photography,
1575 videotaping, examination and copying of any records that are required under
1576 the conditions of an NPDES permit to discharge stormwater.

1577 3. The Director shall have the right to set up on any property or facility
1578 such devices as are necessary in the opinion of the Director to conduct
1579 monitoring and/or sampling of flow discharges.

1580 4. The Director may require the owner or operator to install monitoring
1581 equipment and perform monitoring as necessary and make the monitoring
1582 data available to the Director. This sampling and monitoring equipment shall
1583 be maintained at all times in a safe and proper operating condition by the
1584 owner or operator at his/her own expense. All devices used to measure flow
1585 and quality shall be calibrated to ensure their accuracy.

1586 5. Any temporary or permanent obstruction to safe and easy access to the
1587 property or facility to be inspected and/or sampled shall be promptly
1588 removed by the owner or operator at the written or oral request of the
1589 Director and shall not be replaced. The costs of clearing such access shall be
1590 borne by the owner or operator.

1591 6. Unreasonable delays in allowing the Director of access to a facility is
1592 a violation of this chapter.

1593 7. If the Director has been refused access to any part of the premises from
1594 which stormwater is discharged, and the Director is able to demonstrate
1595 probable cause to believe that there may be a violation of this article, or that
1596 there is a need to inspect and/or sample as part of a routine inspection and
1597 sampling program designed to verify compliance with this article or any
1598 order issued hereunder, or to protect the overall public health, safety,
1599 environment and welfare of the community, then the Director may seek
1600 issuance of a search warrant from any court of competent jurisdiction.

1601
1602 **6. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS.**

1603
1604 (a) Notwithstanding other requirements of law, as soon as any person
1605 responsible for a facility, activity or operation, or responsible for emergency
1606 response for a facility, activity or operation has information of any known or
1607 suspected release of pollutants or non-stormwater discharges from that
1608 facility or operation which are resulting or may result in illicit discharges or
1609 pollutants discharging into stormwater, the city separate storm sewer system,
1610 state waters, or waters of the U.S., said person shall take all necessary steps
1611 to ensure the discovery, containment, and cleanup of such release so as to
1612 minimize the effects of the discharge.

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(b) Said person shall notify the authorized enforcement agency in person or by phone, facsimile or in person no later than twenty-four (24) hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of the City of Blue Ridge within three (3) business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

(c) In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.

(d) Failure to provide notification of a release as provided above is a violation of this article.

7. VIOLATIONS, ENFORCEMENT AND PENALTIES.

(a) *Violations.*

1. 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 or may be restrained by injunction or otherwise abated in a manner provided by law.

2. In the event the violation constitutes an immediate danger to public health or public safety, the Director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Director is authorized to seek costs of the abatement as outlined in the violations, enforcement and penalties section of this article.

1651 (b) *Notice of violations.* Whenever the Director finds that a violation of
1652 this article has occurred, the Director may order compliance by written
1653 notice of violation.

- 1654 1. The notice of violation shall contain:
 - 1655 i. The name and address of the alleged violator;
 - 1656 ii. The address when available or a description of the
1657 building, structure or land upon which the violation is
1658 occurring, or has occurred;
 - 1659 iii. A statement specifying the nature of the violation;
 - 1660 iv. A description of the remedial measures necessary to
1661 restore compliance with this article and a time schedule for the
1662 completion of such remedial action;
 - 1663 v. A statement of the penalty or penalties that shall or may
1664 be assessed against the person to whom the notice of violation
1665 is directed; and
 - 1666 vi. A statement that the determination of violation may be
1667 appealed to the Director by filing a written notice of appeal
1668 within thirty (30) days of service of notice of violation.
- 1669 2. Such notice may require without limitation:
 - 1670 i. The performance of monitoring, analyses, and reporting;
 - 1671 ii. The elimination of illicit discharges and illegal
1672 connections;
 - 1673 iii. That violating discharges, practices, or operations shall
1674 cease and desist;
 - 1675 iv. The abatement or remediation of stormwater pollution or
1676 contamination hazards and the restoration of any affected
1677 property;
 - 1678 v. Payment of costs to cover administrative and abatement
1679 costs; and
 - 1680 vi. The implementation of pollution prevention practices.

1681
1682 (b) *Appeal of notice of violation.* Any person receiving a notice of
1683 violation may appeal the determination of the Director. The notice of appeal
1684 must be received within thirty (30) days from the date of the notice of
1685 violation. Hearing on the appeal before the mayor and city council of the
1686 Director or his/her designee shall take place within thirty (30) days from the
1687 date of receipt of the notice of appeal. The decision of the appropriate
1688 authority or their designee shall be final.

1690 (c) *Enforcement measures after appeal.* If the violation has not been
1691 corrected pursuant to the requirements set forth in the notice of violation, or,
1692 in the event of an appeal within ten (10) days of the decision of the
1693 appropriate authority upholding the decision of the Director of the City of
1694 Blue Ridge, then representatives of the Director may enter upon the subject
1695 private property and are authorized to take any and all measures necessary
1696 to abate the violation and/or restore the property. It shall be unlawful for any
1697 person, owner, agent or person in possession of any premises to refuse to
1698 allow the government agency or designated contractor to enter upon the
1699 premises for the purposes set forth above.

1700
1701 (d) *Costs of abatement of the violation.*

1702
1703 1. Within thirty (30) days after abatement of the violation, the
1704 owner of the property will be notified of the cost of abatement,
1705 including administrative costs. The property owner may file a written
1706 protest objecting to the assessment or to the amount of the assessment
1707 within five (5) days of such notice. If the amount due is not paid within
1708 thirty (30) days after receipt of the notice, or if an appeal is taken,
1709 within thirty (30) days after a decision on said appeal, the charges shall
1710 become a special assessment against the property and shall constitute
1711 a lien on the property for the amount of the assessment.

1712 2. Any person violating any of the provisions of this article shall
1713 become liable to the City of Blue Ridge by reason of such violation.
1714

1715 (e) *Civil penalties.* In the event the alleged violator fails to take the
1716 remedial measures set forth in the notice of violation or otherwise fails to
1717 cure the violations described therein within ten (10) days, or such greater
1718 period as the Director shall deem appropriate, after the Director has taken
1719 one (1) or more of the actions described above, the Director may impose a
1720 penalty not to exceed one thousand dollars (\$1,000.00) (depending on the
1721 severity of the violation) for each day the violation remains unremedied after
1722 receipt of the notice of violation.

1723
1724 (f) *Criminal penalties.* For intentional and flagrant violations of this
1725 article, the police department of the City of Blue Ridge may issue a citation
1726 to the alleged violator requiring such person to appear in municipal court of
1727 the City of Blue Ridge to answer charges for such violation. Upon
1728 conviction, such person shall be punished by a fine not to exceed one
1729 thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both.

1730 Each act of violation and each day upon which any violation shall occur shall
1731 constitute a separate offense.

1732
1733 (g) *Violations deemed a public nuisance.* In addition to the enforcement
1734 processes and penalties provided, any condition caused or permitted to exist
1735 in violation of any of the provisions of this article is a threat to public health,
1736 safety, welfare, and environment and is declared and deemed a nuisance, and
1737 may be abated by injunctive or other equitable relief as provided by law.

1738
1739 (h) *Remedies not exclusive.*

1740
1741 1. The remedies listed in this article are not exclusive of any other
1742 remedies available under any applicable federal, state or local law and
1743 the Director may seek cumulative remedies.

1744
1745 2. The city may recover attorney's fees, court costs, and other
1746 expenses associated with enforcement of this article, including
1747 sampling and monitoring expenses.

1748
1749 **SECTION 2.**
1750 **SEVERABILITY**

1751
1752 If any paragraph, subparagraph, sentence, clause, phrase or any other portion
1753 of this Ordinance should be declared invalid or unconstitutional by any Court of
1754 competent jurisdiction or if the provisions of any part of this Ordinance as applied
1755 to any particular person, situation or set of circumstances is declared invalid or
1756 unconstitutional, such invalidity shall not be construed to affect the provisions of
1757 this Ordinance not so held to be invalid, or the application of this Ordinance to
1758 other circumstances not so held to be invalid. It is hereby declared to be the
1759 legislative intent of the City Council of the City of Blue Ridge, Georgia to provide

1760 for separate and divisible parts and it does hereby adopt any and all parts hereof as
1761 may not be held invalid for any reason.

1762 **SECTION 3.**
1763 **EFFECTIVE DATE**
1764

1765 The effective date of this Ordinance shall be immediately upon its passage
1766 by the City Council and execution by the Mayor or upon fifteen (15) days expiring
1767 from the date of its passage without a veto of said Ordinance by the Mayor as set
1768 forth in the City Charter at Section 3.23(b). Upon the Ordinance becoming
1769 effective, the City Clerk shall insert the modifications, additions or deletions and
1770 publish the Ordinance as amended.

1771 SO ORDAINED, this ____ day of _____, 2020.

1772
1773 BLUE RIDGE CITY COUNCIL

1774
1775 By:
1776
1777 Mayor

1778
1779
1780 Attest:

1781
1782
1783
1784
1785 Kelsey Ledford, City Clerk

1786
1787