Georgia Mountains
Area Planning and Development Commission

Administrative
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Metropolitan River Protection Act Review

METROPOLITAN RIVER PROTECTION ACT REVIEW

GEORGIA MOUNTAINS AREA
PLANNING AND DEVELOPMENT COMMISSION

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TABLE OF CONTENTS

Page

Metropolitan River Protection Act 1

Chattahoochee Corridor Plan 17

Georgia Mountains Area Plannng and Development Commission Metropolitan River Protection Act Rules and Regulations 25

Form (Application for a Certification Under the Provisions of the Metropolitan River Protection Act) 42

SPECIFIC PROCEDURES AND PLAN
METROPOLITAN RIVER PROTECTION ACT

Georgia Laws 1973, Act No. 66 as Amended
An Act

To provide definitions; to provide for a declaration of purpose, to provide for the development of comprehensive plans for the protection of any major stream which constitutes the primary source of public water supply in each Standard Metropolitan Statistical Area of this State having a population of more than 1,000,000 according to the United States Decennial Census of 1970, or any future such census; to provide for the preparation of such plans by the Metropolitan Area Planning and Development Commission established for each such area; to provide for public hearings; to provide for the regulation of certain activities in and adjacent to such major streams for the protection of water quality, control of erosion and reduction of flood hazards; to provide for the regulation of intensity of development adjacent to such major streams for such purposes; to provide that determinations under such plans shall be made by the governing authorities of the political subdivisions involved; to provide for review of such determinations by such Commissions; to provide for the filing of certain information; to provide for the issuance of certificates; to provide for the denial of certificates under certain conditions; to provide for appeals; to provide for injunctions; to provide penalties for willful and wanton violations; to provide for severability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12-5-440. This Act shall be known as and may be cited as the "Metropolitan River Protection Act."

12-5-441. As used in this part, the term:

(1) 'Applicant' means any person who requests the issuance of a certificate under this part.

(2) 'Area' means a standard metropolitan statistical area recognized by the United States Department of Commerce, Bureau of the Census, and as set forth in Appendix C, County and City Data Book 1977: A Statistical Abstract Supplement, U.S. Department of Commerce, Bureau of the Census, which is located wholly within the State of Georgia and having a population of more than 1,000,000 according to the United States decennial census of 1970 or any future such census.

(3) 'Board' means the Board of Natural Resources.

(4) 'Certificate' means a building permit or other written authorization issued under this part and shall include, as a part thereof, the application and all documents supplied in support thereof and the approval by the governing authority together with any conditions thereto.

(5) 'Commission' means the area planning and development commission or metropolitan area planning and development commission created for any county or group of counties included in each such area pursuant to the authority contained in Article 2 or 4, respectively, of Chapter 8 of Title 50.

(6) 'Director' means the director of the Environmental Protection Division of the Department of Natural Resources.

(7) 'Flood plain' means that area adjacent to a major stream which is subject to being flooded with a probable frequency of at least once every 100 years. The commission shall delineate the flood plain and in doing so may utilize or adopt studies prepared by the Corps of Engineers, United States Army, or such other studies as the commission deems competent.

(8) 'Governing authority' means the governing authority of a political subdivision or, except for the purposes of paragraph (2) of subsection (c) of Code Section 12-5-445, a committee of such governing authority.

(9) 'Impoundment' means any body of water, formed by a dam, which is less than 25,000 acres in size.

(10) 'Land-disturbing activity' means scraping, plowing, clearing, dredging, grading, excavating, transporting, or filling of land or placement of any structure or impervious surface, dam, obstruction, or deposit.

(11) 'Major stream' means any stream or river, whether navigable or nonnavigable, which flows through any area and which is the source of at least 40 percent of the public water supply of any such area.

(12) 'Person' means any individual, partnership, corporation, trust, entity, or authority and shall include the State of Georgia, its political subdivisions, and all its departments, boards, bureaus, commissions, or other agencies.

(13) 'Plan' means the comprehensive plan prepared by the commission pursuant to Code Section 12-5-443.

(14) 'Political subdivision' means a county or a municipality in which the section of the river corridor to be affected or any part thereof is located.

(15) 'Public notice' means a legal notice in a newspaper of general circulation in the political subdivision at least once a week for two consecutive weeks.

(16) 'Stream corridor' means all land in the area in the watercourse, within 2,000 feet of the watercourse, or within the flood plain, whichever is greater.

(17) 'Tributary' means any flowing stream which flows into the major stream at a point which is within the stream corridor.

(18) 'Watercourse' means the banks of a major stream, including any impoundments thereon, in the area as defined by the low-water mark of such stream and any impoundments and including the entire bed of such stream and any impoundments and all islands therein, from the point where the stream enters the area downstream to a line perpendicular across the flow of such stream at the point, within the area, which is the last downstream water supply intake location for any political subdivision in the area.

12-5-442. (a) The General Assembly finds that adequate supplies of clean drinking water constitute the lifeblood of the great metropolitan areas of this state and are therefore, essential to the health, welfare and economic progress of the state; that development adjacent to major streams in certain metropolitan areas requires special regulation to provide adequate protection for public water supplies; that siltation and urban runoff threaten such water supplies; that flood plain development unnecessarily exposes life and property to loss by flooding while increasing flood risks for other areas; that over-intensive development adjacent to major streams increases the frequency and severity of such flooding; that it is in the public interest to avoid future flood damage and possible loss of life, to control erosion and pollution, and to protect the water quality of major streams in certain metropolitan areas.

(b) The General Assembly finds that the stream corridors of major streams in certain metropolitan areas as set forth in this part are vital areas within the meaning of Article III, Section VIII, Paragraph IIIA of the Constitution of the State of Georgia of 1976 and Article III, Section VI, Paragraph II of the Constitution of the State of Georgia of 1983. The purpose of this part is to provide a method

whereby political subdivisions in certain metropolitan areas shall utilize the police power of the state, in accordance with a comprehensive plan, to protect consistently the water quality of any major stream, the public water supplies of such political subdivision and of the area, recreational values of the major stream, and private property rights of landowners; to prevent activities which contribute to floods and flood damage; to control erosion, siltation, and intensity of development; to provide for the location and design of land uses in such a way as to minimize the adverse impact of development on the major stream and flood plains; and to provide for comprehensive planning for the stream corridor in such areas.

(c) The General Assembly finds that certain political subdivisions in the included area have in force certain flood plain and sediment control ordinances that afford adequate protection for the aforementioned problems. Nothing in this Act shall be construed so as to make those local political subdivision ordinances less stringent than they are now.

(d) The General Assembly intends to authorize and require political subdivisions in any such area to enforce this part so as to protect the watercourse and the adjacent stream corridor. The General Assembly further intends that the state have the authority to enforce this part if the appropriate political subdivisions have failed or refused to do so and if the public interest requires it.

12-5-443. The commission shall, consistent with the purposes of this part:

(1) Prepare, adopt, and keep up to date a comprehensive, coordinated land and water use plan for the stream corridor. The plan, as prepared and approved by the commission, shall set land use criteria for flood and flood damage prevention, erosion and siltation control, water quality protection, and intensity of development in the stream corridor. The plan, as adopted by the commission, shall be transmitted to each political subdivision by June 16, 1973. The plan as adopted by the commission for any and all land brought within the stream corridor after March 1, 1983, shall be transmitted to each political subdivision and to the director by July 1, 1983. The commission may, after hearing, utilize or adopt an existing plan or plans as the plan called for by this part. The commission may from time to time revise the plan or portions thereof, and any such revisions of the plan shall be transmitted promptly after adoption. Prior to the adoption of the plan, or of any substantial portion or any revision of the plan, the commission shall hold a public hearing on

the proposed plan or portion or revision thereof, in each county in which any land affected by the plan or, in the case of a portion or revision of the plan, in which any land affected by such portion or revision lies. The commission shall cause notice of the time and place of each such public hearing to be published once a week for two weeks in one or more newspapers of general circulation in each county in which land to be affected lies. Any such land and water use plan shall be prepared in consultation and with assistance of the county or city governing authority where the land to be affected lies;

(2) Foster and undertake such studies of water and related land resources problems in the stream corridor as are necessary in the preparation or revision of the plan;

(3) Make such rules and regulations as may be necessary to implement the purposes of this part and to administer and implement this part and all rules, regulations, and orders promulgated under this part; and

(4) Charge a reasonable fee to each applicant for review of any application for a certificate, which fee shall be sufficient to defray all or any portion of the administrative costs of review of the application by the commission and of the cost to the commission of monitoring and inspection of compliance with such certificates.

12-5-444. (a) (1) Pending adoption of the plan by this commission, it shall be unlawful for any person to erect, maintain, suffer, or permit any structure, dam, obstruction, deposit, clearing, or excavation in or on the stream corridor which will adversely affect the efficiency of or restrict the capacity of the watercourse or flood plain, appreciably increase runoff or flood heights, adversely affect the control, protection, allocation, or utilization of the water and related land resources of the stream corridor, harmfully obstruct or alter the natural flow of flood waters, or harmfully increase erosion, siltation, or water pollution. In order to prevent undue hardship, the commission may, prior to the adoption of the plan by the commission, issue a letter or written statement signed by the executive director of the commission ruling with respect to any proposed land or water use in any political subdivision that none of the above-listed adverse effects will occur as a result of the proposed use. Nothing in this subsection shall apply to a political subdivision that, on June 30, 1973, has in effect a flood plain ordinance and a sediment control ordinance.

(2) Pending adoption of the plan by the commission as to any land brought within the stream corridor after March 1, 1983, it shall be unlawful for any person to engage in any land-disturbing activity in or on such land within the stream corridor which will adversely affect the efficiency of or restrict the capacity of the watercourse or flood plain, appreciably increase runoff or flood heights, adversely affect the control, protection, allocation, or utilization of the water and related land resources of the stream corridor, harmfully obstruct or alter the natural flow of flood waters, or harmfully increase erosion, siltation, or water pollution. In order to prevent undue hardship, the commission may, prior to the adoption of the plan by the commission as to any land brought within the stream corridor after March 1, 1983, issue a letter or written statement signed by the executive director of the commission, ruling with respect to any proposed land-disturbing activity in or on such land that none of the above-listed adverse effects will occur as a result of the proposed use.

(b) (1) After adoption by the commission of the plan or any portion thereof or any amendment thereto, it shall be unlawful within those areas regulated by the plan or any portion thereof or any amendment thereto for any person to engage in any land-disturbing activity in or on the stream corridor which will be incompatible or inconsistent with the plan or any portion thereof or any amendment thereto. A proposed land or water use shall be deemed to be not in compliance with the plan unless and until the governing authority of the political subdivision issues a certificate for the proposed use pursuant to Code Section 12-5-445.

(2) The governing authority shall, before referring the application to the commission pursuant to Code Section 12-5-445, require the applicant to furnish such detailed information on the proposed land or water use as the governing authority shall reasonably request and as required by the plan and rules and regulations adopted pursuant to this part.

(3) Any land-disturbing activity shall be done strictly in accordance with the certificate issued under this part. Any substantial change or modification of a proposed land-disturbing activity for which a certificate has been issued shall require a new certificate, which must be issued in accordance with the requirements of this part.

(4) The governing authority shall adopt ordinances, regulations, or procedures as necessary to assure that any land-disturbing activity is conducted in compliance with the plan and the certificate.

(c) The governing authority shall give public notice of and shall hold a public hearing before issuing or denying any certificate under this Code section. The form and procedure for such hearings shall be determined by the governing authority involved, provided that all interested persons shall be afforded adequate notice of such hearings and an opportunity to be present and express their views. The information required under paragraph (2) of subsection (b) of this Code section shall be filed in final form and be available for public inspection prior to such hearing.

(d) The governing authority shall delineate and clearly label the stream corridor on the zoning map and the official map of such governing authority.

12-5-445. (a) After receipt of a complete application for a certificate, the governing authority shall transmit to the commission a copy of such complete application and all supporting documents.

(b) (1) If, from the application or from its own investigation, the commision finds that there are inconsistencies between the plan and the land-disturbing activity proposed by the application, the commission may do any one of the following:

(A) Recommend modification of the application in such manner as to be consistent with the plan;

(B) Make a finding that the application, while not consistent with the plan in all respects, will provide a level of land and water resource protection equivalent to an application consistent with the plan; or

(C) Recommend modification of the application in such manner that the application as so modified, while not consistent with the plan in all respects, will provide a level of land and water resource protection equivalent to an application consistent with the plan.

(2) If the commission fails to recommend modification of the application within 60 days from submission of such application to the commission and if the governing authority makes a specific finding that the application is consistent with the plan or makes a specific finding that the application, while not consistent with the plan in all respects, will provide a level of land and water resource protection equivalent to an application consistent with the plan, the governing authority shall be deemed to have complied with this Code Section and may issue the certificate.

(c) In any case where the commission has recommended modification of an application, the governing authority may:

(1) Adopt such recommendation, incorporate it as a condition of the certificate, and issue a certificate with such conditions, in which case any land-disturbing activity under the certificate must be strictly in accordance with the recommendation so incorporated;

(2) After making specific finding that the application is in compliance with the plan or a specific finding that the application, while not consistent with the plan in all respects, will provide a level of land and water resource protection equivalent to an application consistent with the plan, override such recommendation by affirmative vote of a two-thirds' majority of the full membership of the governing body; however, such action by the governng authority is not final unless and until the governing authority:

(A) Following the affirmative vote to override, holds a second public hearing on the application and the proposed override of the commission's recommendation. After giving public notice and after mailing notice to the applicant and to the commission at least five days prior to the hearing;

(B) Gives full consideration to all comments made at the second public hearing; and

(C) Obtains from the director a written finding that the application is consistent with the plan or, while not consistent with the plan in all respects, will provide a level of land and water resource protection equivalent to an application consistent with the plan; and

(D) Reaffirms the vote to override the commission's recommendation by affirmative vote of a two-thirds' majority of the full membership of the governing authority, after again making a specific finding that the application is in compliance with the plan or a specific finding that the application, while not consistent with the plan in all respects, will provide a level of land and water resource protection equivalent to an application consistent with the plan; or

(3) Request reconsideration of such recommendation by the commission at a public hearing.

If the governing authority fails to take action under either paragraph (1), (2), or (3) of this subsection within 45 days after the submission of the recommendation of the commission to the governing authority, the certificate shall not be issued. Where a public hearing is requested under this subsection, such public hearing shall be held by the commission within 30 days after receipt of such request. Notice

stating the time and place of the public hearing shall be mailed at least five days prior to the hearing to the governing authority and to the applicant and public notice shall be given. The commission shall make its final determination with respect to such recommendation within 30 days after such public hearing. The request for a public hearing under this subsection may be made by the applicant or by the governing authority involved.

(d) In making the finding required by subsection (b) of paragraph (2) of subsection (c) of this Code section, the commission and the governing authority shall follow the purposes set forth in this part and the goals set forth by the plan, as amended.

12-5-446. Reserved.

12-5-447. Every certificate issued by a governing authority and every recommendation of the commission, unless the proposed use is not harmful to the water and land resources of the stream corridor, will not significantly impede the natural flow of flood waters, and will not result in significant land erosion, stream bank erosion, siltation, or water pollution, shall comply with the following minimum standards:

(1) No land or water use shall be permitted in the flood plain; and

(2) No land or water use shall be permitted within 150 horizontal feet of the watercourse.

12-5-448. Any person aggrieved by any final determination, cease and desist order, other order, or other final action of the commission or a governing authority under this part and who has exhausted any administrative remedies may take an appeal to the superior court of the county in which all or part of the land affected lies. The appeal shall be filed within 30 days from the date of the final determination, cease and desist order, other order, or other final action of the governing authority or committee of such governing authority or of the commission. Upon failure to file an appeal within 30 days, the decision of the governing authority or committee of such governing authority or of the commission shall be final. The appeal shall be heard by the judge of the superior court without a jury.

12-5-449. The requirements of this part are in addition to and do not supersede other requirements of law including the zoning and building regulations of the political subdivision involved.

12-5-450. Reserved

12-5-451. This part shall not apply to the following uses:

(1) Any land or water use for agriculture or animal husbandry as defined in the ordinances adopted by the governing authority, provided that a buffer of natural vegetation is maintained for a distance of 50 horizontal feet from the bank of the watercourse;

(2) Ordinary maintenance and landscaping operations, except for a distance of 50 horizontal feet from the bank of the watercourse and except for the removal of healthy trees over two inches diameter breast height (DBH) anywhere in the stream corridor;

(3) Any land or water use or project which, on March 16, 1973 is approved, pending, or is completed, actually under construction, or which is zoned for such use and where expenditures in excess of $2,500.00 have been made in preparation for construction in accordance with such zoning; provided, however, that the construction of the project is actually commenced within 36 months of March 16, 1973; otherwise, a certificate for the project must be obtained pursuant to this part;

(4) (A) With regard to any land included in the stream corridor for the first time after March 1, 1983, any land or water use or land-disturbing activity:

(i) Which, on March 1, 1983, is completed, under construction, fully approved by the governing authority, or for which all requests for approval of construction are pending before the governing authority; or

(ii) Which is to be located on land which, on March 1, 1983, is zoned for such use and where expenditures in excess of $2,500.00 have been made in preparation for construction in accordance with such zoning; however, prior to March 1, 1984, construction of such land-disturbing activity must have actually commenced and expenditures must have been made in connection with such construction in excess of 10 percent of the estimated cost of the total projected land-disturbing activity, exclusive of the cost of the land, or in excess of $100,000.00, exclusive of the cost of the land, whichever is less; otherwise a certificate for the project must be obtained pursuant to this part.

(B) Upon request by the owner of any land included in the stream corridor for the first time after March 1, 1983, the commission shall make a determination whether

any land or water use or land-disturbing activity on such land satisfies the conditions set forth in this subsection for exclusion from application of this part. Any such request shall be accompanied by any information concerning the land or water use or land-disturbing activity as the commission may reasonably request. If the commission determines that the land or water use or land-disturbing activity fails to satisfy the conditions set forth in this subsection, the commission shall state the reasons therefor. The commission shall be authorized to delegate this authority to its executive director. If such delegation is made, any person aggrieved by any such determination of the executive director may appeal such determination to the commission within 30 days of the issuance of such determination; or

(5) Any land or water use or land-disturbing activity which is undertaken or financed, in whole or in part, by the Department of Transportation of the State of Georgia.

12-5-452.

(a) If a governing authority determines that any person is violating any provision of this part, any rule or regulation adopted pursuant to this part, or the terms and conditions of any certificate issued under this part, the appropriate governing authority shall employ any one or any combination of any or all of the following enforcement methods:

(1) The appropriate governing authority may issue a cease and desist order specifying the provision of this part or the rule or the term or condition of a certificate violated and requiring the person so ordered to cease and desist from such activity and to take corrective action within a reasonable period of time as prescribed in the order. Such corrective action may include, but shall not be limited to, requiring that the affected portion of the stream corridor be returned to its condition prior to the violation insofar as practical. Any such order shall become final unless the person named therein requests in writing a hearing before the governing authority no later than 30 days after the issuance of such order. On the basis of such hearing, the governing authority shall be authorized to continue such order in effect, to revoke the order, or to modify it;

(2) Whenever the appropriate governing authority finds that an emergency exists requiring immediate action to protect the watercourse and the public interest, the governing authority may issue an emergency cease and desist order, effective immediately, reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Any person against

whom such order is directed shall comply therewith immediately but, on application to the governing authority, shall be afforded a hearing within five business days. On the basis of such hearing the governing authority shall be authorized to continue such order in effect, to revoke the order, or to modify it;

(3) The appropriate governing authority may seek injunctive relief pursuant to subsection (b) of this Code section; or

(4) The governing authority shall be authorized to delegate to a responsible official thereof the authority to issue the orders set forth in this subsection.

(b) Any land-disturbing activity in violation of this part, any rule or regulation adopted pursuant to this part, or any certificate issued pursuant to this part shall be a public nuisance; and the creation and maintenance thereof may be enjoined and abated upon an action being filed by the commission, any political subdivision affected, the director, or any person.

(c) Any person who violates this part or any rule or regulation adopted pursuant to this part, any certificate issued pursuant to this part, or any final cease and desist order or emergency order issued pursuant to this part may be fined a civil penalty not to exceed $1,000.00 for each acre or part thereof on which such violation occurs. Each day on which such violation exists is a separate offense.

(d) The superior court having jurisdiction over an action brought pursuant to this Code section shall have the authority to require that the land within the stream corridor be restored to its original condition prior to the unauthorized land-disturbing activity, if possible and if environmentally appropriate. If such restoration is ordered by the court and not carried out within the time limits set forth in a final court order, the governing authority shall be authorized to carry out total or partial restoration within the stream corridor, and the person or persons responsible for the unauthorized land-disturbing activities shall be liable for the amount expended upon restoration. Such amount shall be recoverable by the governing authority in an action against such person or persons.

12-5-453.

(a) On or before January 1, 1984, each governing authority shall adopt ordinances or regulations governing use of all land which is in the drainage basin of any tributary. Such regulations and ordinances shall, at a minimum, include the following:

(1) Buffer areas of adequate width as determined by local governing authorities along all flowing streams in the drainage basin of any tributary, in which areas there will be no land-disturbing activity; and

(2) Soil erosion and sediment control regulations consistent with the 'Erosion and Sedimentation Act of 1975,' Chapter 7 of Title 12 of the Official Code of Georgia Annotated, as now or hereinafter amended. Requirements of the plan, other than those requirements, consistent with the 'Erosion and Sedimentation Act of 1975,' shall not apply in the drainage basin of any tributary outside the stream corridor.

(b) If the governing authority has failed to adopt and enforce buffer area and erosion and sediment control ordinances or regulations which effectively control erosion and sedimentation in a tributary, the commission shall give written notice to the governing authority of its intent to request the director to undertake enforcement of erosion and sediment control regulations in the drainage basin of such tributary. If, after such notice from the commission, the governing authority fails to demonstrate, to the satisfaction of the commission, its intent and ability to enforce buffer area and erosion and sediment control ordinances or regulations in the drainage basin of such tributary, the commission shall request the director to assume enforcement of erosion and sediment control regulations in the drainage basin of such tributary.

(c) Upon notification by the commission of a governing authority's failure to adopt and enforce buffer area and erosion and sediment control ordinances or regulations in the drainage basin of a tributary or upon a determination by the director, after consultation with the commission, that a governing authority has failed to adopt and enforce buffer area and erosion and sediment control ordinances or regulations in the drainage basin of a tributary, the director may revoke the certification of a governing authority as an issuing authority for permits required by the 'Erosion and Sedimentation Act of 1975,' for the land within the drainage basin of such tributary.

12-5-454. Notwithstanding any other provisions of this part to the contrary, nothing contained in this part shall be construed so as to prohibit any person, firm, or corporation from removing sand from any water course without restriction when such removal is accomplished in such a manner that no greater effluent is returned to the water course than that removed therefrom and no erosion along the banks of the water course occurs.

12-5-455. The plan, every proposed version thereof, every revision thereof, and every application for a certification under this part shall constitute public documents and shall be freely available for inspection by any person.

12-5-456.

(a) If the commission has reason to believe that any person is carrying out any land-disturbing activity in or on the stream corridor without a certificate pursuant to this part, in violation of the terms and conditions of a certificate issued pursuant to this part, or in any other respect in violation of this part, the commission shall notify the governing authority of the political subdivision in which such illegal activity is taking place and shall recommend action to correct the situation. A copy of such notice to the governing authority shall be furnished to the director. If the commission has determined that the violation requires immediate enforcement action, the notice to the governing authority shall so state.

(b) If, after notice from the commission, pursuant to subsection (a) of this Code section, of a violation which requires immediate enforcement action, a governing authority has failed to initiate an enforcement action or otherwise secure cessation of the violation within three business days of receipt of such notice, the commission shall so advise the director.

(c) Upon notice from the commission pursuant to subsection (b) of this Code section of a violation of this part which requires immediate enforcement action and as to which the governing authority has failed to initiate enforcement action or otherwise secure cessation of the violation or upon a determination by the director, after consultation with the commission, that any person is violating any provision of this part, any rule or regulation adopted pursuant to this part, or the terms and conditions of any certificate issued pursuant to this part and that the public interest requires that the state take immediate action, the director shall have the authority to employ any one or any combination of any or all of the following enforcement methods:

(1) The director may issue a cease and desist order specifying the provision of this part or the rule or the term or condition of a certificate violated and requiring the person so ordered to cease and desist from such activity and to take corrective action within a reasonable period of time as prescribed in the order. Such corrective action may include, but shall not be limited to, requiring that the affected portion of the stream corridor be returned to its condition prior to the violation, insofar as practical. Any such order

shall become final unless the person named therein requests in writing a hearing before a hearing officer appointed by the board no later than 30 days after the issuance of such order. Review of such order shall be available as provided in subsection (d) of this Code section;

(2) Whenever the director finds that an emergency exists requiring immediate action to protect the watercourse and the public interest, the director may issue an emergency cease and desist order, effective immediately, reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Any person against whom such order is directed shall comply therewith immediately but, on application to the director, shall be afforded a hearing within five business days. On the basis of such hearing, the director shall be authorized to continue such order in effect, to revoke the order, or to modify it. Review of such order shall be available pursuant to subsection (d) of this Code section;

(3) The director may seek injunctive relief pursuant to subsection (b) of Code Section 12-5-452;

(4) Any person who engages in any land-disturbing activity in violation of this part, any rule or regulation adoptd pursuant to this part, any certificate issued pursuant to this part, or any final or emergency order of the director shall be subject to a civil penalty not to exceed $1,000.00 for each acre or part thereof on which such violation occurs. Each day on which such violation exists is a separate offense. Whenever the director has reason to believe that any person has violated this part, any rule or regulation adopted pursuant to this part, any certificate issued pursuant to this part, or any order to emergency order issued pursuant to this part, he may upon written request cause a hearing to be conducted before a hearing officer appointed by the board. Upon finding that such person has violated any provision of this part, any rule or regulation adopted pursuant to this part, any certificate issued pursuant to this part, or any final cease and desist order or emergency order issued pursuant thereto, the hearing officer shall issue his decision imposing civil penalties as provided in this Code section; or

(5) In administrative proceedings or in judicial proceedings, the director may seek, among other relief, the restoration of the affected portion of the stream corridor to its original condition prior to the unauthorized land-disturbing activity, if possible and if environmentally appropriate. If such restoration is ordered by a final order of the Board of Natural Resources or of the superior court and not carried out within the time limit set forth in the final administrative order or final court order, the

director shall be authorized to carry out such restoration, and the person responsible for the unauthorized land-disturbing activities shall be liable for the amount expended upon restoration. Such amount shall be recoverable by the director in an action against such person.

(d) All hearings on and review of the contested matters, orders, or other enforcement actions, initiated by the director under this part shall be provided and conducted in accordance with subsection (c) of Code Section 12-2-2. The hearing and review procedure of this Code section shall be to the exclusion of all other means of hearings or review.

(e) If, pursuant to this Code section, the director determines that the public interest requires initiation of an enforcement action by the director and if the director, after initiation of such enforcement action, secures cessation of the unauthorized activity or achieves the imposition of a civil penalty and the restoration of the land or is otherwise successful in correcting or penalizing the violation of this part, whether by formal legal action or by settlement, the governing authority within whose jurisdiction such violation occurred shall be liable to the state for the costs incurred by the state in such enforcement action, including the reasonable cost of attorneys' services.

12-5-457. No provision of this part shall repeal, supersede, or preempt any function, power, authority, duty, or responsibility assigned to the Environmental Protection Divison of the Department of Natural Resources by any other provision of this Code.

In the event any section, subsection, sentence, clause or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses or phrases of this Act, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. The General Assembly hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

This Act shall become effective upon its approval by the Governor or upon its becoming law without his approval.

All laws and parts of laws in conflict with this Act are hereby repealed.

CHATTAHOOCHEE CORRIDOR PLAN

PART 1: GOALS. POLICY. COVERAGE.

A. Goals.

The goals of the Chattahoochee Corridor Plan are:

(1) Preservation and protection of water quality as a principal objective.

(2) Protection of recreational values. These values include scenic views, historic and other unique areas, and controlled public access and use.

(3) Protection of private property rights of landowners.

(4) Prevention of activities which contribute to floods and flood damage.

(5) Control of erosion and siltation.

(6) Control of intensity of development.

(7) Location and design of land uses in such a way as to minimize the adverse impact of urban development on the River and flood plains.

B. Policy.

(1) No regional-scale public facility constructed within the Corridor by or for a federal, state, or local government or agency thereof will be considered to be consistent with the Chattahoochee Corridor Plan unless it is included in the relevant regional development guide adopted or amended by the Commission pursuant to Code Section 50-8-92. Any such public facility should be designed and constructed so as to be consistent with all standards in the Plan, unless specifically exempted from a given standard.

(2) Additional transportation crossings of the Chattahoochee River within the corridor should be minimized.

(3) Any utility construction proposed should be carefully assessed to insure against physical and visual damage to the landscape. Areas of high scenic, historic, or other unique value should not be permanently scarred.

(4) Development should be fitted to the natural features of the site, including but not limited to: slope, soils, drainage, geology, vegetation and aspect.

(5) The location and intensity of development should be sited so as to minimize the negative effects of that development on water quality, both during and after construction. Major considerations concerning water quality should include: organic pollution from infiltration and surface runoff, erosion and sedimentation, water temperature elevation, nutrients such as nitrogen and phosphorus, and toxic materials.

(6) Flood plain storage should not be decreased from its present state. Examples of flood plain land uses that are consistent with this policy are: improved or unimproved outdoor recreation; at-grade parking; agriculture, horticulture and pasture, excluding temporary or permanent buildings; fences, provided that the type of fence will not inhibit the flow of floodwaters; private and public utility lines; roads and bridges.

(7) Land and water uses within the Corridor should be consistent and compatible with local government land use plans, the adopted Chattahoochee Corridor Plan, and regional development guides.

(8) Projects submitted for review should not include boundary adjustments, out parcels, or other strategies that have, or may have, the effect of being in conflict with the spirit and purpose of the Metropolitan River Protection Act and the Chattahoochee Corridor Plan.

(9) In order for the Commission to find that a proposed land-disturbing activity, while not consistent with the Plan in all respects, will provide a level of land and water resource protection equivalent to a land-disturbing activity that is consistent with the Plan, the Commission shall consider legal, physical, biological, or hydrologic conditions within the area under review that may prevent the achievement of full consistency with the Plan. The burden shall be upon the applicant to prove that a proposed land-disturbing activity will provide a level of land and water resource protection equivalent to a land-disturbing activity that is consistent with the Plan.

C. Coverage.

(1) It is the policy of the Commission that both public and private development proposals should be consistent with policies, principles, and standards in the Plan. The Plan shall apply to:

(a) any plan or proposal that involves governmental action, expenditure of public funds, use of public property, or the exercise of franchise rights

granted by any public body and which potentially affects the area within the Forsyth County Region within the Chattahoochee Corridor; and

(b) any plan, proposal, or action that involves any land-disturbing activity as defined in the Metropolitan River Protection Act, including, but not limited to, scraping, plowing, clearing, dredging, grading, excavating, transporting, or filling of land or placement of any structure or impervious surface, dam, obstruction, or deposit, except for those activities which are exempted from the provisions of the Act.

(2) The Chattahoochee Corridor is hereby defined as "all land within 2,000 feet of the banks of the Chattahoochee River, including any impoundments thereon, or within the flood plain, whichever is greater, from directly below Buford Dam downstream to a line perpendicular across the flow of the Chattahoochee River at the City of Atlanta water supply intake adjacent to Peachtree Creek, including the entire bed of the river and any improvements and all islands therein."

PART 2: VULNERABILITY STANDARDS. FLOOD PLAIN STANDARDS. BUFFER ZONE STANDARDS.

A. Vulnerability Standards.

(1) All proposed development plans shall follow the land vulnerability analysis described in pages 22 through 35 of the Atlanta Regional Commission document entitled Chattahoochee Corridor Study (July 6, 1972) and mapped on a set of twenty-three (23) maps entitled "Land Vulnerability," or shall include an identical analysis in greater detail. All such analyses are subject to Commission review and concurrence. All flood plain areas shall be classified in the "E" vulnerability category and no reanalysis of vulnerability in the flood plain shall be allowed.

(2) All proposed development plans shall conform to the vulnerability standards in the Vulnerability Table.

(3) Vulnerability Table (c):

Vulnerability Category	Percent Maximum Land Disturbance (a)	Percent Maximum Impervious Surface (b)
A	90	75
B	80	60
C	70	45
D	50	30
E	30	15
F	10	2

(a) "Land disturbance" means "land-disturbing activity" as defined in the Metropolitan River Protection Act, this Plan, and the Commission's Rules and Regulations. "Land-disturbing activity" means scraping, plowing, clearing, dredging, grading, excavating, transporting, or filling of land or placement of any structure or impervious surface, dam, obstruction, or deposit. For purposes of computing land disturbance, any area within five (5) feet of a structure, impervious surface or other improvement (for example, building, retaining wall, cut or fill areas) will be considered disturbed.

"Clearing" means any removal or disturbance of existing vegetation.

All transportation rights-of-way and utility and drainage easements shall be considered cleared land. Conversion of pasture or other areas devoid of shrubbery or trees to lawn grass or through reforestation with tree plantings of adequate type and density as determined by the local governing authority shall not be considered "clearing" unless the conversion takes place within the stream buffer zone.

(b) "Impervious surface" means any paved, hardened, or structural surface, including, but not limited to, building, driveways, walkways, parking areas, patios, decks, streets, swimming pools, dams, tennis courts, and other structures.

(c) Adjustments (including upgrading):

Areas to be protected through transfers or upgrading shall be recorded as a permanent easement or a covenant drawn in favor of the State of Georgia, or in such other way as to assure permanent non-development of the designated area.

(1) Transfers to Less Restrictive Category. All or part of the amount of land disturbance and/or impervious surface allowable in one vulnerability category may be transferred to a less restrictive category within the area under review on a one-and-one-half-square-foot for one-square-foot basis for transfers from "E" or "F" land, and on a one-square-foot for one-square-foot basis for all other transfers from a more restrictive to a less restrictive category. No such transfers to flood plain land shall be permitted. The applicant shall clearly identify and explain any proposed transfer.

(2) Transfers to Achieve Protection. All or part of the amount of land disturbance and/or impervious surface allowable in one vulnerability category may be transferred to another vulnerability category or categories, on a one-square-foot for one-square-foot basis, in order to achieve protection of the following:

(a) A unique natural feature, archeological site, historic site, endangered or threatened plant species, or endangered or threatened wildlife habitat, as

determined by and with the written concurrence of the Georgia Department of Natural Resources.

(b) The scenic viewshed, as determined by and with the written concurrence of the Superintendent of the Chattahoochee River National Recreation Area, National Park Service.

(3) Upgrading. For sites adjacent to the Chattahoochee River, percentages of maximum land disturbance and maximum impervious surface may be adjusted upward by one vulnerability category if two additional water quality protection measures are taken. These are:

(a) permanently limiting all land-disturbance except utility lines to areas more than 500 feet from the River; and

(b) providing for permanent runoff control on the site such that the runoff rate from the entire site after development will not exceed the rate before development for a 10-year, 25-year, and 50-year storm. The location and design of such measures shall be included as an integral part of the documents submitted to the Commission for review, after first being approved by the local government official responsible for erosion and/or drainage control, who shall be identified on the documents submitted to the Commission for review.

B. Flood Plain Standards.

(1) No structures or land uses that can significantly impede the natural flow of flood waters, or reduce storage volume, shall be permitted in the flood plain.

(2) Cut and fill operations shall not cause any net increase in the surrounding natural flood elevation or impede the natural flow of flood waters at either the site itself or any adjacent or surrounding areas.

(3) No greater volume of fill shall be deposited on or within the flood plain than the volume that can be created by compensatory cutting within the flood plain of the area included in the application. Volumes of cut

shall not be measured below the seasonal high ground water table elevation. The cut material need not be used as the fill material.

(4) Within the standard project flood plain, no structures, except for bridges, shall have a height greater than thirty-five (35) feet above the natural, ungraded land surface. For the purposes of this paragraph, "height" means the vertical distance measured from the natural grade to the highest point of the coping of a flat roof; to the deck lines of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For the purposes of this paragraph, "grade" is defined as the average elevation of the ground on all sides of a building or other structure or impervious surface.

C. Buffer Zone Standards.

(1) Vegetation shall be left in its natural state for fifty (50) feet on both banks of the Chattahoochee River, and for thirty-five (35) feet on both banks of all other flowing stream channels within the Corridor except for footpaths, designated public access areas, river or stream crossings by transportation facilities, public water supply intake structures, public wastewater treatment plant outfalls, and utility line crossings.

(2) Impervious surfaces and structures shall not be permitted within, on, or over any land that is one hundred fifty (150) horizontal feet or less from either bank of the Chattahoochee River, except for footpaths, designated public access areas, river or stream crossings by transportation facilities, public water supply intake structures, and water supply and sewerage manholes that are designed and built at grade, unless it is determined by the Commission, after consideration by a Committee of the Commission as authorized by the Commission, and based in part upon the affidavit of, and substantial evidence submitted by, a registered professional engineer qualified in water quality and hydrology, that the impervious surfaces or structures will not be harmful to the water and land resources of the Corridor, will not significantly impede the natural flow of flood waters, and will not result in significant land erosion, stream bank erosion, siltation or water pollution.

(3) Not including the impervious surfaces and structures that are excepted above, any impervious surfaces or structures that, in the judgment of the Commission, must legally be permitted within, on, or over any land that is one hundred fifty (150) horizontal feet or less from either bank of the Chattahoochee River on lots of record

as of March 16, 1973, which were designated by the local governing authority for a single-family detached residential use, shall meet the following standard:

(a) For each one (1) foot incursion into the one hundred fifty (150) foot impervious surface buffer, one (1) foot of natural vegetation shall be added to the required fifty (50) foot natural vegetation buffer. In the event that the Commission determines that legal, physical, biological, or hydrologic conditions on the site prevent the addition of all the required natural vegetation, substitute measures satisfactory to the Commission shall be taken to provide an equivalent level of land and water resource protection.

PART 3: SEVERABILITY.

In the event any part, section, subsection, sentence, clause or phrase of this Plan shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other parts, sections, subsections, sentences, clauses or phrases of this Plan, which shall remain in full force and effect, as if the part, section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. The Commission hereby declares that it would have passed the remaining parts of this Plan if it had known that such part of parts hereof would be declared or adjudged invalid or unconstitutional.

GEORGIA MOUNTAINS AREA PLANNING
AND DEVELOPMENT COMMISSION (GMAPDC)
METROPOLITAN RIVER PROTECTION ACT

Rules and Regulations Adopted Pursuant to Subsection (3)
of Code Section 12-5-443

These Rules and Regulations are adopted by the GMAPDC pursuant to the Metropolitan River Protection Act. They repeal and replace all earlier versions. All applications received by the Commission under this Act on or after July 1, 1983, shall be reviewed according to these rules and regulations.

I. Definition of Certain Terms Used in these Rules and Regulations

A. The terms "applicant," "board," certificate," "director," "flood plain," "governing authority," "impoundment," "land-disturbing activity," "major stream," "stream corridor," "tributary," and "watercourse" shall mean the same as defined in subsections (1), (3), (4), (6), (7), (8), (9), (10), (11), (12), (14), (15), (16), (17), and (18) of Code Section 12-5-441.

B. For the Forsyth County Area, the term "Commission" shall mean the Georgia Mountains Area Planning and Development Commission (GMAPDC) which is the area planning and development commission identified in subsection (5) of Code Section 12-5-441.

C. The term "Chattahoochee Corridor Plan" or "Plan": shall mean the comprehensive plan for that portion of the stream corridor within Forsyth County defined in subsection (13) of Code Section 12-5-441 and consists of the following documents adopted by the Commission, copies of which are on file at the offices of the Commission:

1. A document titled Chattahoochee Corridor Plan as adopted by the Commission on June 23, 1983; and adopted.

2. A set of maps titled "Land Vulnerability" as adopted by the Commission on June 23, 1983.

Both have been certified by the Commission's Executive Director and transmitted to the local governing authorities in the stream corridor in Forsyth County.

D. The term "Forsyth County Area" shall mean the "area" defined in Code Section 50-8-80 which currently includes the following counties: Forsyth.

E. The term "days" shall mean calendar days except where otherwise specified.

F. The term "description of such land" shall mean a legal description and/or surveyed boundaries, including all easements, of the area under review and the area under review shall coincide with the legal description and/or surveyed boundaries.

G. The term "vegetation plan" shall mean a plan showing the location, extent, and types of existing vegetation or clusters of vegetation. At a minimum the information shall include the followng vegetation types, if present: barren land, open fields, pines, and hardwoods.

H. The term "site plan" shall mean a plan to scale showing the location of each structure and the location of all impervious surfaces.

I. The term "impervious surface" is defined in the Plan.

J. The term "clearing" is defined in the Plan.

K. The term "substantial change" shall mean any deviation from a certified land or water use when such deviation (a) requires the issuance by the governing authority or its authorized agent of an additional written instrument, other than a letter of clarification, which has the effect of amending the original certificate; or (b) has the effect of increasing the amount of land disturbance or impervious surface in any vulnerability category from the amount previously certified.

L. The term "single-family detached residential use" shall mean a building designed for, or occupied exclusively by, one family as a residence, on a lot containing not more than one such principal building per lot.

M. The term "application for a certificate" shall mean any information required for a complete application and the application form used by the Commission to initiate a review under the Metropolitan River Protection Act as that form may be amended from time to time by the Commission's Executive Director.

N. The term "approved erosion control plan" shall mean a plan approved under the requirements of the Georgia Erosion and Sedimentation Act of 1975, as amended.

O. The term "flowing stream" shall mean any stream that is portrayed on the most current United States Geological Survey 7.5 minute quadrangle for the affected area.

P. The term "all flowing streams in the drainage basin of any tributary" shall mean all flowing streams within the drainage basins of any flowing stream within the Atlanta Region which enters the watercourse within the stream corridor.

Q. The term "stream buffer zone" shall mean that land which extends for a distance of fifty (50) horizontal feet from the bank of the watercourse or thirty-five (35) horizontal feet from the banks of all other flowing streams within the Atlanta Region within the stream corridor.

R. The term "land disturbance" shall mean land-disturbing activity.

S. The term "Chattahoochee Corridor" shall have the same meaning as "stream corridor" in subsection (16) of Code Section 12-5-441.

T. Land designated as "Chattahoochee River flood plain" shall mean the natural land surface that was below the one hundred- (100-) year flood (intermediate regional flood) elevations shown in the high water profiles of U.S. Army Corps of Engineers Mobile District, Flood Plain Information, Chattahoochee River, Buford Dam to Whitesburg, Georgia, November 1973 between Medlock Bridge Road and Buford Dam and, between Medlock Bridge Road and the downstream limit of the Corridor, U.S. Army Corps of Engineers Mobile District, Flood Plain Information, Chattahoochee River, Buford Dam to Whitesburg, Georgia, Supplement to November 1973 Flood Plain Information Report, March 1982 at the time when each such report was published.

U. Land designated as "standard project flood plain" shall mean the natural land surface that was below the standard project flood elevations shown in the high water profiles of U.S. Army Corps of Engineers Mobile District, Flood Plain Information, Chattahoochee River, Buford Dam to Whitesburg, Georgia, November 1973 between Medlock Bridge Road and Buford Dam and, between Medlock Bridge Road and the downstream limit of the Corridor, U.S. Army Corps of Engineers Mobile District, Flood Plain Information, Chattahoochee River, Buford Dam to Whitesburg, Georgia, Supplement to November 1973 Flood Plain Information Report, March 1982 at the time when each such report was published.

V. The term "flood plain elevation" means the elevation, in feet above mean sea level or other specified units and data, below which any surface or volume is subject to being flooded with a probable frequency of at least once every one hundred (100) years, as shown in the one

hundred- (100-) year flood (intermediate regional flood) profiles of U.S. Army Corps of Engineers Mobile District, Flood Plain Information, Chattahoochee River, Buford Dam to Whitesburg, Georgia, November 1973 between Medlock Bridge Road and Buford Dam and, between Medlock Bridge Road and the downstream limit of the Corridor, U.S. Army Corps of Engineers Mobile District, Flood Plain Information, Chattahoochee River, Buford Dam to Whitesburg, Georgia, Supplement to November 1973 Flood Plain Information Report, March 1982.

W. The term "flood hazard zone" appears on the Commission's Land Vulnerability Maps but it has no further significance in these rules and regulations.

X. The term "single-family detached dwelling" shall mean a building designed for or occupied exclusively by one family as a residence, on a lot containing not more than one such principal building per lot.

Y. The term "single-family detached residential subdivision" shall mean a subdivision, or portion thereof, designated exlusively for residences consisting of single-family detached dwellings.

II. Revision of the Commission's Chattahoochee Corridor Plan

A. Prior to any future revision of the Chattahoochee Corridor Plan, the Commission shall do the following:

1. Consult with interest groups in the Corridor;

2. Consult with and seek the assistance of the staff of each local governing authority where the land to be affected lies;

3. Hold a public hearing on the proposed revision in each county in which any land to be affected lies;

4. Cause notice of the time and place of each such public hearing to be published once a week for two weeks prior to the hearing(s) in one or more newspaper of general circulation in each county in which land to be affected lies; and

5. Adopt the revision at a regular or special meeting of the Commission.

B. Copies of the Plan currently in effect shall be reasonably available for public inspection during normal business hours at the offices of the Commission.

III. Revision of the Commission's Rules and Regulations

A. Prior to any future revision of the Commission's Rules and Regulations pursuant to the Metropolitan River Protection Act, the Commission shall do the following:

1. Consult with and seek the assistance of the staff of each local governing authority where the land to be affected lies;

2. Cause notice of the proposed revision to be published at least once in one or more newspapers of general circulation in each county in which any land to be affected lies; and

3. Adopt the revision at a regular or special meeting of the Commission.

B. Copies of the Rules and Regulations currently in effect shall be reasonably available for public inspection during normal business hours at the offices of the Commission.

C. Copies of the Rules and Regulations shall be provided to the Georgia Senate Natural Resources Committee and the Georgia House of Representatives Natural Resources and Environmental Committee.

IV. Commission Charge for Review of Any Application for a Certificate under the Metropolitan River Protection Act

A. As authorized in Subsection (4) of Code Section 12-5-443, the Commission charges the following fee for review of an application for a certificate:

Acres		
More Than	But Not More Than	Fee
0	5	$ 500
5	25	2,000
25	50	6,000
50	Unlimited	7,500

With the exception that a single family detached building or an addition to a single family detached dwelling will be charged a $250 fee for review of an application for a certificate.

B. A cashier's check or money order (no cash will be accepted) in the appropriate amount payable to the Georgia Mountains APDC by the applicant or the

applicant's agent shall be included when the application is transmitted to the Commission by the local governing authority.

C. The Commission shall deposit the check or money order to its account as soon as the review is initiated.

D. If an application for a certificate is withdrawn from review under Section V.I. of these Rules and Regulations, the Commission shall not refund the fee.

E. Any subsequent or new review of an application shall require payment of a fee as if no previous review had been initiated.

F. If a public agency is the applicant, a fee shall not be required.

V. Commission Review of Applications for Certificates under the Metropolitan River Protection Act

A. The Commission shall review an application for a certificate upon the written request of the chief elected official of the governing authority of the political subdivision involved or upon the request of the official's designee or upon the written request of the applicant with the written consent of the chief elected official of the governing authority or the official's designee.

B. Any application for a certificate shall include such detailed information on the proposed land or water use as the governing authority shall reasonably request and as required by the Plan and the Commission's Rules and Regulations adopted pursuant to the Metropolitan River Protection Act.

C. The applicant, with the concurrence of the local governing authority, may select either the Phased Review process or the Single Step Review process for single-family detached residential subdivisions. For any other land-disturbing activity, the Single Step Review process must be used. The information required for each is as follows:

1. Single-Step Applications

Single-step applications shall include the following information together with information required by the local governing authority:

a. A description of such land in the application and any additional land in the project;

b. The name, mailing address, and daytime telephone number of the owner of record of the land in the application;

c. The owner of record's written consent to the review of the land in the application if the owner is not the applicant;

d. The name, mailing address, and daytime telephone number of the applicant or the applicant's designee if the designee is to act for the applicant in the review;

e. A narrative description of the proposed land or water use(s);

f. A vegetation plan;

g. A site plan;

h. A check or money order as described in Section IV of these Rules and Regulations;

i. An approved erosion control plan;

j. A plan or plans showing: the location of all easements, rights-of-way, utilities, drainage structures, and boundaries of lots or other sub-areas; the location and extent of the flood plain and of each vulnerability category of land; the topography of the land;

k. A table listing the amount of land-disturbing activity and impervious surface to be permitted in each vulnerability category in each lot, road right-of-way, or other sub-area of the land included in the application. The areas of land-disturbing activity shall include all areas required and approved by the responsible local official for the construction of septic tanks, sewers, drainage structures and other infrastructure; for the storage of equipment and materials; and for all other proposed land-disturbing activity.

l. Reserved.

m. A land-disturbance plan showing the existing topography at no greater than 5-foot contour intervals, and the location, extent and type of all land-disturbing activity. The land disturbance plan shall include a plan and time schedule for erosion and sedimentation control

which shall first be reviewed and approved by the local government official or office responsible for erosion and/or drainage control, who shall be identified on the land-disturbance plan. If the land-disturbance plan includes proposed septic tank construction, the plan for such construction shall first be reviewed, approved, and signed by the local government official responsible for septic tank approval.

n. A grading plan showing all movement of earth about, onto or off of the land included in the application;

o. If the applicant proposes adjustments pursuant to Part 2:A.(3)(c) of the Plan, then the application shall also include such additional information as the Commission's Executive Director may reasonably require;

p. If an applicant proposes any additional impervious surface(s) to that which already exist(s) on the land included in the application, then the application shall also include an as-built drawing affixed with the stamp of an engineer, surveyor, landscape architect or other professional registered in the State of Georgia and authorized to perform such work.

2. Phased Applications for Single-Family Detached Residential Subdivisions Only

a. For purposes of Commission review, Step 1 of a phased or two-step application (for single-family detached residential subdivisions only) shall include all of the information required by the local governing authority and all of the information required in Section V.C.1. of these Rules and Regulations, except the information required in Sections V.C.1.g. (Site plan for each lot) and V.C.1.m. (land-disturbance plan for each lot) of these Rules and Regulations. Instead of the site and land-disturbance plans, the application shall include a concept plan showing the approximate size, location and type of all structures and impervious surfaces.

b. For purposes of subsequent review by the local governing authority (for lot-by-lot/unit-by-unit review within a single family detached residential subdivision which was previously favorably reviewed by the Commission through a Step 1 review), Step 2 of a two-step application

(for example, each lot) shall include the information required in Sections V.C.1.g. (site plan) and V.C.1.m. (land-disturbance plan) of these Rules and Regulations and such other information as the local governing authority may require.

c. The local governing authority may issue a Step 2 certificate without further review by the Commission only if the Step 2 application is absolutely consistent with the material submitted to the Commission for review in Step 1. Any other Step 2 application not absolutely consistent with the material previously submitted in Step 1 will be treated as a substantial change pursuant to Section VIII.B. of these Rules and Regulations. Within ten (10) days after issuance of a Step 2 certificate, the local governing authority shall send to the Commission a copy of the certificate, the Step 2 application and all of the information included with the Step 2 application.

D. If the application and accompanying information are determined by the Commission's Executive Director not to be complete, the Commission's Executive Director shall return the application and accompanying information to the submitter with an explanation as to why the Executive Director considers them not to be complete. An information copy will be sent to the applicant.

E. If the application and accompanying information are determined by the Commission's Executive Director to be complete:

1. The Executive Director will acknowledge receipt of the review to the chief elected official of the submitting (or consenting) governing authority. An information copy will be sent to the applicant.

2. The application and accompanying information shall become a pending review file and shall be reasonably available for public inspection during normal business hours at the offices of the Commission.

3. The Commission's Executive Director shall immediately initiate staff review of the application for a certificate and the other required information to determine whether or not there appear to be inconsistencies between the Plan and the proposed land-disturbing activity. The Commission's Executive Director may conduct an independent investigation in making such determination.

F. Within ten (10) days after initiation of staff review pursuant to Section V.E.3 of these Rules and Regulations, the Commission's Executive Director shall make one of the following preliminary findings and transmit the preliminary finding in writing to the chief elected official of the submitting (or consenting) local governing authority (with an information copy to the applicant), potentially affected public agencies, as determined by the Commission's Executive Director, and the chairperson and designated member(s) of the Commission's appropriate advisory group, and afford those so notified opportunity to review and comment on the application and preliminary finding. For comments, if any, from those so notified to be considered by the Commission's Executive Director, the comments must be received in writing by the Commission's Executive Director within ten (10) calendar days following transmittal of such notice. The possible preliminary findings are:

1. The Commission's Executive Director may find that there appear to be no inconsistencies between the Plan and the proposed land-disturbing activity.

2. The Commission's Executive Director may find that the proposed land-disturbing activity appears to comply with Part I.B.(9) of the Plan and that, while apparently not consistent with the Plan in all respects, the proposed land-disturbing activity appears to provide a level of land and water resource protection equivalent to an application consistent with the Plan.

3. The Commission's Executive Director may find that there appear to be inconsistencies between the Plan and the land-disturbing activity proposed by the application and, if the proposed land-disturbing activity appears to comply with Part I.B.(9) of the Plan, that the proposed land-disturbing activity does not appear to provide a level of land and water resource protection equivalent to an application consistent with the Plan. In this case, the Commission's Executive Director may:

   a. Recommend modification of the application in such manner as to be consistent with the Plan; or

   b. If the proposed land-disturbing activity complies with Part I.B.(9) of the Plan, recommend modification of the application in such manner that the application as so modified, while not consistent with the Plan in all respects, will

provide a level of land and water resource protection equivalent to an application consistent with the Plan.

G. Within ten (10) calendar days after making a preliminary finding pursuant to Section V.F. of these Rules and Regulations, and after consideration of comments received, if any, pursuant to Section V.F. of these Rules and Regulations, the Commission's Executive Director shall make one of the following findings and transmit the finding in writing to the chief elected official of the submitting (or consenting) local governing authority (with an information copy to the applicant):

1. The Commission's Executive Director may find on behalf of the Commission that there are no inconsistencies between the Plan and the proposed land-disturbing activity.

2. The Commission's Executive Director may find on behalf of the Commission that the proposed land-disturbing activity complies with Part I.B.(9) of the Plan and that, while not consistent with the Plan in all respects, the proposed land-disturbing activity provides a level of land and water resource protection equivalent to an application consistent with the Plan.

3. The Commission's Executive Director may find on behalf of the Commission that there appear to be inconsistencies between the Plan and the land-disturbing activity proposed by the application and, if the proposed land-disturbing activity appears to comply with Part I.B.(9) of the Plan, that the proposed land-disturbing activity does not appear to provide a level of land and water resource protection equivalent to an application consistent with the Plan.

In the case of Finding Nos. 1 and 2, the review shall be complete and no further action by the Commission shall be required.

H. In the case of Finding No. 3 in Section V.G. of these Rules and Regulations:

1. The Commission's Executive Director shall work with the local governing authority's designee within the ten (10) calendar days following such finding to seek the applicant's agreement to modify the application:

a. So that it will be consistent with the Plan, or

b. So that, while not consistent with the Plan in all respects, the proposed land-disturbing activity will provide a level of land and water resource protection equivalent to an application consistent with the Plan. This option is available only if the proposed land-disturbing activity complies with Part I.B.(9) of the Plan.

2. If the local governing authority's designee obtains the applicant's agreement in writing to modify the application pursuant to Section V.H.1. of these Rules and Regulations and provides a copy of said agreement to the Commission, the review shall be complete and no further action by the Commission shall be required.

3. If the local governing authority's designee is unable to obtain the applicant's agreement in writing to modify the application pursuant to Section V.H.1. of these Rules and Regulations, the application shall be placed on the agenda of the next regular or special meeting of the Commission following notice to the local governing authority and consideration by the appropriate standing committee of the Commission. The Commission shall make one of the following findings:

a. The Commission may find that there are no inconsistencies between the Plan and the proposed land-disturbing activity.

b. The Commission may find that the proposed land-disturbing activity complies with Part I.B.(9) of the Plan and that, while not consistent with the Plan in all respects, the proposed land-disturbing activity will provide a level of land and water resource protection equivalent to an application consistent with the Plan.

c. The Commission may find that there are inconsistencies between the Plan and the land-disturbing activity proposed by the application and, if the proposed land-disturbing activity complies with Part I.B.(9) of the Plan, that the proposed land-disturbing activity does not provide a level of land and water resource protection equivalent to an application consistent with the Plan. In this case, pursuant to Code Section 12-5-445, the Commission may:

i. Recommend modification of the application in such manner as to be consistent with the Plan; or

ii. If the proposed land-disturbing activity complied with Part I.B.(9) of the Plan, recommend modification of the application in such manner that the application as so modified, while not consistent with the Plan in all respects, will provide a level of land and water resource protection equivalent to an application consistent with the Plan.

The Commission may make such other findings and/or recommendations as it deems appropriate pursuant to Code Section 50-8-94.

I. An application may be withdrawn from Commission review by the written request of the chief elected official of the submitting (or consenting) governing authority or by the official's designee or by the applicant or the applicant's agent through the local governing authority at any time prior to final action under Section V of these Rules and Regulations.

J. Should the local governing authority request that the Commission reconsider its recommendation at a public hearing, the Commission shall hold such hearing within thirty (30) calendar days after receipt by the Commission's Executive Director of the request in writing from the local governing authority. Notice stating the time and place of the public hearing shall be mailed at least five (5) calendar days prior to the hearing to the local governing authority and notified agencies. Notice of the hearing shall be published one time at least five (5) calendar days in advance in a newspaper of general circulation in the county in which the affected land lies. The Commission shall make its final determination with respect to such recommendation within thirty (30) calendar days after such public hearing and the Commission's Executive Director shall promptly transmit the final determination to the chief elected official of the submitting local governing authority and notified agencies.

VI. Buffer Areas of All Flowing Streams in the Drainage Basin of any Tributary

A. Within thirty (30) days following adoption or subsequent amendment pursuant to Subsection (a) of Code Section 12-5-453 by each local governing authority of an ordinance or regulations governing use of all land which is in the

drainage basin of any tributary, each governing authority shall provide the Commission with a copy of its ordinance or regulations.

B. Pursuant to Subsection (b) of Code Section 12-5-453, the Commission shall review these ordinances and/or regulations to assure that they include the following minimum standards established in Subsection (a) of Code Section 12-5-453:

1. Buffer areas of adequate width along all flowing streams in the drainage basin of any tributary, in which areas there will be no land-disturbing activity; and

2. Soil erosion and sediment control regulations consistent with the Erosion and Sedimentation Act of 1975, as amended (Chapter 7 of Title 12 of the Official Code of Georgia Annotated).

In conducting its review the Commission shall consult with the appropriate soil and water conservation authorities.

C. In order for the Commission to comply with Subsection (b) of Code Section 12-5-453, beginning January 1, 1984, each local governing authority shall provide the Commission with a copy of its enforcement actions, if any.

D. Copies of these ordinances and/or regulations and enforcement actions shall be reasonably available for public inspection during normal business hours at the offices of the Commission.

E. If a governing authority apparently fails to adopt a required ordinance or regulation or adopts an ordinance or regulation which does not appear to include the above minimum standards or apparently fails to enforce its ordinance or regulation, as required by Subsection (b) of Code Section 12-5-453, the Commission's Executive Director shall give written notice to the governing authority of the Executive Director's intent to recommend that the Commission request that the Director of the Environmental Protection Division of the Georgia Department of Natural Resources undertake enforcement of erosion and sediment control regulations in the affected drainage basin(s).

The governing authority so notified shall have thirty (30) calendar days from the date of the Executive Director's notification to remedy the apparent deficiency

or demonstrate that no deficiency exists and provide written documentation of such action or contention to the Commission.

If within thirty (30) calendar days the governing authority so notified does not demonstrate to the Executive Director's satisfaction that no deficiency exists or that it has adopted, amended, or enforced the ordinance or regulation as required, the Executive Director shall recommend that the Commission request the Director of the Environmental Protection Division of the Georgia Department of Natural Resources to assume enforcement of erosion and sedimentation control regulations in the affected drainage basin.

VII. Land-Disturbing Activity Without a Certificate or in Violation of a Certificate or the Act

A. If the Commission's Executive Director has reason to believe that any person may be carrying out any land-disturbing activity in or on the stream corridor without a certificate or in violation of the terms and conditions of a certificate issued pursuant to the Metropolitan River Protection Act, or in any respect in violation of the Metropolitan River Protection Act, the Executive Director shall so notify the chief elected official of the local governing authority of the political subdivision in which such activity is believed to be taking place and shall consult with the local governing authority staff or the official's designee to recommend appropriate action(s) to remedy the apparent violation. In order to expedite the investigation, the Executive Director's notification to the governing authority shall be by telephone followed by a hand-delivered letter with a copy to the Director of the Environmental Protection Division of the Georgia Department of Natural Resources. The Executive Director's letter shall so state if the apparent violation may require immediate enforcement action.

B. If the Executive Director's notification and letter to the local governing authority states that immediate enforcement action may be required, the governing authority so notified shall inform the Commission in writing, within three (3) working days of receipt of the Executive Director's letter, of any enforcement action initiated to secure cessation of the apparent violation. The local governing authority shall send a copy of its response to the Director of the Environmental Protection Divison of the Georgia Department of Natural Resources.

C. If the Executive Director has not received a response, in writing, within three (3) working days as required above, the Executive Director shall so notify the Director of the Environmental Protection Division of the Georgia Department of Natural Resources, who has the authority under the Act to employ appropriate enforcement actions.

VIII. Other

A. Any proposal which is excepted or exempted from the provisions of the Act pursuant to Code Section 12-5-451 or 12-5-454, but which meets the criteria set forth in the Commission's February 23, 1972 resolution (i.e., any plan or proposal that involves governmental action, expenditure of public funds, use of public property, or the exercise of franchise rights granted by any public body and which potentially affects the area within the Chattahoochee Corridor) shall be submitted to the Commission for review as an Area Plan pursuant to Code Section 50-8-94.

B. The determination as to whether or not any change in a proposed land or water use is a "substantial change" shall be made by the local governing authority in accord with Code Section 12-5-444 as further supplemented by these Rules and Regulations. The Commission shall review any amended or new application for a certificate in accord with these Rules and Regulations.

C. If a certificate is issued by the local governing authority pursuant to Code Section 12-5-444 following review by the Commission pursuant to these Rules and Regulations, then any future written instrument related to the same land-disturbing activity covered by the original certificate need not be reviewed by the Commission unless such written instrument authorizes a substantial change as defined herein.

D. Any legal action instituted by the Commission to enforce the provisions of the Act shall have prior approval by the Commission's Executive Committee.

E. The Executive Director will provide to the Commission on a monthly basis a list of all reviews of applications for certificates which were in an active status during the thirty (30) calendar days prior to the date of such report.

F. Prior to the beginning of any land-disturbing activity, such activity shall be clearly and accurately demarcated, wherever it is proposed, with stakes, ribbons, or other appropriate means. The location and extent of all

authorized land-disturbing activity shall be similarly demarcated for so long as any land-disturbing activity continues.

G. Prior to initiation of any land disturbances pursuant to a certificate, the owner or applicant shall file or cause to be filed, by affidavit or otherwise, a copy of the certificate on the real estate records of the Clerk of the Superior Court of the county in which the affected land lies.

H. A copy of the approved land-disturbance plan shall be present on the site whenever land-disturbing activity is in progress.

I. Severability. In the event any part, section, subsection, sentence, clause or phrase of these Rules and Regulations shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other part, sections, subsections, sentences, clauses or phrases of these Rules and Regulations, which shall remain in full force and effect, as if the part, section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. The Commission hereby declares that it would have passed the remaining parts of these Rules and Regulations if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

IX. Local governing authorities in the stream corridor are encouraged to do the following:

A. Transmit promptly to the Commission copies of all ordinances or regulations and amendments, if any, adopted pursuant to the Act.

B. Transmit promptly to the Commission copies of all certificates issued pursuant to the Act.

C. Prior to occupancy, certify that the land or water use has been undertaken as certified.

D. Record the listing of permitted land-disturbing activity, by vulnerability category and, where applicable, by lot, required by Section V.C.1.k. of these Rules and Regulations as an official part of each preliminary and final plat.