

## **ORDINANCE 08-19**

To Amend the 2001 Revised Code of The City of Dalton, Georgia; By Striking, Deleting and Repealing Chapter 96 Captioned "Stormwater Management" and Substituting in Lieu Thereof a New Chapter 96 Captioned "Stormwater Management"; To Provide for an Effective Date; To Provide For the Repeal of Conflicting Ordinances; To Provide For Severability; And For Other Purposes.

**BE IT ORDAINED** by the Mayor and Council of the City of Dalton and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

### **Section 1:**

Amend 2001 Revised Code of the City of Dalton, Georgia, by striking, deleting and repealing Chapter 96 captioned "Stormwater Management" and substituting in lieu thereof a new Chapter 96 captioned "Stormwater Management" which shall read as follows:

### **Chapter 96**

#### **STORMWATER MANAGEMENT**

##### **Sec. 96-1. Control of Stormwater Management, generally.**

The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have the power to control and operate any and all stormwater utilities and facilities of said City and to enforce the provisions of this ordinance, pursuant to and consistent with the provisions of this ordinance and in the same manner and to the same extent that said Board controls and operates the public utilities of said City.

#### **Article II. Post Construction Stormwater Management**

##### **Sec. 96-8. General Provisions.**

(a) *Purpose.* The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point 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 article 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, non-point source pollution, and maintain the integrity of stream channels and aquatic habitats; Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- (3) 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;
- (4) Encourage the use of non structural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable;
- (5) 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,
- (6) 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.

(b) *Applicability.* All persons proposing development and/or construction within the City shall submit a Stormwater Management Plan and hydrology study to the Dalton Utilities Executive (as hereinafter defined) for review of conformity with this Article, except as provided in Sec. 96-11. 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 1 acre or more;
- (3) Any new development or redevelopment, regardless of size that is defined as a hotspot land use;
- (4) Land development activities that are smaller than the minimum applicability criteria set forth in subsections (b)(1) and (b)(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; or,

- (5) Activities that lie within a special drainage district as defined in the Dalton Stormwater Local Design Manual (LDM) and are regulated by the provisions of the special drainage district.

#### **Sec. 96-9. Definitions.**

When used in this ordinance, the following words and phrases shall have the meaning given in this section. Words not defined herein, shall be construed to have a meaning given by common and ordinary use. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future. The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

*Addition (to an existing structure).* 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 firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

*As-Built Survey.* A drawing prepared and signed by a Registered Land Surveyor registered in the State of Georgia illustrating the locations, dimensions and elevations of a development as it has been constructed following completion of construction based on direct field measurements and shown to scale.

*As-Built Design Certification.* A report prepared and signed by the professional that prepared the construction plans and / or stormwater management plan certifying that the stormwater facilities constructed as part of the development and depicted on the as-built survey will function as designed in the stormwater management plan and meeting the requirements outlined in the Stormwater Local Design Manual (LDM).

*Agricultural Activities.* The raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, ratites, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, and turkeys; producing plants, trees, fowl, or animals; or the production of agricultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products.

*Best Management Practices (BMP's).* A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control, prevent or reduce the pollution of the water of the State of Georgia, or prevent flooding. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control

in Georgia" specified in O.C.G.A. 12-7-6 subsection (b), the "Georgia Stormwater Management Manual" or the "Local Design Manual".

*Board.* The Board of Water, Light and Sinking Fund Commissioners of the City which governs Dalton Utilities.

*Construction.* Any alteration of land for the purpose of achieving its development of changing use, including particularly any preparation for, building of, or erection of a structure and/or infrastructure.

*Construction Activity.* Activities subject to NPDES Construction Permits or those activities addressed in the LDM. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*Dalton Utilities.* The separate and distinct part of the City government which, through the Board, controls and operates all public utilities of said City.

*Dalton Utilities Executive.* The President and Chief Executive Officer of Dalton Utilities, and if none, the then-acting person who has executive responsibility for the operation of Dalton Utilities.

*Dalton Utilities' Municipal Separate Storm Sewer System* means any facility designed or used for collecting and/or conveying stormwater, including but not limited to the drainage systems for any roads, highways and City 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 the City of Dalton through Dalton Utilities pursuant to the City's Stormwater Management Ordinance;
- b) Not a combined sewer; and
- c) Not part of a publicly-owned treatment works.

*Day.* A day is defined as a calendar day.

*Design Storm.* The rainfall event of such size and frequency as described in the LDM that is used for the design of stormwater facilities.

*Developer.* Any person who acts in his / her own behalf or as the agent of any owner of property for construction activity.

*Drainage.* A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping, commonly applied herein to surface water.

*Drainage System.* The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, and ponds, whether of an intermittent or continuous nature, and the manmade element which includes culverts, ditches, channels, retention facilities and the storm sewer system.

*Hardship* (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. Dalton Utilities requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

*Hazardous Materials.* Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Hotspot.* An area where the land use or activities generate or have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater and as defined in the LDM.

*Industrial Activity.* Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

*Jurisdictional Wetland* An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

*Local Design Manual (LDM).* A manual containing specific guidelines and standards for stormwater management that are either watershed or citywide specific, for the proper implementation of the requirements of this Chapter.

*Maintenance of Stormwater Facility.* The performance of routine methods and procedures that preserve drainage structures and other stormwater facilities in good condition; ensuring structural soundness, functional adequacy and mostly free from sediment, debris and other obstructions; and rectifying any unforeseen erosion and water quality problems.

*National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit.* A permit issued by the U.S. Environmental Protection Agency (or by the state of Georgia under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Non-Structural Best Management Practice.* Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

*Obstruction* includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

*Owner.* The person in who is vested the fee ownership, dominion or title of property, by proprietor; this term may also include a tenant, if chargeable under his/her lease for the maintenance of the property, and any agent of the owner or tenant, including a developer.

*Person.* Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality, or other political subdivision of this state, any interstate body or any other legal entity.

*Pollution.* The contamination or other significant alteration of any water's physical, chemical or biological properties, including, but not limited to, a change in temperature, taste, color, turbidity, or odor of such waters or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to render such waters harmful, detrimental or injurious to the public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

*Pollutant.* Any impurity or waste material that degrades the physical, chemical, biological or radiological integrity of surface or subsurface waters.

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

*Site Development Permit.* The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

*Stormwater.* Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*Stormwater Design Manual.* The Georgia Stormwater Management Manual (GSMM), current edition, as published by the Atlanta Regional Commission. The Georgia Stormwater Management Manual is available online at [www.georgiastormwater.org](http://www.georgiastormwater.org).

*Stormwater Facility.* A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity, the quality, the period of release or the velocity of flow.

*Undisturbed Natural Buffer.* A tract of land in its natural undisturbed state where no vegetation can be removed or planted without a stormwater permit and a stream buffer variance from the Georgia Environmental Protection Division. No herbicides, pesticides, or other chemicals, either natural or manmade can be used in this buffer without a stormwater permit.

*Violation* means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

#### **Sec. 96-10. Stormwater Local Design Manual.**

Dalton Utilities will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the GSMM and the Dalton Stormwater LDM, for the proper implementation of the requirements of this Article. The LDM may be updated and expanded periodically by Dalton Utilities, based on improvements in science, engineering, monitoring and local maintenance experience.

#### **Sec. 96-11. Exemption from Requirements.**

The following development activities are exempt from the provisions of this Article and the requirements of providing stormwater management *but are not exempted from State Erosion Control/Forestry BMPs*:

- (1) Agricultural and forestry land management activities.
- (2) Additions or modifications to existing detached single-family or duplex dwellings.
- (3) Construction of a detached single-family dwelling that is not part of a larger development.
- (4) Repairs to any stormwater management facility or practice deemed necessary by Dalton Utilities.
- (5) Two lane road construction by a governmental body (any road wider than a two lane road is not exempted).

#### **Sec. 96-12. Requirements for Stormwater Management Plan.**

All stormwater management plans submitted to Dalton Utilities shall be submitted in accordance with the provisions as outlined in this Article and the LDM.

- (1) The Stormwater Management Plan shall be prepared under the supervision of, and certified by, a Professional Engineer, Professional Land Surveyor, or Registered Landscape Architect with competency in hydrology and hydraulics, currently registered in the State of Georgia. The plan shall conform to the requirements of this Article.
- (2) Upon receipt of the Stormwater Management Plan, Dalton Utilities shall perform appropriate reviews, and shall either approve the Stormwater Management Plan or return comments and reasons for rejection.

**Sec. 96-13. Permit Procedures and Requirements.**

(a) *Permit Application Requirements.* No owner or developer shall perform any land development activities without first meeting the requirements of this Article prior to commencing the proposed activity. Payment of the applicable permit fee which shall be \$500.00 plus an additional fee equal to the actual costs of the engineering and over site activities conducted by Dalton Utilities in connection with the application. The permit fee may be amended from time to time by Dalton Utilities. Unless otherwise exempted by this Article, or granted a waiver to meeting the minimum requirements outlined in the LDM, a Site Development Permit application shall be accompanied by the following items in order to be considered:

- (1) Stormwater concept plan and consultation meeting certification if required by Dalton Utilities;
- (2) Stormwater Management Plan;
- (3) Inspection and long term maintenance agreement;
- (4) Performance bond, if applicable; and,
- (5) Site Development Permit application and applicable review fees.

(b) *Stormwater Concept Plan and Consultation Meeting.* Projects that are complex in nature may require a stormwater concept plan and consultation prior to submittal of design plans for review by Dalton Utilities. The stormwater concept plan shall meet the requirements outlined in the LDM. For the purposes of this section, any proposed development activity that meets any of the following criteria shall be required to perform a stormwater concept plan and consultation meeting prior to submittal of engineering plans for review.

- (1) Any residential subdivision with greater than 50 lots, unless such development contains 2-acre or greater lots;

- (2) Any non-residential development with a disturbed area of 10 acres or greater.
- (3) Any non-residential development regardless of size which has an impervious surface coverage that covers 50 percent or more of the property excluding those lands contained within undisturbed buffers including but not limited to floodplains, stream buffers and undisturbed buffers between dissimilar zonings.
- (4) Any non-residential development regardless of size which is defined as a hot spot land use.

(b) *Stormwater Management Plan Requirements.* A Stormwater Management Plan must be submitted in accordance with the LDM.

(c) *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 with Dalton Utilities to manage stormwater by an off-site, or regional facility. The off-site or regional facility: (1) must be located on property legally dedicated for the purpose, (2) 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 (3) there must be a Dalton Utilities approved, 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 address stormwater management issues upstream and downstream from the development site to the off-site or regional facility.

A Stormwater Management Plan must be submitted to Dalton Utilities 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 Dalton Utilities that the use of an off-site or regional facility will not result in the following impacts to upstream or downstream areas:

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

**Sec. 96-14. 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:

(a) *Water Quality*. 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:

- (1) The system is sized to treat the prescribed water quality treatment volume from the site, as defined in the LDM;
- (2) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained in accordance with the specific criteria in the LDM; and,
- (3) Runoff from hotspot land uses and activities identified in the LDM are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

(b) *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; and,
- (3) Erosion prevention measures such as energy dissipation and velocity control.

All design and construction work that is undertaken proximate to stream channels (including the buffer areas) shall be in strict conformance with current local, state and federal regulations.

(c) *Flood Protection*. Flood and public safety protection shall be provided by controlling and safely conveying storm events such that flooding is not exacerbated for the storm events specified in the LDM and in accordance with the applicable requirements of this Article.

(d) *Drainage System Guidelines*. A system emphasizing a natural as opposed to an engineered drainage strategy shall be encouraged. The applicability of a natural approach depends upon such factors as site storage capacity, open channel hydraulic capacity, maintenance needs / resources and regulatory permitting factors. Stormwater conveyance facilities may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutters, swales, channels, ditches, and energy dissipaters and shall be provided when necessary for the protection of public and private properties adjoining project

sites. Stormwater conveyance facilities that are designed to carry stormwater 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 LDM;
- (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 LDM; and,
- (3) Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the LDM.

**Sec. 96-15. Maintenance of Facilities.**

(a) Stormwater detention facilities which are deemed to be an essential and integral part of Dalton Utilities municipal stormwater management program may be maintained by Dalton Utilities. Stormwater management facilities which are built to satisfy this Article for non-residential developments, and function for only one owner of a parcel of land in fee simple, will not be maintained by the City or Dalton Utilities, and the owner thereof shall meet the requirements of the subsequent provisions of this Article. No stormwater detention facility shall be accepted for maintenance by Dalton Utilities without first being approved by the Board.

In order to facilitate the maintenance of said stormwater detention facilities, a drainage easement shall be provided which will at a minimum encompass the 100-year flood elevation contour plus 10 feet. The 10 feet shall be measured horizontally outward from the 100-year flood elevation contour. A 20 foot access easement shall be provided from an existing or proposed right-of-way to the said stormwater detention facility. The access easement shall be improved so as to allow for periodic usage for the purpose of maintenance of the stormwater management facility.

(b) An inspection and maintenance agreement shall be executed for all private on-site stormwater management facilities prior to approval of the final plat or issuance of a final certificate of occupancy. Such agreement shall be in form and content acceptable to Dalton Utilities, and shall provide that all inspection, maintenance and repair procedures of such facilities shall be the responsibility of the property owner. Such agreement shall provide for access to the facility by virtue of a non-exclusive perpetual easement in favor of Dalton Utilities at reasonable times for regular inspection by Dalton Utilities Executive, or his designee.

- (1) The agreement shall provide that preventive maintenance inspections of infiltration systems, retention, or detention structures may be made by Dalton Utilities, at its option. Dalton Utilities' inspection schedule shall be established on a frequency that meets the intent of this Article and applicable regulatory compliance requirements bestowed on Dalton Utilities.
- (2) The agreement shall provide that if, after an inspection, the condition of a facility presents an immediate danger to the public health, safety or general welfare because of unsafe conditions or improper maintenance, Dalton

Utilities shall have the right, but not the duty, to take such action as may be necessary to protect the public health, safety, general welfare and adjacent properties from damage. If it is determined that such deficient conditions are the result of neglected maintenance, or other action caused by the property owner, then any cost incurred by Dalton Utilities shall be paid by the property owner as set forth in subsection (b)(4) below.

- (3) The maintenance agreement shall be recorded by the property owner in the land records of Dalton Utilities and the City prior to approval of the final plat or issuance of a final certificate of occupancy.
- (4) The agreement shall provide that Dalton Utilities shall notify the property owner(s) of the facility of any violation, deficiency or failure to comply with this Article. The agreement shall also provide that upon a failure to correct violations requiring maintenance work, within 30 days after notice thereof, Dalton Utilities may provide for all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the costs of the work performed by Dalton Utilities pursuant to this subsection and subsection (b)(2) above, and there shall be a lien on all property of the owner in which said property utilizes, or will utilize such facility in achieving stormwater management, which lien, when filed in the county real estate records, shall have the same status and priority as liens for non-payment and ad-valorem taxes. Should such a lien be filed, portions of the affected property may be released by Dalton Utilities following the payments by the owner of such portion of the property of such owner's pro-rata share of the lien amount based upon the acreage to be released with such release amount to be determined by the Board.

(c) In lieu of an inspection and maintenance agreement, upon recommendation by the Dalton Utilities Executive the Board may, at its discretion, accept dedication of any existing or future regional stormwater management facility for perpetual maintenance by Dalton Utilities, provided such facility meets all the requirements of this Article, the LDM and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular structural maintenance by Dalton Utilities.

**Sec. 96-16. Maintenance of Pre-Existing Stormwater Facilities.**

All stormwater management facilities in existence in the City on the effective date of this Article, and that have been properly and legally dedicated to the City for perpetual maintenance and are therefore a part of Dalton Utilities' Municipal Separate Storm Sewer System, shall be maintained by Dalton Utilities. All such maintenance of such above described facilities shall be at the sole cost and expense of Dalton Utilities, unless an agreement is executed between the property owner and Dalton Utilities which supersedes the provisions in this section. All other stormwater management facilities in the City on the effective date of this Article shall be maintained by the

property owner of the property on which the facility is located in a manner so as to maintain the level of service provided by the facility as intended by the original design or current conditions whichever is more stringent.

**Sec. 96-17. Inspection.**

(a) Dalton Utilities Executive, or his/her designee, shall be responsible for determining whether a development is proceeding in accordance with the approved Stormwater Management Plan. Inspection of the development site shall be made by Dalton Utilities Executive, or designee, on a schedule established by Dalton Utilities to ensure that the Stormwater Management Plan is properly implemented.

(b) Upon completion of the construction phase on the project, and prior to approval of the final plat or issuance of a final certificate of occupancy, the developer shall provide an as-built survey and an as-built design certification for each stormwater management facility. A certified record drawing of the facility shall be prepared based upon this as-built survey and certified by the design professional who prepared the Stormwater Management Plan. Based on the actual parameters established on the record drawing, an addendum to the Stormwater Management Plan shall be prepared which demonstrates that the facility, as constructed, complies with the requirements of the approved Stormwater Management Plan.

Following final plat approval or issuance of a final certificate of occupancy, Dalton Utilities Executive, or his / her designee, shall conduct inspections of the stormwater facility on a schedule established by Dalton Utilities. Inspection reports including documented deficiencies and needed maintenance requirements will be included on the inspection reports and provided to the property owner to undertake appropriate action.

**Article III. Illicit Discharge and Illegal Connection**

**Sec. 96-31. General Provisions.**

(a) *Purpose.* The purpose of this Article is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to Dalton Utilities' municipal separate storm sewer system to the maximum extent practicable as required by State and Federal law. This Article establishes methods for controlling the introduction of pollutants into Dalton Utilities' municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II Stormwater General Permit. The objectives of this Article are to:

- (1) Regulate the contribution of pollutants to Dalton Utilities' municipal separate storm sewer system by any person, property owner, site operator, etc;
- (2) Prohibit illicit discharges and illegal connections to Dalton Utilities' municipal separate storm sewer system;

- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to Dalton Utilities' municipal separate storm sewer system; and
- (4) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Article.

(b) *Applicability.* The provisions of this Article shall apply throughout the municipal Boundaries of the City.

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

(d) *Responsibility for Administration.* Vice President of Water and Wastewater Engineering of Dalton Utilities, or his designee, shall administer, implement, and enforce the provisions of this Article.

## **Sec. 96-32. Definitions**

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

*Board* means the Board of Water, Light and Sinking Fund Commissioners, which governs Dalton Utilities.

*City* means the City of Dalton, Georgia.

*City Administrator* means the city administrator for the City.

*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.

*Dalton Utilities.* The separate and distinct part of the City government which, through the Board, controls and operates all public utilities of said City.

*Dalton Utilities Executive.* The President and Chief Executive Officer of Dalton Utilities, and if none, the then-acting person who has executive responsibility for the operation of Dalton Utilities.

*Dalton Utilities' Municipal Separate Storm Sewer System* means any facility designed or used for collecting and/or conveying stormwater, including but not limited to the drainage systems for any roads, highways and City 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 the City of Dalton through Dalton Utilities pursuant to the City's Stormwater Management Ordinance;

b) Not a combined sewer; and

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

*Dalton Utilities Water/Wastewater Vice President* means the Vice President of Water and Wastewater Engineering of Dalton Utilities, and if none, the then-acting person who has operational responsibility for the water and wastewater operations of Dalton Utilities

*Illicit Discharge* means any direct or indirect non-stormwater discharge to Dalton Utilities' municipal separate storm sewer system, except as exempted in Section 96-3 of this Article.

*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 Dalton Utilities' municipal 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 12226(b)(14).

*National Pollutant Discharge Elimination System (NPDES) Stormwater 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.

*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 Article, 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.

*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; nonhazardous 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 or 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.

### **Sec. 96-33 Prohibitions.**

(a) *Prohibition of Illicit Discharges.* No person shall dispose, discard, drain, or otherwise discharge, cause, or allow others under its control to dispose, discard, drain, or otherwise discharge into Dalton Utilities' municipal separate storm sewer system any contaminated or

polluted water, liquids, materials, waste products, etc., other than stormwater. The following discharges to Dalton Utilities' municipal separate storm sewer system 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, non-commercial car wash water, 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 Dalton Utilities 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 approved NPDES permit or order issued to the discharger and administered under the authority of the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (US EPA), 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 Dalton Utilities' municipal separate storm sewer system.

(b) *Prohibition of Illegal Connections.* The construction, connection, use, maintenance or continued existence of any illegal connection to Dalton Utilities' municipal 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 Article if the person connects a line conveying sewage to Dalton Utilities' municipal separate storm sewer system, or allows such a connection to continue.
- (3) Improper connections in violation of this Article must be abated, disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system with approval of Dalton Utilities.
- (4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to Dalton Utilities' municipal separate storm sewer system, shall be located by the owner or occupant of that property upon receipt of written Notice of Violation from Dalton Utilities

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 Dalton Utilities.

**Sec. 96-34 Industrial or Construction Activity Discharges.**

Any person subject to an NPDES Industrial Stormwater Permit or NPDES Construction Activity Permit administered by the Georgia EPD shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to Dalton Utilities prior to allowing discharges to Dalton Utilities' municipal separate storm sewer system.

**Sec. 96-35 Access and Inspection of Properties and Facilities.**

Dalton Utilities Water/Wastewater Vice President 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 Article.

(a) 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 Dalton Utilities Water/Wastewater Vice President or his designee.

(b) The property owner or operator shall allow Dalton Utilities ready access to all parts of the premises for the purposes of inspection, sampling, photographing, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

(c) Dalton Utilities shall have the right to set up on any property or facility such devices as are necessary in the opinion of Dalton Utilities to conduct monitoring and/or sampling of flow discharges.

(d) Dalton Utilities may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to Dalton Utilities. 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 water quality shall be calibrated to ensure their accuracy.

(e) 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 Dalton Utilities and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(f) Unreasonable delays in allowing Dalton Utilities access to a facility are a violation of this Article.

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

#### **Sec. 96-36 Notification of Accidental Discharges and Spills.**

(a) 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 the stormwater system, Dalton Utilities' municipal separate storm sewer system, State waters, or waters of the United States, 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.

(b) Said person shall notify Dalton Utilities and other appropriate agencies (State, Federal, etc.) in person, by phone or facsimile no later than twenty-four (24) hours after the discharge of the quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to Dalton Utilities Water/Wastewater Vice President within three (3) business days of the initial notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the property owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

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

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

#### **Sec. 96-37 Violations, Enforcement and Penalties.**

(a) *Violations.*

(1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who has violated or continues to violate the provisions of this Article, may be subject to the

enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

- (2) In the event the violation constitutes an immediate danger to public health or public safety, Dalton Utilities 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. Dalton Utilities is authorized to seek costs of the abatement as outlined in this Article.

(b) *Notice of Violation.* Whenever Dalton Utilities finds that a violation of this Article has occurred, Dalton Utilities may order compliance by a written Notice of Violation.

- (1) The Notice of Violation shall contain:

- a. The name and address of the alleged violator;
- b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to restore compliance with this Article and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the Notice of Violation is directed; and,
- f. A statement that the determination of violation may be appealed by filing a written notice of appeal with Dalton Utilities within fifteen (15) days of service of Notice of Violation.

- (2) Such notice may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit discharges and illegal connections;
- c. That violating discharges, practices, or operations shall cease and desist;
- d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- e. Payment of costs to cover administrative and abatement costs; and,
- f. The implementation of pollution prevention practices.

(c) *Appeal of Notice of Violation.* Any person receiving a Notice of Violation may appeal the determination of Dalton Utilities. The notice of appeal must be received by Dalton Utilities within fifteen (15) days from the date of the Notice of Violation. The failure to timely file a notice of appeal shall be deemed a waiver of appeal. Hearing on the appeal before Dalton Utilities Executive, or his designee, shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the Dalton Utilities Executive, or his designee, shall be final.

(d) *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 the later of five (5) days of the decision of the Dalton Utilities Executive, or his designee, upholding the decision of Dalton Utilities or the time schedule set forth in the Notice of Violation, then the person receiving the Notice of Violation will be in non-compliance and representatives of Dalton Utilities may enter upon the subject private property and is 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 Dalton Utilities or its designated contractor to enter upon the premises for the purposes set forth above.

(e) *Costs of Abatement of the Violation.*

(1) Within thirty (30) days after abatement of the violation, the owner of the property will be notified by Dalton Utilities of the cost of abatement, including administrative costs. The property owner may file a written protest with Dalton Utilities objecting to the assessment or to the amount of the assessment within fifteen (15) days of such notice, and the appeal process set forth in Sect. 96-7 (c) shall be followed. The failure to file a timely written protest shall be deemed a waiver of the right to protest. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, not paid within five (5) days after a decision on said appeal that requires payment, the charges shall become a special assessment against the property upon which the violation occurred and shall constitute a lien on such property for the amount of the assessment.

(2) Any person violating any of the provisions of this subsection (e) shall become liable to Dalton Utilities by reason of such violation.

(f) *Civil Penalties.* In the event a person becomes non-compliant as provided in Sec. 96-7 (d), or otherwise violates this Article, then such person shall be subject to citation to the Municipal Court of the City and subject to a penalty not to exceed One Thousand Dollars (\$1,000). Each day the violation remains unremedied after the person becomes non-compliant shall be considered a separate violation.

(g) *Violations Deemed a Public Nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, welfare, and environment and is

declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by applicable law.

(h) *Remedies Not Exclusive.*

- (1) The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law and Dalton Utilities and/or the City may seek cumulative remedies.
- (2) Dalton Utilities and/or the City may recover attorney's fees, court costs, and other expenses associated with enforcement of the Article, including sampling and monitoring expenses.

**Section 2:**

This Ordinance shall be effective upon the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

**Section 3:**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 4:**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Alderman \_\_\_\_\_, seconded by Alderman \_\_\_\_\_, and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_.

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CITY CLERK, CITY OF DALTON