

April 6, 2004

REGULAR BUSINESS MEETING – APRIL 6, 2004

PRESENT: Chairman C. Crandle Bray, Vice Chairman Carl Rhodenizer, Commissioner Virginia Burton Gray, Commissioner J. Charley Griswell, Commissioner Gerald A. Matthews, and Clerk Suzanne Brown.

1. Chairman Bray called the meeting to order.
2. Invocation led by Rev. Mike Kohfal. Pledge of allegiance to the flag led by Chairman Bray.
3. Motion by Vice Chairman Rhodenizer, second by Commissioner Matthews, to amend the agenda by adding Resolution #46 (authorizing the county to enter into the second extension of the Clayton County Service Delivery Strategy with various cities and the Clayton County Water Authority providing for the reorganization and, in some instances, consolidation of local government service delivery programs in Clayton County) and Resolution #47 (authorizing the county to advance funds to the Clayton County Development Authority necessary to cover expenses associated with the pre-acquisition and construction of the Gateway Village Hotel and Convention Center Project; to provide that the fund advances be repaid from proceeds derived from the issuance of Revenue Bonds Series 2004). The Board also deferred Items #12 (Appointment to the Animal Control Board), #13 (Appointment to the Board of Appeals), & #14 (Appointment to the Hospital Authority Board) to the Work Session of April 13, 2004. The agenda was adopted, as amended, as the official agenda of the Regular Business Meeting of April 6, 2004 (as all commissioners had copies before them). Vote unanimous.
4. Motion by Commissioner Gray, second by Commissioner Matthews, to approve the minutes of the Regular Business Meeting of March 16, 2004. Vote unanimous.
5. Peggy Davidson, Director of Central Services, presented these requests for consideration which resulted in the following actions:
 - 1) Motion by Vice Chairman Rhodenizer, second by Commissioner Matthews, to approve the highest ranked firm of Turner Construction Company, with a total score of 90.17 and an estimated construction cost of \$11,328,960.00, as the Aquatic Center Construction Manager-at-Risk. The Board also approved Joe Lee, Program Manager, to enter into contract negotiations (RFQ #04-06; 2/24/04). Vote unanimous.
 - 2) Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to approve The Facility Group to provide architectural/engineering services for the design of five (5) Prototype Recreational Centers for the county (RFP #04-01; 2/03/04). Vote unanimous.

NOTE: A selection committee consisting of representatives from the Commissioners Office, Board of Education, Central Services, Parks & Recreation and Building Maintenance interviewed the previously selected firms of The Facility Group, Kajima Construction Services and Turner Construction Company.

NOTE: The Commission broke a tie between The Facility Group and Wright Mitchell & Associates which resulted from the selection committee's evaluation process. Less than a half point separated their total scores, and both of these firms were qualified and capable of producing a quality project for Clayton County.

Ms. Davidson noted that The Facility Group had a lower initial design cost (\$105,000.00).

Chairman Bray asked Ms. Davidson how the pricing was rated. Ms. Davidson said it was ten (10) points, which was not very high.

Commissioner Matthews made a motion to approve The Facility Group because its design cost was 4.5% as opposed to Wright Mitchell & Associates' 6.0%. Vice Chairman Rhodenizer seconded the motion. Chairman Bray said the contract will come back to the Board after negotiation.

6. Dan Martin, Director of Finance, presented these items for review which resulted in the following actions:

 REQUEST FOR BUDGET AMENDMENT -- CENTRAL SERVICES

DECREASE EXPENSE

Regular Salaries and Wages	101-1502-4000	\$ 8,800
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INCREASE EXPENSE

Part-Time Salaries	101-1501-4001	\$ 6,800	
CO - Office Equip and Computers	101-1501-6030		<u>2,000</u>
\$ 8,800			

 REQUEST FOR BUDGET AMENDMENT -- TRANSPORTATION AND DEVELOPMENT

INCREASE REVENUES:

Miscellaneous Revenue	101-4001-3720	\$ 40,959
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INCREASE EXPENSES:

R & M - Road Resurfacing	101-4001-4855	\$ 40,959
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 REQUEST FOR BUDGET AMENDMENT -- TRANSPORTATION AND DEVELOPMENT

INCREASE REVENUES:

Appropriations from Fund Balance	289-4001-7000-8C100	\$ 47,365
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DECREASE REVENUES:

Appropriations from Fund Balance	289-4001-7000-10000-3TN85	\$ 16,143
GA Department of Transportation	289-4001-3233-10000-3T304	516

Appropriations from Fund Balance	289-4001-7000-10000-6FP20	28,795
Appropriations from Fund Balance	289-4001-7000-10000-6FP21	2,676
GA Department of Transportation	289-4001-3233-10000-6RV22	<u>5,805</u>
TOTAL:		\$ 6,570

INCREASE EXPENSES:
R & M - Road Resurfacing 289-4001-4855-8C100 \$ 47,365

DECREASE EXPENSES:
R & M - Road Resurfacing 289-4001-4855-10000-3TN85 \$ 16,143
R & M - Road Resurfacing 289-4001-4855-10000-3T304 516
R & M - Road Resurfacing 289-4001-4855-10000-6FP20 28,795
R & M - Road Resurfacing 289-4001-4855-10000-6FP21 2,676
R & M - Road Resurfacing 289-4001-4855-10000-6RV22 5,805
TOTAL: \$ 6,570

REQUEST FOR BUDGET AMENDMENT -- CHILD SUPPORT

DECREASE REVENUES:
US Dept Health/Human Services 289-2611-3211-10000-3HR11 \$ 29,934

INCREASE EXPENSES:
Office Supplies 289-2611-4390-10000-3HR11 \$ 1,000
Training, Travel, and Meetings Exp 289-2611-4785-10000-3HR11 1,000
Office Equip/Computers/Furnishings 289-2611-6030-10000-3HR11 1,000

DECREASE EXPENSES:
Building Lease and Rental 289-2611-4205-10000-3HR11 \$ 32,894
Performance Bond Expense 289-2611-4730-10000-3HR11 40
TOTAL: \$ 29,934

Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to approve the above-listed budget amendments. Vote unanimous.

REQUEST FOR REFUND -- BUILDING

Black Hawk Builders
1400 Buford Highway, Bldg. A-1
Sugar Hill, GA 30518

Amount of Refund - \$504.27

REQUEST FOR REFUND -- BUILDING PERMIT

Choice Home, Inc.
10121 Deep Creek Drive
Union City, GA 30291
Amount of Refund - \$451.06

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REQUEST FOR REFUND -- BUILDING

Christopher Blose, Hunter Ridge MHP
407 Fleetwood Trail
Jonesboro, GA 30238

Amount of Refund - \$90.00

REQUEST FOR REFUND -- BUILDING

Gilmer Construction Company
P. O. Box 758
Douglasville, GA 30133

Amount of Refund - \$96.00

REQUEST FOR REFUND -- BUILDING

Rickey Jackson
7024 Eunice Drive
Riverdale, GA 30274

Amount of Refund - \$153.45

REQUEST FOR REFUND -- BUILDING PERMIT

Sandy Mitchell
13554 Chelsea Drive
Hampton, GA 30228

Amount of Refund - \$35.00

REQUEST FOR REFUND -- CONDITIONAL USE PERMIT

Loc Bao Tran
4474 Old Dixie Highway
Hapeville, GA 30354

Amount of Refund - \$300.00

Motion by Vice Chairman Rhodenizer, second by Commissioner Matthews, to approve the above-listed refund requests. Vote unanimous.

REQUEST FOR DONATION

Donate: One Personal Computer (Asset Number 96658) to the Southern Crescent Sexual Assault Center, as requested by the Computer Center.

REQUEST TO CLOSE BANK ACCOUNT

Close: Bank Account Number 611-000-33-3 at the RBC Centura Bank and deposit the funds into the General Fund. NOTE: This is the Clayton '96 bank account that was established during the 1996 Atlanta Olympics. The account has a balance of approximately \$9,654.81.

Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to approve both the donation request and the close bank account request. Vote unanimous.

7. Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to approve Ordinance 2004-37 to amend the Code of Clayton County, Georgia, specifically Chapter 62 "Offenses and Miscellaneous Provisions" so as to add a new Section 61-31 "Theft of Water Services" providing for the prohibition of certain practices as they relate to theft of water service, the illegal restoration or obtaining of water service by other fraudulent means; to provide for prima facie evidence; to provide for restitution; to repeal conflicting laws, ordinances, and resolutions; to provide for severability; etc. Vote unanimous.

STATE OF GEORGIA

COUNTY OF CLAYTON

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ORDINANCE NO. 2004 - 37

AN ORDINANCE AMENDING THE CODE OF CLAYTON COUNTY, GEORGIA,
SPECIFICALLY CHAPTER 62 "OFFENSES AND MISCELLANEOUS PROVISIONS" SO AS TO
ADD A
NEW SECTION 61-31 "THEFT OF WATER SERVICES" PROVIDING FOR THE PROHIBITION OF
CERTAIN PRACTICES AS THEY RELATE TO THEFT OF WATER SERVICE, THE ILLEGAL
RESTORATION OR OBTAINING OF WATER SERVICE BY OTHER FRAUDULENT MEANS; TO
PROVIDE FOR PRIMA FACIE EVIDENCE; TO PROVIDE FOR RESTITUTION; TO REPEAL
CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE FOR
SEVERABILITY; TO
PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS
OF CLAYTON COUNTY AND IT IS HEREBY ORDAINED

Section 1. The Code of Clayton county, Georgia, as amended, specifically Chapter

62, Offenses and Miscellaneous Provisions, is hereby further amended by adding Section 62-31. Theft of water services.

Sec. 62-31. Theft of water services.

(a) The following practices or acts are declared to be illegal and are prohibited as they relate to receiving water service and the tampering of water metering devices provided by the Clayton County Water Authority (“Water Authority”):

1. Obtaining or the restoration of water service by any means after such service has been terminated for nonpayment.
2. Obtaining water service without making the proper deposit with the Water Authority, or without receiving proper authorization from the Water Authority to receive such services.
3. Obtaining water service by any means which bypasses the water metering device, either partially or completely.
4. Obtaining water service by use of a water metering device which is not authorized and installed by the Water Authority.
5. Obtaining, or attempting to obtain, water service by using a false name or identification.
6. Obtaining, or attempting to obtain, water service by placing the account in another person’s name, after the service has been disconnected for nonpayment or theft of service, while the person in default or violation continues to reside at the location of the service.
7. Cutting, removing, or in any manner, making ineffective any seal, locking band or lock on a water metering device.
8. Damaging or tampering in any manner with any part of a water metering device belonging to the Water Authority.
9. Changing or altering the normal installed position of a water metering device in any fashion which causes the normal accurate recording of water service received to be altered and inaccurate.
10. Interfering with the automatic registration, recording and transmission of water consumption

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when readings are recorded and/or transmitted electronically.

(b) A violation of any provision of this section shall be a separate and distinct offense, in addition to any other violation that may be established.

(c) Any person in possession of any premises as owner, occupant, or tenant where such violation has occurred shall be presumed to have knowledge of such violation. The receipt of water services in violation of any provision of this section shall be deemed prima facie evidence of an intent to defraud or deprive the Water Authority from recovering proper payment for such service.

(d) Any person found in violation of any provision in this section shall be required to make full restitution to the Water Authority for the cost of the water services illegally obtained, for damage to equipment of the Water Authority, and for all costs associated with the investigation. In calculating the amount of restitution to be paid, the court will be asked to consider the following evidence.

1. The cost of the water service received at the prevailing rate.
2. The current cost to repair or replace the damaged equipment.
3. The hourly rate of the code enforcement officer and time spent investigating, together with any other costs associated with the investigation.

(e) This Ordinance shall be cumulative to the Official Code of Georgia Annotated § 16-7-25, and is enacted pursuant to Official Code of Georgia Annotated § 16-7-25(c).

Section 2. The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed, save and except such ordinances or resolutions or parts of ordinances or resolutions which provide stricter standards than those provided herein.

Section 3. It is declared to be the intention of the Board of Commissioners that all sections and paragraphs of this Ordinance are or were, upon their enactment, believed to be fully valid, enforceable and constitutional. To the greatest extent allowed by law, each and every section and paragraph therein is severable from the other. In the event that any portion of this Ordinance shall be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that the remaining portions of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. This Resolution shall be effective on the date of its approval by the Board of Commissioners.

SO ORDAINED, this 6th day of April, 2004.

OF COMMISSIONERS

CLAYTON COUNTY BOARD

CHAIRMAN

/s/ C. CRANDLE BRAY, CHAIRMAN

/s/ CARL RHODENIZER, VICE

COMMISSIONER

/s/ GERALD A. MATTHEWS,

COMMISSIONER

/s/ VIRGINIA BURTON GRAY,

COMMISSIONER

/s/ J. CHARLEY GRISWELL,

ATTEST:

/s/ SUZANNE BROWN

8. Motion by Vice Chairman Rhodenizer, second by Commissioner Matthews, to approve Ordinance 2004-38 to amend the Code of Clayton County, Georgia, effective June 1, 2004, as amended, specifically Chapter 38. "Environment," is hereby further amended by adding Article VI: "Flood plain Management Flood Prevention" providing for designation of flood-prone areas and the managing of their uses; to provide findings; minimizing modifications to streams; reducing flood hazards; and protecting the beneficial uses of the flood plain such as water quality protection. Vote unanimous.

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2004 - 38

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED;

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SPECIFICALLY CHAPTER 38. "ENVIRONMENT," IS HEREBY FURTHER AMENDED BY ADDING

ARTICLE VI. "FLOODPLAIN MANAGEMENT/FLOOD DAMAGE PREVENTION" PROVIDING FOR

DESIGNATION OF FLOOD-PRONE AREAS AND THE MANAGING OF THEIR USES; TO PROVIDE

FINDINGS; TO PROVIDE DIVISION 1. GENERAL PROVISIONS; PURPOSE AND INTENT;

APPLICABILITY; DESIGNATION OF ARTICLE ADMINISTRATOR; BASIS FOR AREA OF SPECIAL

FLOOD HAZARD - FLOOD AREA MAPS AND STUDIES; COMPATIBILITY WITH OTHER

REGULATIONS; SEVERABILITY; WARNING AND DISCLAIMER OF LIABILITY; TO PROVIDE DIVISION

2. DEFINITIONS; TO PROVIDE DIVISION 3. PERMIT PROCEDURES AND REQUIREMENTS; PERMIT

APPLICATION REQUIREMENTS; FLOODPLAIN MANAGEMENT PLAN REQUIREMENTS;

CONSTRUCTION STAGE SUBMITTAL REQUIREMENTS; DUTIES AND RESPONSIBILITIES OF THE

ADMINISTRATOR; TO PROVIDE DIVISION 4. STANDARDS FOR LAND DEVELOPMENT; DEFINITION

OF FLOODPLAIN BOUNDARIES; DEFINITION OF FLOODWAY BOUNDARIES; GENERAL

STANDARDS; ENGINEERING STUDY REQUIREMENTS FOR FLOODPLAIN ENCROACHMENTS;

FLOODWAY ENCROACHMENTS; MAINTENANCE REQUIREMENTS; TO PROVIDE DIVISION 5.

PROVISIONS FOR FLOOD HAZARD REDUCTION; GENERAL STANDARDS; BUILDING STANDARDS

FOR STRUCTURES AND BUILDINGS WITHIN THE FLOODPLAIN; BUILDING STANDARDS FOR

STRUCTURES AND BUILDINGS AUTHORIZED ADJACENT TO THE FLOODPLAIN; BUILDING

STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR

FLOODWAY (A-ZONES); BUILDING STANDARDS FOR AREAS OF SHALLOW FLOODING (AO-ZONES);

STANDARDS FOR SUBDIVISIONS; STANDARDS FOR UTILITIES; TO PROVIDE FOR DIVISIONS 6.

VARIANCE PROCEDURES; BOARD OF COMMISSIONERS TO HEAR AND DECIDE REQUESTS FOR

APPEALS OR VARIANCE; BASIS FOR APPEAL; WHO MAY APPEAL; BASIS FOR VARIANCE FOR

REPAIR OR REHABILITATION OF HISTORIC STRUCTURES; VARIANCE FOR DEVELOPMENT

NECESSARY FOR CONDUCT OF A FUNCTIONALLY DEPENDENT USE; VARIANCE NOT ISSUED IF

ANY INCREASE IN FLOOD LEVELS WOULD RESULT; WHAT CONSIDERED TO REVIEW REQUESTS;

CONDITIONS FOR VARIANCES; WHEN DEVIATION GRANTED; WRITTEN NOTICE OF VARIANCE;

MAINTENANCE OF RECORDS BY CLERK OF BOARD OF COMMISSIONERS; VARIANCE MAYBE

CONDITIONAL; WRITTEN NOTICE TO APPLICANT TO WHOM A VARIANCE IS GRANTED; RECORDS

OF APPEAL ACTIONS AND

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VARIANCES; CONDITIONS TO GRANTING OF VARIANCES; TO PROVIDE DIVISION 7. VIOLATIONS,

ENFORCEMENT AND PENALTIES; SUBJECT OF ENFORCEMENT ACTIONS; PUBLIC NUISANCE;

EQUITABLE RELIEF; ENFORCEMENT CUMULATIVE; NOTICE OF VIOLATION, PENALTIES; TO

PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND

RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY AND IT IS HEREBY ORDAINED

Section 1. The Code of Clayton County, Georgia, as amended, specifically Chapter 38, Environment, is hereby further amended by adding Article VI. "Floodplain Management/Flood Damage Prevention" to read as follows:

ARTICLE VI. Floodplain MANAGEMENT

Sec. 38-120. Findings.

It is hereby determined that:

The flood hazard areas of Clayton County are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

Flood hazard areas can serve important stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed greenspace areas.

Effective floodplain management and flood hazard protection activities can (1) Protect human life and health; (2) Minimize damage to private property; (3) Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and (4) Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.

Therefore, the Clayton County Board of Commissioners establishes this set of floodplain management and flood hazard reduction policies for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damages is in the public interest and will minimize threats to public health and safety.

DIVISION 1. GENERAL PROVISIONS

Sec. 38-121.1. Purpose and Intent.

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, streambank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed to:

(1) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(2) Restrict or prohibit practices which are dangerous to health, safety and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion;

- (3) Control filling, grading, dredging and other activities which may increase flood damage or erosion;
 - (4) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
 - (5) Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and,
 - (6) Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.
- “Sec. 38-121.2. Applicability.

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This ordinance shall be applicable to all Areas of Special Flood Hazard within Clayton County, i.e. floodplain and flood prone areas as defined herein at or below the base flood elevation or the regulatory flood elevation, whichever is more restrictive (including A, AO, AH, AE, A1-30, or A-99 on the FIRM), and all new or substantial improvement residential units, all subdivisions, non-residential structures, manufactured home, recreational vehicles, and utilities located within these areas. In addition, all streams with a drainage area of 100 acres or more have an area of special flood hazard.

Sec. 38-121.3. Designation of article administrator.

The Clayton County Director of Transportation and Development or his designee is hereby appointed to administer and implement the provisions of this ordinance.

Sec. 38-121.4. Basis for area of special flood hazard – flood area maps and studies.

For the purposes of this ordinance, the following are adopted by reference:

- (1) The Flood Insurance Study (FIS), dated November 20, 2000, with accompanying maps and other supporting data and any revision thereto. For those land areas acquired by a municipality through annexation, the current effective FIS and data for Clayton County are hereby adopted by reference.
- (2) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the 100-year floodplain include:
 - (a) Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to Clayton County; or
 - (b) Any base flood study authored by a registered professional engineer in the State of Georgia which has been approved by Federal Emergency Management Agency.
- (3) Other studies which may be relied upon for the establishment of the regulatory flood elevation or delineation of the regulatory floodplain include:
 - (a) Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to Clayton County; or
 - (b) Any regulatory flood study authored by a registered professional engineer in the State of Georgia which has been approved by Federal Emergency Management Agency.

Sec. 38-121.5. Compatibility with other regulations.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environment shall control.

Sec. 38-121.6. Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

Sec. 38-121.7. Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Clayton County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

DIVISION 2. DEFINITIONS

For purposes of this ordinance, certain words and terms used herein shall be defined and interrupted as follows; all other terms as not defined shall have their customary dictionary definitions:

“Addition” (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered New Construction.

“Appeal” means a request for a review of the (appointed official)'s interpretation of any provision of this ordinance.

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“Area of Shallow Flooding” means a designated AD or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of special Flood Hazard shall be those designated by the local community and referenced in

Section 1.4.

“Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year [i.e., the “100-year flood”].

“Base Flood Elevation” means the highest water surface elevation anticipated at any given point during the base flood.

“Basement” means that portion of a building having its floor subgrade (below ground level) on all sides.

“Building” means any structure built for support, shelter, or enclosure for any occupancy or storage.

“Elevated Building” means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

“Existing Construction” means any structure for which the "start of construction" commenced before June 15, 1978.

“Existing Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before June 15, 1978.

“Expansion to an Existing Manufactured Home Park or Subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

“FEMA” means the Federal Emergency Management Agency.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters; or
2. the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Hazard Boundary Map” or “FHBM” means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

“Flood Insurance Rate Map” or “FIRM” means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

“Flood Insurance Study” or “FIS” means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

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

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Functionally Dependent Use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

“Highest Adjacent Grade” means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

“Historic Structure” means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

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(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior, or

(2) Directly by the Secretary of the Interior in states without approved programs.

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

“Land Development Activities” means those actions or activities which comprise, facilitate or result in land development.

“Land Development Project” means a discrete land development undertaking.

“Lowest Floor” means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this code.

“Manufactured Home” means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a “mobile home” regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

“Mean Sea Level” means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance the term is synonymous with National Geodetic Vertical Datum (NGVD).

“National Geodetic Vertical Datum” or “NGVD” (as corrected in 1929) means is a vertical control used as a reference for establishing varying elevations within the floodplain.

“New Construction” means any structure (see definition) for which the “start of construction” commenced after June 15, 1978 and includes any subsequent improvements to the structure.

“New Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 15, 1978.

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

“Permit” means the Land Disturbance permit issued by the Clayton County Department of Transportation and Development to the applicant which is required for undertaking any land development activity.

“Recreational Vehicle” means a vehicle which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by light duty truck; and,
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulatory Flood” means the flood standard equal to or higher than the Base Flood. The Regulatory Flood is defined as the flood having a one percent chance of being equaled or exceeded in any given year assuming the drainage basin is fully developed as shown on the current land use plan. Only structural stormwater control facilities that can be shown will remain and are large enough to be included in the hydrograph routings shall be considered when determining the flood peak.

“Regulatory Flood Elevation” means the flood standard equal to or higher than the Base Flood Elevation. The Regulatory Flood Elevation is defined as the highest water surface anticipated at any given point during the regulatory flood.

“Site” means the parcel of land being developed, or the portion thereof on which the land development project is located.

“Start of Construction” means the date the permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not

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occupied as dwelling units or part of the main structure. (NOTE: accessory structures are not exempt from any ordinance requirements). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

“Substantial Damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a 5-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building means (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage" regardless of the actual amount of repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project.

“Substantially Improved Existing Manufactured Home Park or Subdivision” means the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

“Variance” means a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

DIVISION 3. PERMIT PROCEDURES AND REQUIREMENTS

Sec. 38-123.1. Permit application requirements.

No owner or developer shall perform any land development activities on a site where a regulatory floodplain is located, or is proposed to be altered or disturbed in any way, without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Unless specifically excluded by this ordinance, any loaner or developer desiring a permit for a land development activity shall submit to the Clayton County Department of Transportation and Development a permit application on a form provided by the Clayton County Department of Transportation and Development for that purpose.

No land development permit will be approved for any land development activities that do not meet the requirements, restrictions and criteria of this ordinance.

Sec. 38-123.2. Floodplain Management Plan Requirements.

No application for a land development project within any area of special flood hazard established in Section 1.4 will be approved unless it includes a floodplain management / flood damage prevention plan. This plan shall be in accordance with the criteria established in this section.

This plan must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the state of Georgia, who will verify that all designs are consistent with the requirements of this ordinance.

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

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

Specifically, the following information is required:

- (1) Site plan, including but not limited to:
 - (a) For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;

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- (b) Proposed locations of water supply, sanitary sewer, and utilities;
 - (c) If available, the base flood elevation and/or regulatory flood elevation; and,
 - (d) If applicable, the location of the floodway.
- (2) Foundation design detail, including but not limited to:
 - Proposed elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all structures;
 - For a crawl-space foundation, location and total net area of foundation openings as required in Subsection 5.1(4) of this ordinance.
 - Proposed elevation in relation to mean sea level to which any substantial improvements to an existing non-residential structure will be flood-proofed, as required in Section 5 of this ordinance;
 - Description of the extent to which any watercourse will be altered or relocated as a result of the proposed land development project; and,
 - All appropriate certifications required under this ordinance.

Sec. 38-123.3. Construction stage submittal requirements.

For all new construction and substantial improvements on sites with a floodplain management / flood damage prevention plan, the permit holder shall provide to the Clayton County Department of Community Development a certified as-built plan showing of the regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized

for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. The Clayton County Department of Community Development shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

Sec. 38-123.4. Duties and responsibilities of the administrator.

Duties of the Clayton County Department of Transportation and Development shall include, but shall not be limited to:

(1) Review all land development applications and permits to assure that the requirements of this ordinance have been satisfied;

(2) Require that copies of all necessary permits from governmental agencies from which approval is required by Federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, be provided and maintained on file;

(3) When Base Flood Elevation data or floodway data have not been provided, then the Clayton County Department of Transportation and Development shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, state or other sources in order to meet the provisions of Sections 4 and 5;

(4) Record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;

(5) Record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed;

(6) When flood-proofing is utilized for a structure, the Clayton County Department of Community Development shall obtain certification of design criteria from a registered professional engineer or architect;

(7) Notify affected adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

(8) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the Clayton County Department of Transportation and Development shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps; and,

(9) All records pertaining to the provisions of this ordinance shall be maintained in the offices of the Clayton County Departments of Transportation and Development and Community Development and shall be open for public inspection.

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DIVISION 4. STANDARDS FOR LAND DEVELOPMENT

Sec. 38-124.1. Definition of floodplain boundaries.

(1) Studied “A” zones, as identified in the FIS, shall be used to establish base flood elevations whenever available.

(2) For Special Flood Hazards Areas and flood prone areas, the regulatory flood elevations shall be determined by a registered professional engineer using a method approved by Federal Emergency Management Agency.

(3) The boundaries or limits of the floodplain shall be within 0.5 feet vertical accuracy on the site plan containing existing topographic information.

Sec. 38-124.2. Definition of floodway boundaries.

(1) The width of a floodway shall be determined from the FIS or FEMA approved flood study.

(2) Following a pre-design conference with the Clayton County Department of Transportation and Development, the boundaries or limits of the floodway shall be shown on the (development or stormwater) site plan containing existing topographic information.

Sec. 38-124.3. General standards.

(1) No construction or structures, including grading, filling, cutting or displacement of earth shall be allowed within the regulatory floodplain that could result in any of the following:

(a) Raising the regulatory flood elevation beyond the boundaries of the ownership of the property being developed unless contained in a drainage easement obtained by the developer;

(b) Reducing the regulatory flood storage capacity. All compensation for storage capacity shall occur either within the boundaries of ownership of the property being developed, or within a permanent, recorded flood control easement, and shall be within a reasonable proximity to the location of the encroachment. Acceptable means of providing required compensation include: lowering of natural ground elevations within the floodplain; or, lowering of adjoining land areas to create additional floodplain; or raising of the regulatory flood elevation within the boundaries of ownership of the property being developed. All cut areas are to be graded to a slope of no less than 1.0 percent. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel. A step-backwater analysis will be required to determine the volume of flood storage created by raising the regulatory flood elevation;

(c) Changing the flow characteristics of the waters of the regulatory flood as they pass both the upstream and the downstream boundaries of the property. Verification shall be provided via a step-backwater analysis; or,

(d) Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation. In all cases effective transitions must be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased.

(2) All proposed development shall have public utilities and facilities, such as sewer, gas, electrical and water system, located and constructed to minimize flood damage.

(3) Any significant changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the Clayton County Department of Transportation and Development using the Community Consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as built surveys which demonstrate general conformance to the approved designs as submitted in the CLOMR application. A Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) must be issued before the Final Plat can be approved or a Certificate of Occupancy can be issued. Significant changes or revisions shall be defined as any change to the FIRM easily observed when plotted at a scale of 1" = 1000'. The changes or revisions may be due to, but are not limited to, more current and/or superior topographic information or compensatory cut and fill grading done as a part of the development.

Sec. 38-124.4. Engineering study requirements for floodplain encroachments.

An engineering study is required, as appropriate to the proposed land development activities on the site, whenever a development proposes to disturb the regulatory floodplain. This study shall be prepared by a currently registered Professional Engineer in the State of Georgia and made a part of the application for a permit. This information shall be submitted to and approved by the Clayton County Department of Transportation and Development prior to the approval of any permit which would authorize the disturbance of land located within the floodplain. Such study shall include:

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- (1) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- (2) Step-backwater analysis, using a method approved by the Clayton County Department of Transportation and Development. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood and regulatory flood profiles;
- (3) Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that regulatory floodplain storage capacity would not be diminished by the development;
- (4) If changes to the regulatory flood elevation are proposed, profiles of the channel showing the existing and proposed regulatory flood elevations must be provided; and,
- (5) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all floodplain encroachments.

Sec. 38-124.5. Floodway encroachments.

Located within Areas of Special Flood Hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore the following provisions shall apply:

- (1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except when required for the construction of bridges, culverts, roadways and utilities, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the regulatory or base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and,
- (2) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the Clayton County Department of Transportation and Development until an affirmative Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable, is issued by FEMA.

Sec. 38-124.6. Maintenance requirements.

The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood storage capacity is not diminished. the Clayton County Department of Transportation and Development may direct the property owner (at no cost to Clayton County) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the Clayton County Department of Transportation and Development.

DIVISION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 38-125.1. General standards.

In all Areas of Special Flood Hazard the following provisions apply:

- (1) New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the floodplain;
- (2) Substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (3) Substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (4) Substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (5) Elevated Buildings - All substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

- (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

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- (ii) The bottom of all openings shall be no higher than one foot above grade; and,
- (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and,

The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

- (6) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (7) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces;
- (8) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (9) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (10) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,
- (11) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.

Sec. 38-125.2. Building standards for structures and buildings within the Floodplain.

- (1) Residential Buildings
 - (a) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the floodplain.
 - (b) Substantial Improvements. Substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation adjacent to the building or at least as high as the regulatory flood elevation, whichever is highest. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 5.1 (4), "Elevated Buildings."
- (2) Non-Residential Buildings
 - (a) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the floodplain.
 - (b) Substantial Improvements. Substantial improvement of any structure located in A1- 30, AE, or AH zones, may be authorized by the Clayton County Director of Community Development or his designee to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the regulatory flood elevation, whichever is highest, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Clayton County Department of Community Development.
- (3) Accessory Structures and Facilities

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar structures and facilities) which are permitted to be located within the limits of the floodplain shall be designed and constructed to pass all floodwater in a manner consistent with this ordinance.
- (4) Standards for Recreational Vehicles

All recreational vehicles placed on sites must either:

 - (a) Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
 - (b) The recreational vehicle must meet all the requirements for "Residential Buildings—Substantial Improvements", including the anchoring and elevation requirements above.

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Sec. 38-125.3. Building standards for structures and buildings authorized Adjacent to the Floodplain.

- (1) Residential Buildings – For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the level of the highest base flood (100 year) elevation adjacent to the building or at least as high as the regulatory flood elevation whichever is highest.
- (2) Non-Residential Buildings – For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one (1) foot above the level of the highest base flood (100 year) elevation adjacent to the building or at least as high as the regulatory flood elevation whichever is highest.

Sec. 38-125.4. Building standards for streams without established base flood elevations and/or floodway (A-Zones).

Located within the Areas of Special Flood Hazard, where streams exist but no base flood data have been provided (A-Zones) –or– where base flood data have been provided but a Floodway has not been delineated, the Clayton County Department of Transportation and Development shall review and reasonably utilize any available scientific or historic base flood elevation or regulatory flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions and standards of this Section. If sufficient data are not available from these sources, then the Clayton County Department of Transportation and Development may accept a hydrologic assessment performed by a registered professional engineer to determine the regulatory flood and floodway elevations.

Sec. 38-125.5. Building standards for areas of shallow flooding (AO-Zones).

Areas of Special Flood Hazard may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel. In these areas the following provisions apply:

(1) All substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards for "Elevated Buildings"

The applicant's or owner's engineer shall certify to the Clayton County Department of Community Development that the lowest floor elevation level and the record shall become a permanent part of the permit file;

(2) Substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and,

(3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

Sec. 38-125.6. Standards for subdivisions.

(1) All subdivision proposals shall identify the special flood hazard area and provide base flood and regulatory flood elevation data;

(2) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood or regulatory flood elevation, the lowest flood and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Clayton County Department of Community Development;

(3) All subdivision proposals shall be consistent with the need to minimize flood damage;

(4) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and,

(5) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

Sec. 38-125.7. Standards for utilities.

(1) All new and replacement water supply and sanitary sewerage systems shall be designed to minimize or eliminate:

infiltration of flood waters into the systems; and, discharges from the systems into flood waters.

(2) On-site waste disposal systems shall be located outside the floodplain to avoid impairment to them, or contamination from them during flooding.

DIVISION 6. VARIANCE PROCEDURES

Sec. 38-126.1. Board of commissioners to hear and decide requests for appeals and variances.

The Clayton County Board of Commissioners shall hear and decide requests for appeals or variance from the requirements of this ordinance.

Sec. 38-126.2. Basis for appeal.

The board of commissioners shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Clayton County Director of Transportation and Development or his designee in the enforcement or administration of this ordinance.

Sec. 38-126.3. Who may appeal.

Any person aggrieved by the decision of the Clayton County Board of Commissioners may appeal such decision to the magistrate court, as provided in state statute.

Sec. 38-126.4. Basis for variance for repair or rehabilitation of historic structures.

Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

Sec. 38-126.5. Variance for development necessary for conduct of functionally dependent use.

Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

Sec. 38-126.6. Variance not issued if any increase in flood levels would result.

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Sec. 38-126.7. What considered to review requests.

In reviewing such requests, the Clayton County Board of Commissioners shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.

Sec. 38-126.8. Conditions for variances; when deviation granted; written notice of variance; maintenance of records by Clerk of Board of Commissioners.

- (a) A variance shall be issued only when there is:
 - (i) a finding of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship;and,
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud on or victimization of the public.

(b) The provisions of this ordinance are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

(d) The Clerk of the Clayton County Board of Commissioners shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Sec. 38-126.9. Variance may be conditional.

Upon consideration of the factors listed above and the purposes of this ordinance, the Clayton County

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Board of Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

DIVISION 7. VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec. 38-127.1. Subject of enforcement actions; public nuisance; equitable relief.

(a) Any action or inaction which violates the provisions of this ordinance or the requirements of an approved stormwater management plan or permit may be subject to the enforcement actions outlined in this Section.

(b) Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

Sec. 38-127.2. Notice of Violation.

(a) If the Clayton County Director of Transportation and Development or his designee determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

(b) The notice of violation shall contain:

- (1) The name and address of the owner or the applicant or the responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,

(6) A statement that the determination of violation may be appealed to the Clayton County Board of Commissioners by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).

Sec. 38-127.2. When penalties available; penalties.

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Clayton County Director of Transportation and Development or his designee shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, Clayton County Department of Transportation and Development may take any one or more of the following actions or impose any one or more of the following penalties.

(1) Stop Work Order – Clayton County Department of Transportation and Development may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

(2) Withhold Certificate of Occupancy – Clayton County Department of Community Development may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(3) Suspension, Revocation or Modification of Permit - Clayton County Department of Transportation and Development may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible

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person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as Clayton County Department of Transportation and Development may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(4) Civil Penalties - In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as Clayton County Department of Transportation and Development shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after Clayton County Department of Transportation and Development has taken one or more of the actions described above, Clayton County Department of Transportation and Development may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(5) Criminal Penalties - For intentional and flagrant violations of this ordinance, the Clayton County Department of Transportation and Development may issue a citation to the applicant or other responsible person, requiring such person to appear in magistrate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 6 months or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Section 2. If any part of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 3. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 4. This Ordinance shall become effective upon its approval by the Board of Commissioners.

SO ORDAINED, this the 6th day of April, 2004.

CLAYTON COUNTY BOARD OF
COMMISSIONERS

/s/ C. CRANDLE BRAY, CHAIRMAN

/s/ CARL RHODENIZER, VICE CHAIRMAN

/s/ GERALD A. MATTHEWS, COMMISSIONER

/s/ VIRGINIA BURTON GRAY,

COMMISSIONER

/s/ J. CHARLEY GRISWELL, COMMISSIONER

ATTEST:

/s/ SUZANNE BROWN

9. Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to approve Ordinance 2004-39 to amend the Code of Clayton County, Georgia, effective June 1, 2004, as amended; specifically Chapter 38. "Environment," is hereby further amended by adding Article V. "Post-Development Stormwater Management for New Development and Redevelopment" providing for post-development stormwater management requirements for new development and redevelopment, which is required in order to undertake land development activities. Vote unanimous.

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2004 - 39

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED;

SPECIFICALLY CHAPTER 38. "ENVIRONMENT," IS HEREBY FURTHER AMENDED BY ADDING

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ARTICLE V. “POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT

AND REDEVELOPMENT” PROVIDING FOR POST-DEVELOPMENT STORMWATER MANAGEMENT

REQUIREMENTS FOR NEW DEVELOPMENT AND REDEVELOPMENT; TO PROVIDE FINDINGS; TO

PROVIDE DIVISION 1. GENERAL PROVISIONS; PURPOSE AND INTENT; APPLICABILITY;

DESIGNATION OF ORDINANCE ADMINISTRATOR; COMPATIBILITY WITH OTHER REGULATIONS;

SEVERABILITY; STORMWATER DESIGN MANUAL; TO PROVIDE DIVISION 2. DEFINITIONS; TO

PROVIDE DIVISION 3 PERMIT PROCEDURES AND REQUIREMENTS; PERMIT APPLICATION

REQUIREMENTS; STORMWATER CONCEPT PLAN AND CONSULTATION MEETING;

STORMWATER MANAGEMENT PLAN REQUIREMENTS; STORMWATER MANAGEMENT

INSPECTION AND MAINTENANCE AGREEMENTS; PERFORMANCE AND MAINTENANCE BONDS;

APPLICATION PROCEDURE; APPLICATION REVIEW FEES; MODIFICATIONS FOR OFF-SITE

FACILITIES; TO PROVIDE DIVISION 4. POST-DEVELOPMENT STORMWATER MANAGEMENT

PERFORMANCE CRITERIA; WATER QUALITY; STREAM CHANNEL PROTECTION; OVERBANK

FLOODING PROTECTION; EXTREME FLOODING PROTECTION; STRUCTURAL STORMWATER

CONTROLS; STORMWATER CREDITS FOR NONSTRUCTURAL MEASURES; DRAINAGE SYSTEM

GUIDELINES; DAM DESIGN GUIDELINES; TO PROVIDE DIVISION 5. CONSTRUCTION

INSPECTIONS OF POST-DEVELOPMENT STORMWATER MANAGEMENT SYSTEM; INSPECTIONS

TO ENSURE PLAN COMPLIANCE DURING CONSTRUCTION; FINAL INSPECTION AND AS BUILT

PLANS; TO PROVIDE DIVISION 6. ONGOING INSPECTION AND MAINTENANCE OF FACILITIES

AND PRACTICES; LONG-TERM MAINTENANCE INSPECTION OF STORMWATER FACILITIES AND

PRACTICES; RIGHT-OF-ENTRY FOR INSPECTION; RECORDS OF MAINTENANCE ACTIVITIES;

FAILURE TO MAINTAIN; TO PROVIDE DIVISION 7. VIOLATIONS, ENFORCEMENT AND

PENALTIES; NOTICE OF VIOLATION; PENALTIES; TO PROVIDE FOR SEVERABILITY; TO REPEAL

CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE OF

THIS ORDINANCE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY AND IT IS HEREBY ORDAINED

Section 1. The Code of Clayton County, Georgia, as amended, specifically Chapter 38, Environment, is hereby further amended by adding Chapter Article V. "Post-development Stormwater Management for New Development and Redevelopment; to read as follows:

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ARTICLE V. POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT

Sec. 38-110. Findings.

It is hereby determined that:

Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition;

Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters;

The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;

These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural

facilities as well as nonstructural measures, such as the conservation of open space and greenspace areas. The preservation and protection of natural area and greenspace for stormwater management benefits is encouraged through the use of incentives or “credits.” The Georgia Greenspace Program provides a mechanism for the preservation and coordination of those greenspace areas which provide stormwater management quality and quantity benefits;

Localities in the State of Georgia are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and nonpoint source pollution;

Therefore, Clayton County Board of Commissioners has established this set of stormwater management policies to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. It has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.

DIVISION 1. GENERAL PROVISIONS

Sec. 38-111.1. Purpose and Intent.

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. It has been determined that proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. This ordinance seeks to meet that purpose through the following objectives:

- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
- (2) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
- (3) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- (4) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
- (5) Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable. Coordinate site design plans, which include greenspace, with Clayton County’s Watershed Improvements through Statistical Evaluation (WISE) Model Plan;
- (6) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and,
- (7) Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

Sec. 38-111.2. Applicability.

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(a) This ordinance shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection 2 below. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:

- (1) New development that involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of 1 acre or more;
- (2) Redevelopment that includes the creation, addition or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of one (1) acre or more;
- (3) Any new development or redevelopment, regardless of size, that is defined by the Clayton County Director of Transportation and Development or his designee to be a hotspot land use; or,
- (4) Land development activities that are smaller than the minimum applicability criteria set forth in items 1 and 2 above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

(b) The following activities are exempt from this ordinance:

- (1) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;
- (2) Additions or modifications to existing single-family or duplex residential structures;
- (3) Agricultural or silvicultural land management activities within areas zoned for these activities; and,
- (4) Repairs to any stormwater management facility or practice deemed necessary by the Clayton County Director of Transportation and Development.

Sec. 38-111.3. Designation of Ordinance Administrator.

The Clayton County Director of Transportation and Development or his designee is hereby appointed to administer and implement the provisions of this ordinance.

Sec. 38-111.4. Compatibility with Other Regulations.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, 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.

Sec. 38-111.5. Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

Sec. 38-111.6. Stormwater Design Manual.

Clayton County will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the Georgia Stormwater Management Manual and any relevant local addenda for the proper implementation of the requirements of this ordinance. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

DIVISION 2. DEFINITIONS

For purposes of this ordinance, certain words and terms used herein shall be defined and interrupted as follows; all other terms as not defined shall have their customary dictionary definitions:

Sec. 38-112.1

“Applicant” means a person submitting a post-development stormwater management application and plan for approval.

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

“Conservation Easement” means an agreement between a land owner and Clayton County or land trust that permanently protects open space or greenspace on the owner’s land by limiting the amount and type of

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development that can take place, but continues to leave the remainder of the fee interest in private ownership.

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

“Detention Facility” means a detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

“Developer” means a person who undertakes land development activities.

“Development” means a land development or land development project.

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

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

“Extended Detention” means the detention of stormwater runoff for an extended period, typically 24 hours or greater.

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

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

“Greenspace” or “Open Space” means permanently protected areas of the site that are preserved in a natural state.

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

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

“Impervious Cover” means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.

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

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

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

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

“Land Development Activities” means those actions or activities which comprise, facilitate or result in land development.

“Land Development Project” means a discrete land development undertaking.

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

“New Development” means a land development activity on a previously undeveloped site.

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

“Nonstructural Stormwater Management Practice” or “Nonstructural Practice” means any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

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“Off-Site Facility” means a stormwater management facility located outside the boundaries of the site.

“On-Site Facility” means a stormwater management facility located within the boundaries of the site.

“Overbank Flood Protection” means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.

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

“Permit” means the permit issued by Clayton County to the applicant which is required for undertaking any land development activity.

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

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

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

“Project” means a land development project.

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

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

“Runoff” means stormwater runoff.

“Site” means the parcel of land being developed, or the portion thereof on which the land development project is located.

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

“Stormwater Management” means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

“Stormwater Management Facility” means any infrastructure that controls or conveys stormwater runoff.

“Stormwater Management Measure” means any stormwater management facility or nonstructural stormwater practice.

“Stormwater Management Plan” means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this ordinance.

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

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

“Stormwater Runoff” means the flow of surface water resulting from precipitation.

“Structural Stormwater Control” means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

“Subdivision” means the division of a tract or parcel of land resulting in one or more new lots or building

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sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

DIVISION 3. PERMIT PROCEDURES AND REQUIREMENTS

Sec. 38-113.1. Permit Application Requirements.

No owner or developer shall perform any land development activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Unless specifically exempted by this ordinance, any owner or developer proposing a land development activity shall submit to the Clayton County Director of Transportation and Development or his designee a permit application on a form provided by the Clayton County Director of Transportation and Development or his designee for that purpose.

Unless otherwise exempted by this ordinance, a permit application shall be accompanied by the following items in order to be considered:

- (1) Stormwater concept plan and consultation meeting certification in accordance with Section 3.2;
- (2) Stormwater management plan in accordance with Section 3.3;
- (3) Inspection and maintenance agreement in accordance with Section 3.4, if applicable;
- (4) Performance bond in accordance with Section 3.5, if applicable; and,
- (5) Permit application and plan review fees in accordance with Section 3.6.

Sec. 38-113.2. Stormwater Concept Plan and Consultation Meeting.

Before any stormwater management permit application is submitted, it is recommended that the land owner or developer meet with the Clayton County Director of Transportation and Development or his designee for a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-development stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential ideas for stormwater management designs before the formal site design engineering is commenced.

To accomplish this goal the following information should be included in the concept plan which should be submitted in advance of the meeting:

A. 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.

B. 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.

C. 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, the Clayton County Greenspace Program (if applicable), and any relevant resource protection plans will be consulted in the discussion of the concept plan.

Sec. 38-113.3. Stormwater Management Plan Requirements.

The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this ordinance, including the performance criteria set forth in Section 4 below.

This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the state of Georgia, who must verify that

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the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the stormwater design manual.

The stormwater management plan must ensure that the requirements and criteria in this ordinance are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the Stormwater Management Site Plan checklist found in the stormwater design manual. This includes:

- (1) Common address and legal description of site
- (2) Vicinity Map
- (3) Existing Conditions Hydrologic Analysis

The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each subbasin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, predevelopment conditions shall be modeled using the established guidelines for the portion of the site undergoing land development activities.

(d) Post-Development Hydrologic Analysis

The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each subbasin affected by the project; calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in Section 4; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50 percent of the site area for the entire site, then the performance criteria in Section 4 must be met for the stormwater runoff from the entire site.

(5) Stormwater Management System

The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in Section 4; drawings, design calculations, elevations for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.

(6) Post-Development Downstream Analysis

A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is 10 percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the stormwater design manual.

(7) Construction-Phase Erosion and Sedimentation Control Plan

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An erosion and sedimentation control plan in accordance with the Georgia Erosion and Sedimentation Control Act, Clayton County Soil and Erosion Control Ordinance 2000-153 or NPDES Permit for Construction Activities. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.

(8) Landscaping and Open Space Plan

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

(9) Operations and Maintenance Plan

Detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. These plans will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(10) Maintenance Access Easements

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

(11) Inspection and Maintenance Agreements

Unless an on-site stormwater management facility or practice is dedicated to and accepted by the Clayton County Director of Transportation and Development or his designee as provided in Section 3.4 below, the applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management facility or practice in accordance Section 3.4.

(12) Evidence of Acquisition of Applicable Local and Non-local Permits

The applicant shall certify and provide documentation to the Clayton County Director of Transportation and Development or his designee that all other applicable environmental permits have been acquired for the site prior to approval of the stormwater management plan.

Sec. 38-113.4. Stormwater Management Inspection and Maintenance Agreements.

Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder and for which Clayton County requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the Clayton County Director of Transportation and Development or his designee, execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that shall be binding on all subsequent owners of the site.

The inspection and maintenance agreement, if applicable, must be approved by the Clayton County Director of Transportation and Development or his designee prior to plan approval, and recorded in the deed records upon final plat approval.

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

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

In addition to enforcing the terms of the inspection and maintenance agreement, the Clayton County

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Director of Transportation and Development or his designee may also enforce all of the provisions for ongoing inspection and maintenance in Section 6 of this ordinance.

The Clayton County Board of Commissioners, in lieu of an inspection and maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meet all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Sec. 38-113.5. Performance and Maintenance Bonds.

Sec. 38-113.6. Application Procedure.

(1) Applications for land development permits shall be filed with Clayton County Department of Transportation and Development.

(2) Permit applications shall include the items set forth in Section 3.1 above (two copies of the stormwater management plan and the inspection maintenance agreement, if applicable, shall be included).

(3) The Clayton County Director of Transportation and Development or his designee shall inform the applicant whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved.

(4) If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, the Clayton County Director of Transportation and Development or his designee 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 3 above and this subparagraph shall apply to such resubmittal.

(5) Upon a finding by the Clayton County Director of Transportation and Development or his designee that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this ordinance, the Clayton County Director of Transportation and Development or his designee may issue a permit for the land development project, provided all other legal requirements for the issuance of such permit have been met.

(6) 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:

(a) The applicant shall comply with all applicable requirements of the approved plan and this ordinance and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;

(b) The land development project shall be conducted only within the area specified in the approved plan;

(c) The Clayton County Director of Transportation and Development or his designee shall be allowed to conduct periodic inspections of the project;

(d) No changes may be made to an approved plan without review and written approval by the Clayton County Director of Transportation and Development or his designee; and,

(e) Upon completion of the project, the applicant or other responsible person shall submit the engineer's report and certificate and as-built plans required by Section 5.2.

Sec. 38-113.7. Application Review Fees.

The fee for review of any stormwater management application shall be based on the fee structure established by the Clayton County Director of Transportation and Development or his designee and shall be made prior to the issuance of any building permit for the development.

Sec. 38-113.8. Modifications for Off-Site Facilities.

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

A stormwater management plan must be submitted to the Clayton County Department of Transportation and Development, which shows the adequacy of the off-site or regional facility.

To be eligible for a modification, the applicant must demonstrate to the satisfaction of the Clayton County Director of Transportation and Development or his designee that the use of an off-site or regional facility will not

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result in the following impacts to upstream or downstream areas:

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

DIVISION 4. POST-DEVELOPMENT STORMWATER MANAGEMENT PERFORMANCE CRITERIA

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

Sec. 38-114.1. Water Quality.

All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:

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

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

Runoff from hotspot land uses and activities identified by the Clayton County Director of Transportation and Development or his designee are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

Sec. 38-114.2. Stream Channel Protection.

Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:

- (1) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
- (2) 24-hour extended detention storage of the 1-year, 24-hour return frequency storm

event;

- (3) Erosion prevention measures such as energy dissipation and velocity control.

Sec. 38-114.3. Overbank Flooding Protection.

Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm under Section 4.2 is exempted, then peak discharge rate attenuation of the 2-year through the 25-year return frequency storm event must be provided.

Sec. 38-114.4. Extreme Flooding Protection.

Extreme flood and public safety protection shall be provided by controlling and safely conveying the 100-year, 24 hour return frequency storm event such that flooding is not exacerbated. Sec. 38-114.5. Structural Stormwater Controls.

All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the Clayton County Director of Transportation and Development or his designee before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the Clayton County Director of Transportation and Development or his designee may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.

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

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Sec. 38-114.6. Stormwater Credits for Nonstructural Measures.

The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under Section 4.1. The applicant may, if approved by the Clayton County Director of Transportation and Development or his designee, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

Sec. 38-114.7. Drainage System Guidelines.

Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are

designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:

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

Sec. 38-114.8. Dam Design Guidelines.

Any land disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

DIVISION 5. CONSTRUCTION INSPECTIONS OF POST- DEVELOPMENT STORMWATER MANAGEMENT SYSTEM Sec. 38-115.1. Inspections to Ensure Plan Compliance During Construction.

Periodic inspections of the stormwater management system construction may be conducted by the staff of the Clayton County Department of Transportation and Development or conducted and certified by a professional engineer who has been approved by the Clayton County Director of Transportation and Development or his designee. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.

All inspections shall be documented with written reports that contain the following information:

- (1) The date and location of the inspection;
- (2) Whether construction is in compliance with the approved stormwater management plan;
- (3) Variations from the approved construction specifications; and,
- (4) Any other variations or violations of the conditions of the approved stormwater

management plan.

If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.

Sec. 38-115.2. Final Inspection and As Built Plans.

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual "as built" plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a Professional Engineer. A final inspection by the Clayton County Director of Transportation and Development or his designee is required before the release of any performance securities can occur.

DIVISION 6. ONGOING INSPECTION AND MAINTENANCE OF FACILITIES AND PRACTICES Sec. 38-116.1. Long-Term Maintenance Inspection of Stormwater Facilities and Practices.

Stormwater management facilities and practices included in a stormwater management plan, which is subject to an inspection and maintenance agreement, must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this ordinance.

A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the Clayton County Director of Transportation and Development or his designee shall notify the person responsible

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for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Clayton County Director of Transportation and Development or his designee, may correct the violation as provided in Subsection 6.4 hereof.

Inspection programs by the Clayton County Department of Transportation and Development may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

Sec. 38-116.2. Right-of-Entry for Inspection.

The terms of the inspection and maintenance agreement shall provide for the Clayton County Director of Transportation and Development or his designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

Sec. 38-116.3. Records of Maintenance Activities.

Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Clayton County Director of Transportation and Development or his designee.

Sec. 38-116.4. Failure to Maintain.

If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Clayton County Director of Transportation and Development or his designee, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The Clayton County Director of Transportation and Development or his designee may assess the owner(s) of the facility for the cost of repair work which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

DIVISION 7. VIOLATIONS, ENFORCEMENT AND PENALTIES

Any action or inaction, which violates the provisions of this ordinance or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

Sec. 38-117.1. Notice of Violation.

If the Clayton County Director of Transportation and Development or his designee determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- (1) The name and address of the owner or the applicant or the responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (6) A statement that the determination of violation may be appealed to the Clayton County Board of

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Commissioners by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).

Sec. 38-117.2. Penalties.

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Clayton County Director of Transportation and Development or his designee shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Clayton County Director of Transportation and Development or his designee may take any one or more of the following actions or impose any one or more of the following penalties.

(1) **Stop Work Order** - The Clayton County Director of Transportation and Development or his designee may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

(2) **Withhold Certificate of Occupancy** - The Clayton County Director of Transportation and Development or his designee may request that the Director of Community Development refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(3) Suspension, Revocation or Modification of Permit - The Clayton County Director of Transportation and Development or his designee may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated [upon such conditions as the Clayton County Director of Transportation and Development or his designee may deem necessary] to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(4) Civil Penalties - In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the Clayton County Director of Transportation and Development or his designee shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the Clayton County Director of Transportation and Development or his designee has taken one or more of the actions described above, the Clayton County Director of Transportation and Development or his designee may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(5) Criminal Penalties - For intentional and flagrant violations of this ordinance, the Clayton County Director of Transportation and Development or his designee may issue a citation to the applicant or other responsible person, requiring such person to appear in magistrate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 6 months or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Section 2. If any part of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 3. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 4. This Ordinance shall become effective upon its approval by the Board of Commissioners.

SO ORDAINED, this the 6th day of April, 2004.

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COMMISSIONERS

CLAYTON COUNTY BOARD OF

/s/ C. CRANDLE BRAY,

CHAIRMAN

/s/ CARL RHODENIZER, VICE CHAIRMAN

/s/ GERALD A. MATTHEWS, COMMISSIONER

/s/ VIRGINIA BURTON GRAY, COMMISSIONER

/s/ J. CHARLEY GRISWELL, COMMISSIONER

ATTEST:

/s/ SUZANNE BROWN

10. Motion by Vice Chairman Rhodenizer, second by Commissioner Matthews, to approve Ordinance 2004-40 to amend the Code of Clayton County, Georgia, effective June 1, 2004, as amended; specifically Chapter 38. "Environment," is hereby further amended by adding Article VII. "Illicit Discharge and Illegal Connection" providing for the authority to deal with illicit discharges and establish enforcement actions for those persons or entities found to be in non-compliance or that refuse to allow access to their facilities. Vote unanimous.

NOTE: Commissioner Griswell requested that Ordinances #38-40 become effective June 1, 2004 so that the concerned parties will have adequate time to be in compliance with the requirements. The Board agreed.

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2004 - 40

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED;

SPECIFICALLY CHAPTER 38. "ENVIRONMENT," IS HEREBY FURTHER AMENDED BY ADDING

ARTICLE VII. "ILLICIT DISCHARGE AND ILLEGAL CONNECTION" PROVIDING FOR AUTHORITY TO

DEAL WITH ILLICIT DISCHARGES AND ESTABLISH ENFORCEMENT ACTIONS FOR THOSE PERSONS

OR ENTITIES FOUND TO BE IN NONCOMPLIANCE OR THAT REFUSE TO ALLOW ACCESS TO THEIR

FACILITIES; TO PROVIDE FINDINGS; TO PROVIDE DIVISION 1. GENERAL PROVISIONS; PURPOSE

AND INTENT; APPLICABILITY; COMPATIBILITY WITH OTHER REGULATIONS; SEVERABILITY;

RESPONSIBILITY FOR ADMINISTRATION; TO PROVIDE DIVISION 2. DEFINITIONS; TO PROVIDE

DIVISION 3. PROHIBITIONS; PROHIBITION OF ILLICIT DISCHARGES; PROHIBITION OF ILLEGAL

CONNECTIONS; TO PROVIDE DIVISION 4. INDUSTRIAL OR CONSTRUCTION ACTIVITY

DISCHARGES; COMPLIANCE WITH NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

PERMIT; TO PROVIDE DIVISION 5. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES;

ACCESS FOR INSPECTION AND FOR INSPECTION TO DETERMINE COMPLIANCE; TO PROVIDE

DIVISION 6. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS; REQUIREMENT TO

ENSURE DISCOVERY, CONTAINMENT, AND CLEANUP OF POLLUTANTS OR NON-STORMWATER

DISCHARGES; TO PROVIDE DIVISION 7. VIOLATIONS, ENFORCEMENT AND PENALTIES;

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VIOLATIONS; NOTICE OF VIOLATION; APPEAL OF NOTICE OF VIOLATION; ENFORCEMENT

MEASURES AFTER APPEAL; COSTS OF ABATEMENT OF THE VIOLATION; CIVIL PENALTIES;

CRIMINAL PENALTIES; VIOLATIONS DEEMED A PUBLIC NUISANCE; REMEDIES NOT EXCLUSIVE;

TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND

RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER

PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS
OF CLAYTON COUNTY AND IT IS HEREBY ORDAINED

Section 1. The Code of Clayton County, Georgia, as amended, specifically Chapter 38, “Environment,” is hereby further amended by adding Article VII. “Illicit Discharge and Illegal Connection” to read as follows:

ARTICLE VII. ILLICIT DISCHARGE AND ILLEGAL CONNECTION

Sec. 38-130. Findings.

It is hereby determined that:

Discharges to the Clayton County separate storm sewer system that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving waters;

These non-stormwater discharges occur due to spills, dumping and improper connections to the Clayton County separate storm sewer system from residential, industrial, commercial or institutional establishments.

These non-stormwater discharges not only impact waterways individually, but geographically dispersed, small volume non-stormwater discharges can have cumulative impacts on receiving waters.

The impacts of these discharges adversely affect public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;

These impacts can be minimized through the regulation of spills, dumping and discharges into the Clayton County separate storm sewer system;

Localities in the State of Georgia are required to comply with a number of State and Federal laws, regulations and permits which require a locality to address the impacts of stormwater runoff quality and nonpoint source pollution due to improper non-stormwater discharges to the Clayton County separate storm sewer system;

Therefore, the Clayton County Board of Commissioners adopts this ordinance to prohibit such non-stormwater discharges to the Clayton County separate storm sewer system. It is determined that the regulation of spills, improper dumping and discharges to the Clayton County separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.

DIVISION 1. GENERAL PROVISIONS

Sec. 38-131.1. Purpose and Intent.

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

- (1) Regulate the contribution of pollutants to the Clayton County separate storm sewer system by any person;
- (2) Prohibit illicit discharges and illegal connections to the Clayton County separate storm sewer system;
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the Clayton County 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 ordinance. Sec. 38-131.2.

Applicability.

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The provisions of this ordinance shall apply throughout the unincorporated area of Clayton County.

Sec. 38-131.3. Compatibility with Other Regulations.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, 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.

Sec. 38-131.4. Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

Sec. 38-131.5. Responsibility for Administration.

The Clayton County Director of Transportation and Development or his designee shall administer, implement, and enforce the provisions of this ordinance.

DIVISION 2. DEFINITIONS

For purposes of this ordinance, certain words and terms used herein shall be defined and interrupted as follows; all other terms as not defined shall have their customary dictionary definitions:

“Accidental Discharge” means a discharge prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.

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

“Construction Activity” means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

“Illicit Discharge” means any direct or indirect non-stormwater discharge to the Clayton County separate storm sewer system, except as exempted in Section 3 of this ordinance.

“Illegal Connection” means either of the following:

(a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or

(b) Any pipe, open channel, drain or conveyance connected to the (municipal/county) separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

“Industrial Activity” means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

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

“Clayton County Separate Storm Sewer System” means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, county streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

(a) Owned or maintained by Clayton County;

(b) Not a combined sewer; and

(c) Not part of a publicly-owned treatment works.

“Non-Stormwater Discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

“Person” means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any

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other legal entity.

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

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

“Premises” mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“State Waters” means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Georgia which are not entirely confined and retained completely upon the property of a single person.

“Stormwater Runoff” or “Stormwater” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

“Structural Stormwater Control” means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

DIVISION 3. PROHIBITIONS

Sec. 38-133.1. Prohibition of Illicit Discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the Clayton County separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater.

The following discharges are exempt from the prohibition provision above:

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

(2) Discharges or flows from fire fighting, and other discharges specified in writing by the Clayton County Director of Transportation and Development or his designee as being necessary to protect public health and safety;

(3) The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the State or the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Clayton County separate storm sewer system.

Sec. 38-133.2. Prohibition of Illegal Connections.

The construction, connection, use, maintenance or continued existence of any illegal connection to the Clayton County separate storm sewer system is prohibited.

(1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(2) A person violates this ordinance if the person connects a line conveying sewage to the Clayton County separate storm sewer system, or allows such a connection to continue.

(3) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Clayton County Water Authority.

(4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon

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receipt of written notice of violation from the Clayton County Director of Transportation and Development or his designee requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Clayton County Director of Transportation and Development or his designee.

DIVISION 4. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Sec. 38-134.1. Compliance with National Pollutant Discharge Elimination System Permit.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Clayton County Director of Transportation and Development or his designee prior to allowing discharges to the Clayton County separate storm sewer system.

DIVISION 5. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

Sec. 38-135.1. Access for Inspection and for Inspection to Determine Compliance.

The Clayton County Director of Transportation and Development or his designee shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance.

(1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of Clayton County Department of Transportation and Development.

(2) The owner or operator shall allow a representative of Clayton County ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and

copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

(3) Clayton County shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Clayton County Director of Transportation and Development or his designee to conduct monitoring and/or sampling of flow discharges.

(4) Clayton County may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Clayton County Director of Transportation and Development or his designee. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Clayton County Director of Transportation and Development or his designee and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(6) Unreasonable delays in allowing Clayton County access to a facility is a violation of this ordinance.

(7) If Clayton County has been refused access to any part of the premises from which stormwater is discharged, and the Clayton County Director of Transportation and Development or his designee is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Clayton County Director of Transportation and Development or his designee may seek issuance of a search warrant from any court of competent jurisdiction.

DIVISION 6. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

Sec. 38-136.1. Requirement to Ensure Discovery, Containment, and Cleanup of Pollutants or Non-Stormwater Discharges.

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Clayton County separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

Said person shall notify the authorized enforcement agency in person, by phone or facsimile no later than 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 Clayton County Director of Transportation and Development or his designee within three business days of the phone or in person notice. If the discharge of

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prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

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

Failure to provide notification of a release as provided above is a violation of this ordinance.

DIVISION 7. VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec. 38-137.1. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this ordinance, 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.

In the event the violation constitutes an immediate danger to public health or public safety, Clayton County 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. Clayton County is authorized to seek costs of the abatement as outlined in Section 7.5.

Sec. 38-137.2. Notice of Violation.

Whenever the Clayton County Director of Transportation and Development or his designee finds that a violation of this ordinance has occurred, Clayton County may order compliance by written notice of violation.

(a) The notice of violation shall contain:

1. The name and address of the alleged violator;

(2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,

(6) A statement that the determination of violation may be appealed to the Clayton County Board of Commissioners by filing a written notice of appeal within fourteen (14) days of service of notice of violation.

(b) Such notice may require without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit discharges and illegal connections;

(3) That violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(5) Payment of costs to cover administrative and abatement costs; and,

(6) The implementation of pollution prevention practices.

Sec. 38-137.3. Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the Clayton County Director of Transportation and Development or his designee. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the Clayton County Board of Commissioners or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the appropriate authority or their designee shall be final.

Sec. 38-137.4. Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 14 days of the decision of the appropriate authority

upholding the decision of the Clayton County Director of Transportation and Development or his designee, then representatives of Clayton County Department of Transportation and Development may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

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Sec. 38-137.5. Costs of Abatement of the Violation.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within 14 days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to Clayton County by reason of such violation.

Sec. 38-137.6. Civil Penalties.

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within thirty days, or such greater period as the Clayton County Director of Transportation and Development or his designee shall deem appropriate, after the Clayton County Department of Transportation and Development has taken one or more of the actions described above, the Clayton County Director of Transportation and Development or his designee may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

Sec. 38-137.7. Criminal Penalties.

For intentional or flagrant violations of this ordinance, Clayton County may issue a citation to the alleged violator requiring such person to appear in magistrate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 6 months or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Sec. 38-137.8. Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

Sec. 38-137.9. Remedies Not Exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State or local law and Clayton County may seek cumulative remedies.

Clayton County may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 2. If any part of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 3. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 4. This Ordinance shall become effective upon its approval by the Board of Commissioners.

SO ORDAINED, this the 6th day of April, 2004.

CLAYTON COUNTY BOARD OF COMMISSIONERS

/s/ C. CRANDLE BRAY, CHAIRMAN

/s/ CARL RHODENIZER, VICE CHAIRMAN

/s/ GERALD A. MATTHEWS, COMMISSIONER

/s/ VIRGINIA BURTON GRAY, COMMISSIONER

/s/ J. CHARLEY GRISWELL, COMMISSIONER

ATTEST:

/s/ SUZANNE BROWN

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11. Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to approve Resolution 2004-45 authorizing Clayton County to execute a consulting services agreement with Jordan, Jones and Goulding, Inc., under which consulting services will be rendered for the County as they relate to the Conley Road widening project. Vote unanimous.

STATE OF GEORGIA

COUNTY OF CLAYTON

RESOLUTION NO. 2004 - 45

A RESOLUTION AUTHORIZING CLAYTON COUNTY TO ENTER INTO A CONSULTING SERVICES AGREEMENT WITH JORDAN, JONES AND GOULDING, INC., PROVIDING FOR THE TERMS AND CONDITIONS UNDER WHICH CONSULTING SERVICES WILL BE RENDERED TO THE COUNTY AS THEY RELATE TO THE CONLEY ROAD WIDENING PROJECT; TO AUTHORIZE THE CHAIRMAN TO EXECUTE THE AGREEMENT AND OTHERWISE PERFORM ALL ACTS NECESSARY TO ACCOMPLISH THE INTENT OF THIS RESOLUTION; TO AUTHORIZE THE FINANCE DIRECTOR

TO AMEND THE BUDGET WHERE NECESSARY TO REFLECT AN APPROPRIATE REVENUE SOURCE AND EXPENSE, AND TO TRANSFER ANY REQUIRED FUNDS, ALL AS MAY BE REQUIRED UNDER THE TERMS OF THE AGREEMENT; TO PROVIDE AN EFFECTIVE DATE OF THIS RESOLUTION; AND FOR OTHER PURPOSES.

WHEREAS, the County is in need of professional consulting services relating to the Conley Road widening project; and

WHEREAS, Jordan, Jones and Goulding, Inc. is eminently qualified to assist the County in this endeavor, and the parties hereto wish to memorialize their respective understanding of the terms under which such consulting services will be provided; and

WHEREAS, the County deems it in its best interest of Clayton County, and the County will best be served by entering into an Agreement with Jordan, Jones and Goulding, Inc. for the stated purpose.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY, GEORGIA AND IT IS HEREBY RESOLVED

Section 1. The Board of Commissioners authorizes Clayton County to enter into an Agreement with Jordan, Jones and Goulding, Inc. providing for the terms and conditions under which consulting services will be rendered as they relate to the Conley Road widening project. Further, the Board of Commissioners authorizes the Chairman to execute the Agreement and otherwise perform all acts necessary to accomplish the intent of this Resolution. Further, the Board of Commissioners authorizes the Director of Finance to amend the budget where necessary to reflect an appropriate revenue source and expense, and to transfer any required funds, all as may be required under the terms of the Agreement. The Agreement shall be in the form attached hereto, subject to such minor changes, insertions or deletions as the Chairman may approve.

Section 2. The effective date of this Resolution shall be when approved by the Board of Commissioners of Clayton County.

SO RESOLVED, this the 6th day of April, 2004.

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CLAYTON COUNTY BOARD OF COMMISSIONERS

/s/ C. CRANDLE BRAY, CHAIRMAN
/s/ CARL RHODENIZER, VICE-CHAIRMAN
/s/ GERALD A. MATTHEWS, COMMISSIONER
/s/ VIRGINIA BURTON GRAY, COMMISSIONER
/s/ J. CHARLEY GRISWELL, COMMISSIONER

ATTEST:

/s/ SUZANNE BROWN

12. Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to approve Resolution

2004-46 authorizing Clayton County to enter into the second extension of the Clayton County Service Delivery Strategy with the Cities of College Park, Forest Park, Jonesboro, Lake City, Lovejoy, Morrow, and Riverdale and the Clayton County Water Authority providing for the reorganization and, in some instances, consolidation of local government service delivery programs in Clayton County; to authorize the Chairman to execute the agreement, etc. Vote unanimous.

Commissioner Griswell asked Don Comer, Staff Attorney, to explain the purpose of this resolution. Mr. Comer

replied this is an agreement that the county entered into several years ago, and it was previously extended to April 28, 2003. The State requires that counties enter into an agreement with various cities to minimize a duplication of government services. If the counties do not enter the agreement, then the State denies them loans, grants, and other financial aid (House Bill #489). This will be a second extension of the agreement for Clayton County.

Commissioner Matthews noted that the wrong name was listed under the Chairman of the Water Authority. He asked that it be changed to reflect Pete McQueen's name. Mr. Comer agreed to make the change.

STATE OF GEORGIA

COUNTY OF CLAYTON

RESOLUTION NO. 2004 - 46

A RESOLUTION AUTHORIZING CLAYTON COUNTY TO ENTER INTO THE SECOND
EXTENSION OF THE CLAYTON COUNTY SERVICE DELIVERY STRATEGY WITH THE CITIES
OF
COLLEGE PARK, FOREST PARK, JONESBORO, LAKE CITY, LOVEJOY, MORROW, AND
RIVERDALE AND THE CLAYTON COUNTY WATER AUTHORITY PROVIDING FOR THE
REORGANIZATION, AND IN SOME INSTANCES, THE CONSOLIDATION OF LOCAL
GOVERNMENT
SERVICE DELIVERY PROGRAMS IN CLAYTON COUNTY; TO AUTHORIZE THE CHAIRMAN
TO
EXECUTE THE AGREEMENT AND OTHERWISE PERFORM ALL ACTS NECESSARY TO
ACCOMPLISH THE INTENT OF THIS RESOLUTION; TO PROVIDE AN EFFECTIVE DATE OF
THIS

RESOLUTION; AND FOR OTHER PURPOSES.

WHEREAS, the County entered into the Clayton County Service Delivery Strategy with the cities of College Park, Forest Park, Jonesboro, Lake City, Lovejoy, Morrow, and Riverdale (the "Cities"), and the Clayton County Water Authority (the "Water Authority"), providing for the reorganization, and in some instances, the consolidation of local government service delivery programs in Clayton County; and

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WHEREAS, such parties previously agreed to extend the operation of the Clayton County Service Delivery Strategy within Clayton County through April 28, 2003; and

WHEREAS, there is a need to further extend the operation of the Clayton County Service Delivery Strategy, and Clayton County deems it in its best interest to enter into a Second Extension Service Delivery Strategy for the stated purposes.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY, GEORGIA AND IT IS HEREBY RESOLVED

Section 1. The Board of Commissioners authorizes Clayton County to enter into a Second Extension of the Clayton County Service Delivery Strategy with the Cities and the Water Authority providing for the reorganization, and in some instances, the consolidation of local government service delivery programs in Clayton County. Further, the Board of Commissioners authorizes the Chairman to execute the Agreement and otherwise perform all acts necessary to accomplish the intent of this Resolution. The Agreement shall be in substantially the form attached hereto, subject to such minor changes, insertions or deletions as the Chairman may approve.

Section 2. The effective date of this Resolution shall be when approved by the Board of Commissioners of Clayton County.

SO RESOLVED, this the 6th day of April, 2004.

CLAYTON COUNTY BOARD OF COMMISSIONERS

/s/ C. CRANDLE BRAY, CHAIRMAN

/s/ CARL RHODENIZER, VICE-

CHAIRMAN

/s/ GERALD A. MATTHEWS,

COMMISSIONER

/s/ VIRGINIA BURTON GRAY, COMMISSIONER

/s/ J. CHARLEY GRISWELL, COMMISSIONER

ATTEST:

/s/ SUZANNE BROWN

13. Motion by Vice Chairman Rhodenizer, second by Commissioner Griswell, to approve Resolution

2004-47 authorizing Clayton County to advance funds (\$700,000.00) to the Clayton County Development Authority necessary to cover expenses associated with the pre-acquisition and construction of the Gateway Village Hotel and Convention Center Project; to provide that the fund advances be repaid from proceeds derived from the issuance of Revenue Bonds (Hotel/Convention Center Project) Series 2004; to authorize the Chairman to execute the advance of funds documents; to authorize the Finance Director to reflect the advance of funds in the county's financial records as necessary, to transfer the appropriate funds, and thereafter disburse such funds to the Development Authority as may be required under the terms of this Resolution, etc. Vote unanimous.

STATE OF GEORGIA

COUNTY OF CLAYTON

RESOLUTION NO. 2004 - 47

A RESOLUTION AUTHORIZING CLAYTON COUNTY TO ADVANCE FUNDS TO THE CLAYTON COUNTY DEVELOPMENT AUTHORITY NECESSARY TO COVER EXPENSES ASSOCIATED WITH THE PRE-ACQUISITION AND CONSTRUCTION OF THE GATEWAY VILLAGE HOTEL AND CONVENTION CENTER PROJECT; TO PROVIDE THAT THE ADVANCES OF FUNDS

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BE REPAID FROM PROCEEDS DERIVED FROM THE ISSUANCE OF REVENUE BONDS

(HOTEL/CONVENTION CENTER PROJECT), SERIES 2004; TO AUTHORIZE THE CHAIRMAN TO

EXECUTE THE ADVANCE OF FUNDS DOCUMENTS AND OTHERWISE PERFORM ALL OTHER

ACTS NECESSARY TO ACCOMPLISH THE INTENT OF THE RESOLUTION; TO AUTHORIZE THE

FINANCE DIRECTOR TO REFLECT THE ADVANCE OF FUNDS IN THE COUNTY'S FINANCIAL

RECORDS AS NECESSARY, TO TRANSFER THE APPROPRIATE FUNDS, AND THEREAFTER

DISBURSE SUCH FUNDS TO THE DEVELOPMENT AUTHORITY AS MAY BE REQUIRED UNDER

THE TERMS OF THIS RESOLUTION; TO PROVIDE AN EFFECTIVE DATE OF THIS RESOLUTION;

AND FOR OTHER PURPOSES.

WHEREAS, the County has entered into an Intergovernmental Contract with the Development Authority of Clayton County (the "Development Authority") to issue Revenue Bonds (Hotel/Convention Center Project), Series 2004, to finance the acquisition, construction and equipping of the Gateway Village hotel and convention center (the "Project"); and

WHEREAS, the Development Authority requires the advance of certain funds to cover pre-acquisition and construction expenses associated with the Project; and

WHEREAS, the Board of Commissioners deems it in the best interest of Clayton County, and the County will best be served by advancing the necessary funds for the purposes stated herein.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY, GEORGIA AND IT IS HEREBY RESOLVED

Section 1. The Board of Commissioners hereby authorizes the County to advance funds to the Development Authority of Clayton County in the amount of \$700,000.00 to be used to cover pre-acquisition and construction expenses associated with the Project. The Board of Commissioners authorizes the Chairman to execute the advance of funds documents and otherwise perform all other acts necessary to accomplish the intent of this Resolution. Further, the Board of Commissioners authorizes the Director of Finance to reflect the advance of funds in the County's financial records as necessary, to transfer the appropriate funds, and thereafter disburse such funds to the Development Authority as may be required under the terms of this resolution

Section 2. This Resolution shall be effective on the date of its approval by the Board of Commissioners.

SO RESOLVED, this the 6th day of April, 2004

CLAYTON COUNTY BOARD OF COMMISSIONERS

/s/ C. CRANDLE BRAY, CHAIRMAN

/s/ CARL RHODENIZER, VICE CHAIRMAN

/s/ GERALD A. MATTHEWS, COMMISSIONER

/s/ VIRGINIA BURTON GRAY,

COMMISSIONER

/s/ J. CHARLEY GRISWELL, COMMISSIONER

ATTEST:

/s/ SUZANNE BROWN

14. Motion by Chairman Bray, second by Vice Chairman Rhodenizer, to appoint George Glaze to the MARTA Board to fill the unexpired term (expiring 12/31/04) of Jimmy Benefield, who resigned recently. Mr.

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Glaze will fill the unexpired term plus one more term (final term expiring 12/31/08), as requested by Chairman Bray. Vote unanimous.

15. Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to accept a street for maintenance by county in **Autumn Ridge** (Cheri Place). Vote unanimous.

16. Motion by Commissioner Matthews, second by Commissioner Gray, to accept a street light petition for Fleming Cove Subdivision; District # 06158/159. Vote unanimous.

On another issue, Commissioner Gray requested that Emory Brock, Economic Development Director, apply for the Quality Growth Grant through DCA. Commissioner Gray stressed that the county did not need to miss a grant opportunity, and she promised to give the pertinent information to him.

Other matters brought before the board were as follows:

1) Ms. Lechia Baumb, President of the Jonesboro Area Athletic Association (JAAA), said her volunteer organization runs a baseball/football program at Rum Creek Park for the community-at-large. Her coordinator recently informed her that the county wanted to take over the organization. The reason given was that North Clayton Park was upset because it was taken over by the county and Rum Creek is still independent. Ms. Baumb emphasized that North Clayton Park was taken over by the county because it had a \$5,000.00 deficit. She contended that her organization is financially solvent, has a 98% county resident participation in the park, and abides by all rules and regulations handed down by Parks & Recreation. Per Ms. Baumb, she had been told that as long as JAAA followed those guidelines, it would be autonomous. When she inquired about this mix-up, she was told that the county had decided not to take over the JAAA. This created much confusion, and a major concern now is how to plan and run the program in the midst of uncertainty. She explained that her organization is a group of twelve volunteers elected by the park who work thirty to forty hours a week. Ms. Baumb asked the Board to clarify this issue because she was anxious about the fate of the JAAA.

Chairman Bray assured Ms. Baumb that the county did not intend to take over the JAAA. He explained that five (5) years ago, the county met with all of the athletic associations and gave them a long range plan that included a coordinator/manager in every park. The objective was to have a county employee schedule and handle monetary aspects, not to interfere with the running of the athletic associations. It has taken time since that meeting to have personnel in place at every park, and the placement is now almost complete. Chairman Bray agreed with Ms. Baumb that the JAAA has done a fine job and that is why it has been among the last on the list to have a coordinator in place. He believed that personnel would be in place by the next winter. Once that coordinator/manager is put in Rum Creek Park, the operation will not differ -- except accounting will be handled by a county employee.

Ms. Baumb stated that the JAAA presently has its own account and provides its own financial statements. Chairman Bray replied the county will continue this practice because the JAAA will have ongoing fundraisers for various programs. Ms. Baumb said her concern was when the JAAA had not been notified of the county's involvement in Rum Creek Park and, since then, a football order had been placed for the park two weeks prior to being notified. Additionally, three (3) people in the park were offered paid positions in the park and this disturbed the association because no explanation was given. Chairman Bray explained that those decisions were made in the past because there was no standard athletic association

rate within the county. The county offered to absorb the purchasing power as one entity. Items were bought through the county, distributed to the paying parties, and the funds were deposited in the county treasury. He stressed that this trend will continue; however, the athletic associations will be responsible for organizing, coaching, and fundraising. Scheduling the park for events will be handled by county personnel.

Ms. Baumb rebutted that the JAAA presently performs all of those functions, and she had been informed that the JAAA would continue to do so as long as it followed the three (3) guidelines set by Parks & Recreation: 1) follow the sports manual; 2) stay financially stable; and 3) avoid conflicts/controversies. Ms. Baumb insisted that the JAAA has adhered to all of these guidelines. She recently asked the Sports Coordinator, Dwight McNabb, why the county is not spending any money in upgrading Rum Creek. Currently, the park is only receiving basic services (grass mowing and field dragging). The fields have not been repaired or inspected. She cited one field that has a huge dip that could be hazardous if it is not repaired. The JAAA has requested repairs on that field at least five (5) times to no avail. She emphasized that this is now a safety issue. Ms. Baumb also

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did not understand why Rum Creek Park is not slated to get “a dime” from the SPLOST monies that voters approved. Chairman Bray rebutted that SPLOST monies are designated to build recreation centers, not to improve parks. Ms. Baumb counter-rebutted that every other park is listed on the county website, with the exception of Jonesboro.

Chairman Bray said he wanted to address the problems Ms. Baumb had already mentioned. He asked Gary Dukes, Director of Parks & Recreation, what is being done to improve the fields at Rum Creek Park. Mr. Dukes responded that fields are worked weekly, but right now soil is being purchased for all of the in-fields to prepare for the upcoming baseball season. Chairman Bray asked if the dip on 9/10 year old fields (above the pitcher’s mound) is going to be fixed. Mr. McNabb said the dip Ms. Baumb referred to is a result of field dragging, not from replacing the dirt. Chairman Bray stressed that the dip needs to be fixed before kids start playing on the field. Mr. Dukes assured Chairman Bray that it would be fixed.

Commissioner Griswell said this issue concerns him because Rum Creek Park is in his district. He also stated he had talked to Ms. Baumb in the past along with several other persons from Lake City Park. According to Commissioner Griswell, the past decisions made about the JAAA at Rum Creek Park were not wise. He felt the issue should have been discussed with the commissioners first because he, personally, never knew a decision was being made to take over the JAAA. Commissioner Griswell agreed with Chairman Bray that the JAAA will continue to operate as it does now and, when the issue comes up next year, the Board will discuss it at that time.

Regarding the dip in the field, Commissioner Griswell emphasized that it is dangerous. He was aware that a statement had been made that the commissioners will not give Parks & Recreation any money. Per Commissioner Griswell, the Board gets blamed for a lot in the county and many times the issues are never presented to the Board. He wanted to see repairs done to the fields at Rum Creek Park as soon as possible. If no monies are available for those repairs, then Parks & Recreation needs to notify the Board because he did not want the youth of this county to use a field that was dangerous. Commissioner Griswell visited Lake City Park and noted that it needs some grass. He believed that all of the county parks should be improved to accommodate the citizens. This county has always had good recreational facilities, but it does not need to rest upon its laurels when repairs need to be done in potentially dangerous situations. Commissioner Griswell said parents have been complaining to him about the conditions of the park fields that pose a hazard to their children, and the problems need to be addressed

immediately. He added that decisions could not be made on the website about how SPLOST monies will be spent until the Board considers the parks and determines how the monies should be allocated.

Ms. Baumb said she appreciated Commissioner Griswell's remarks. She reiterated that the Jonesboro Area

Athletic Association is a group of twelve volunteers, and she has been working in the park for 17 years now. When the sports manual was published, the JAAA learned to work with it even though it did not approve of some of its regulations. Commissioner Griswell and Chairman Bray said they appreciated the work of the JAAA. Ms. Baumb asked the Board if the JAAA would remain under the authority of a volunteer board for this calendar year. Chairman Bray replied yes. Ms. Baumb then questioned if the JAAA would be advised when this issue is readdressed. Chairman Bray assured Ms. Baumb that the JAAA will be advised well in advance. Unfortunately, he did not have available personnel for Rum Creek Park yet.

Commissioner Gray suggested that the \$9,654.81 left over from the 1996 Olympic funds be used to offset some of the costs seniors pay for classes in the county's senior citizen programs. She also expressed concern about the funds that were used to build the Riverdale Senior Center. Commissioner Gray wanted to know if the county can charge fees because the county had to qualify for those funds by having a certain percentage of low income residents. The costs that the county is passing on to senior citizens is not designed for low income persons. Per Commissioner Gray, this issue needs to be investigated to ascertain whether the county is operating the center within the proper guidelines. She insisted that the county needs to obtain grants to offset these costs. For the past two years, she has been begging the county for those grants, and the senior citizens are continuing to complain about being forced out of the programs because they are too costly. Mr. Dukes responded that he would be glad to look into that issue and, if the Board decided to reduce the senior citizen class fees, Parks & Recreation would comply. Chairman Bray advised that the remaining '96 Olympic funds not be used for this purpose yet because there might be some "strings attached" since it was raised by a non-charitable organization (Olympic Committee). Approval from that organization might be necessary. Commissioner Gray rebutted that this is what she was referring to when she talked about guidelines. She just wanted to make sure that the county made the senior citizens a number one consideration.

REGULAR BUSINESS MEETING – APRIL 6, 2004

2) Victor Hill, Clayton County CID detective and 2004 candidate for Sheriff, briefed the Board about a complaint he had with the county's political activity policy. He distributed paperwork to the commissioners and told them that Section 3.110 restricts a county employee (such as himself) from running for a county level office unless he takes a leave of absence without pay. According to Mr. Hill, Congress passed a voting rights act in 1965 which states that any time a government entity in one of the covered 16 states passes an ordinance that prohibits persons from running for office, it needs to be pre-cleared by the federal government. He contacted the U.S. Justice Department about the county's political activity policy and, upon research, it informed him that this ordinance was not pre-cleared when it was amended. The U.S. Justice Department also stated that the county's original political activity policy in the early 70's was never pre-cleared. In 1978, Mr. Hill said there was a federal case shockingly similar to his complaint where a government entity told an employee he would have to take a leave of absence without pay in order to run for an office. Just as in Clayton County, this political activity policy was not pre-cleared by the federal government. In ruling upon the case, the federal government declared that "the rule was not neutral personnel practice governing all forms of absenteeism. Instead, it specifically addressed electoral process singling out candidacy for elective office as a disabling activity and imposing

substantial economic dissidence on employees who wish to seek elective office. That is burdening entry into the elective campaigns and limiting the choices available to county voters.” Mr. Hill said this current policy is illegal by federal standards. If it is enforced, it will be an illegal policy. He did not wish to take the county to federal court and requested that this issue be resolved so that he can move forward with his candidacy for Sheriff. Mr. Hill added that he had filed a complaint with the Justice Department explaining why this policy should not be pre-cleared and the circumstances surrounding the suspicious timing when the policy was implemented (right after Mr. Hill announced his candidacy for Sheriff). He also informed the Justice Department that, since his announcement, he has been threatened with termination, demotion, and transfer to an unpleasant assignment. Mr. Hill said the Justice Department received all of this information as of twelve o’clock on this date. Based on all of these suspicious circumstances, Mr. Hill requested that federal observers be present at the upcoming election so that everything remains “above board.” Chairman Bray thanked Mr. Hill for his comments.

Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to go into Executive Session in the Commissioners’ Conference Room to discuss a pending legal matter at 7:40 p.m. Vote unanimous.

Motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to go out of Executive Session at 7:55 p.m. Vote unanimous.

The Board reconvened in the Commissioners’ Board Room. There being no further business to discuss, motion by Commissioner Matthews, second by Vice Chairman Rhodenizer, to adjourn the Regular Business Meeting of April 6, 2004 at 7:58 p.m. Vote unanimous.

CLAYTON COUNTY BOARD OF COMMISSIONERS

/s/ C. CRANDLE BRAY, CHAIRMAN

/s/ CARL RHODENIZER, VICE CHAIRMAN

/s/ VIRGINIA BURTON GRAY, COMMISSIONER

/s/ J. CHARLEY GRISWELL, COMMISSIONER

/s/ GERALD A. MATTHEWS, COMMISSIONER

ATTEST:

/s/ SUZANNE BROWN