



## Ordinance O20-048

Introduced By: Brannon Richards

Date: November 19, 2020

### **Ordinance O20-048 to Amend Chapter 26, Article III - Phase II Stormwater in the Town of Leland Code of Ordinances**

Be It Ordained:

1. That the Code of Ordinances, Town of Leland, North Carolina, is amended by modifying Chapter 26, Article III of the Leland Town Code to read as shown in Exhibit A and Exhibit B.
2. That if this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.
3. That if it be determined that any other Town Ordinance or any part of any other Town Ordinance is in conflict with this Ordinance, said conflicting Ordinance shall be deemed repealed and of no effect and the provisions of this Ordinance shall prevail.

Adopted by Town Council on this 19th day of November, 2020.

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Brenda Bozeman, Mayor

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Sabrena Reinhardt, Town Clerk

Approved as to Form:

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Brian E. Edes, Town Attorney

ARTICLE III. - PHASE II STORMWATER ORDINANCE

DIVISION 1. - GENERAL~~LY~~

Sec. 26-71. - Title.

This article shall be officially known as the "Phase II Stormwater Ordinance." It is referred to herein as "this article."

(Code 2003, § 32-1; Ord. No. 09-05, 3-19-2009)

Sec. 26-72. – Authority

The Town of Leland is authorized to adopt this ordinance pursuant to North Carolina law, including Article 14, Section 5 of the Constitution of North Carolina; the Town of Leland Charter; North Carolina General Statutes § 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185; as well as Chapter 113A, Article 4 (Sedimentation Pollution Control)]; Article 21, Part 6 (Floodway Regulation) [; Chapter 160A, Article 19 (Planning and Regulation of Development); Chapter 153A, Article 18].

Sec. 26-7~~3~~2. - Findings.

The town finds that:

- (1) Increased impervious areas and other site features of development or redevelopment may alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, non-point and point source pollution, and sediment transport and deposition, as well as reduce groundwater recharge;
- (2) These changes in stormwater runoff may contribute to increased quantities of water-borne pollutants and to altered hydrology that may be harmful to public health, and safety and the natural environment;
- (3) These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites; and
- (4) Further, the federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal phase II stormwater rules promulgated under it, as well as rules of the state environmental management commission promulgated in response to federal phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt stormwater controls such as those included in this article.

Therefore, the town establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

(Code 2003, § 32-3; Ord. No. 09-05, 3-19-2009)

Sec. 26-7~~3~~4. - Purpose.

- (a) *General.* The purpose of this article is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point and point source pollution associated with new development and redevelopment (as well as illicit discharges into municipal stormwater systems). It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.
- (b) *Specific.* This article seeks to meet its general purpose through the following specific objectives and means:
  - (1) Establishing decision-making processes for new development and redevelopment that protect the integrity of watersheds and preserve the health of water resources;

- (2) Requiring that new development and redevelopment:
  - a. Maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm;
  - b. Reduce flooding, stream bank erosion, non-point and point source pollution and increases in stream temperature; and
  - c. Maintain the integrity of stream channels and aquatic habitats;
- (3) Establishing stormwater management standards and design criteria to regulate and control post-development stormwater runoff quantity and quality;
- (4) Establishing design and review criteria for the construction, function, and use of structural stormwater BMPs that may be used to meet the post-development stormwater management standards;
- (5) Encouraging the use of better management and site design practices, such as the preservation of green space, riparian buffers and other conservation areas to the maximum extent practicable;
- (6) Establishing provisions for long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
- (7) Establishing administrative procedures:
  - a. For the submission, review, approval and disapproval of stormwater management plans;
  - b. For the inspection of approved projects; and
  - c. To ensure long-term maintenance;
- (8) Controlling illicit discharges into the municipal separate stormwater system; ~~and~~
- (9) Controlling erosion and sedimentation from construction activities.

(Code 2003, § 32-4; Ord. No. 09-05, 3-19-2009)

Sec. 26-754. - Applicability and jurisdiction.

- (a) General. Beginning with and subsequent to its effective date, this article shall be applicable to:
- (b) All development or redevelopment unless exempt pursuant to subparagraph (i) of this section.
- (c) Any nonresidential development activity that creates a total of ten thousand (10,000) square feet or more of newly constructed impervious surface area irrespective of the condition of the existing surface upon which the impervious surface area is created.
- (d) All new subdivisions as defined in the town's code of ordinances.
- (e) Any development activity that requires a sedimentation and erosion control plan. A development activity or project requires a sedimentation and erosion control plan if the activity or project disturbs one (1) acre or more of land, including an activity or project that disturbs less than one (1) acre of land that is part of a larger common plan of development.
- (f) Any development activity that requires a Coastal Area Management Act (CAMA) major development permit.
- (g) Any single-family residential development within one-half (½) mile and draining to class SA waters, that has an impervious surface area greater than twelve (12) percent, and that will add ten thousand (10,000) square feet or more of impervious surface.
- (h) In applying the provisions of this section, the cumulative area of the proposed development activity and all development activity on a site within the two-year period immediately preceding the date of application for a stormwater discharge permit shall be considered together.
- ~~Whenever an existing developed site is modified to create a total of ten thousand (10,000) square feet or more of newly constructed impervious surface area, irrespective of the condition of the existing surface upon which the new impervious surface is created, the modified portion of the site shall comply with this article. Whenever the modification results in placement of newly constructed impervious surface over any existing surface such that the newly constructed impervious area equals or exceeds fifty (50) percent~~

~~of the total impervious surface area, then the entire site shall be required to comply with this article. In determining the applicability of this section, resurfacing of existing pavement without demolition is considered maintenance and not placement of new impervious surface.~~

(i) Any area to be paved, or otherwise made impervious to stormwater exceeding two thousand five hundred (2,500) square feet shall require an approved drainage plan. Site drainage shall be conveyed through vegetated swales or underground pipes of sufficient size to the nearest storm drain.

(1) ~~All development or redevelopment unless exempt pursuant to subsection (b) of this section; and~~

(2) ~~Development or redevelopment that disturb less than one acre and does not add 10,000 square feet or more of built-upon area if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.~~

~~(b)(j)~~ (i) Exemptions. The following are exempt from the provisions of this article:

(1) ~~Development that cumulatively disturbs less than one acre, does not add 10,000 square feet or more of built-upon area and is not part of a larger common plan of development or sale;~~

(2) ~~Redevelopment that cumulatively disturbs less than one acre, does not add 10,000 square feet or more of built-upon area and is not part of a larger common plan of development or sale; or~~

(3) ~~Activities that are exempt from permit requirements of section 404 of the Federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities).~~

(1) The installation, repair, replacement or maintenance of subsurface utilities by public or private utility operators;

(2) Single-family residential unit that does not meet the applicability standards above;

(3) Single-structure duplex residential building (one (1) building with two (2) units not part of a larger common plan or subdivision) unless it meets the threshold for applicability set forth in this section; and

(4) Any area to be paved, stabilized, or otherwise made impervious to stormwater that does not exceed two thousand five hundred (2,500) square feet.

(k) No development or redevelopment until compliance and permit. No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development for which a permit is required pursuant to this article shall occur except in compliance with the provisions, conditions, and limitations of the permit.

~~(e)(l)~~ (l) Map. The provisions of this ordinance shall apply within the corporate limits of the town. The official map of the corporate limits being that along with any written description maintained in the office of the town clerk as required by G.S. § 160A-22.

~~Map.~~ The provisions of this article shall apply within the areas designated on the map titled "Phase II Stormwater Map of Town of Leland, North Carolina" ("the stormwater map"), which is adopted simultaneously herewith. The stormwater map and all explanatory matter contained thereon accompany and are hereby made a part of this article. The stormwater map shall be kept on file by the stormwater administrator and shall be updated to take into account changes in the land area covered by this article and the geographic location of all structural BMPs permitted under this article. In the event of a dispute, the applicability of this article to a particular area of land or BMP shall be determined by reference to the state statutes, the state administrative code, and local zoning and jurisdictional boundary ordinances

~~(d)~~

(Code 2003, § 32-5; Ord. No. 09-05, 3-19-2009)

Sec. 26-765. - Interpretation.

(a) *Meaning and intent.* All provisions, terms, phrases, and expressions contained in this article shall be construed according to the general and specific purposes set forth in section 26-734. If a different or more specific meaning is given for a term defined elsewhere in the Code, the meaning and application of the term in this article shall control for purposes of application of this article.

(b) *Text controls in event of conflict.* In the event of a conflict or inconsistency between the text of this article and any heading, caption, figure, illustration, table, or map, the text shall control.

(c) *Authority for interpretation.* The Town Administrator has the authority to designate a Stormwater Administrator to carry out the powers and duties of the Town Administrator. The Stormwater Administrator has authority to

~~determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within thirty (30) days. The Stormwater Administrator shall keep on file a record of all written interpretations of this ordinance. The stormwater administrator has authority to determine the interpretation of this article. Any person may request an interpretation by submitting a written request to the stormwater administrator, who shall respond in writing within 30 days. The stormwater administrator shall keep on file a record of all written interpretations of this article.~~

- (d) *References to statutes, regulations, and documents.* Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the design manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.
- (e) *Delegation of authority.* Any act authorized by this article to be carried out by the stormwater administrator may be carried out by his designee.
- (f) *Measurement and computation.* Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.
- (g) *Minimum requirements.* The requirements contained in this article shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this article; and, if any other existing chapter or regulation allows lesser regulation, this article shall govern, so that in all cases, the more restrictive limitation or requirement shall govern.

(Code 2003, § 32-6; Ord. No. 09-05, 3-19-2009; altered in 2018 recodification)

Sec. 26-767. - Design manual.

- (a) *Reference to design manual.*
  - (1) The stormwater administrator shall use the policy, criteria, and information, including technical specifications and standards, in the [Town of Leland Stormwater Design Manual \(FLSWDM\)](#) and the [State of North Carolina Stormwater Design Manual](#) as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and nonstructural stormwater BMPs. [When there is a conflict between these manuals, the more stringent standards shall apply.](#)
  - (2) The ~~design manual~~ [manuals](#) includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with [the runoff volume match requirements in Section A-1 of the State of North Carolina Stormwater Design Manual](#) ~~these design~~ and sizing criteria [contained in this ordinance](#) shall be presumed to meet the water [quantity and quality performance standards](#) ~~performance standards~~ of the phase II laws and this article.
- (b) *Relationship of design manual to other laws and regulations.* If the specifications or guidelines of the design manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the ~~design manuals~~.
- (c) *Changes to standards and specifications.* If the standards, specifications, guidelines, policies, criteria, or other information in the ~~design manuals~~ are amended subsequent to the submittal of an application for approval pursuant to this article but prior to approval, the standards, specifications, guidelines, policies, criteria, or other information in the ~~design manuals~~ that existed at the time of application shall apply.

(Code 2003, § 32-7; Ord. No. 09-05, 3-19-2009)

Sec. 26-778. - Relationship to other laws, regulations and private agreements.

- (a) *Conflict of laws.* This article is not intended to modify or repeal any other ordinance, 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. Where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher

protective standards for human or environmental health, safety, and welfare shall control.

- (b) *Private agreements.* This article is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this article are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this article shall govern. Nothing in this article shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this article. In no case shall the town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

(Code 2003, § 32-8; Ord. No. 09-05, 3-19-2009)

Sec. 26-79. - Severability.

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

Sec. 26-~~8078~~. - Effective date and transitional provisions.

- (a) *Effective date.* This article shall take effect on ~~March 19, 2009~~ June August XXXX December 31, 2020.
- (b) *Final approvals, complete applications.*
- (1) All development or redevelopment projects for which complete and full applications and plans were submitted and approved by the town prior to the effective date of the ordinance from which this article is derived and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development or redevelopment, shall be exempt from complying with all provisions of the ordinance from which this article is derived dealing with the control or management of post-construction runoff, but shall be required to comply with all other applicable provisions.
  - (2) A phased development plan shall be deemed approved prior to the effective date of this article if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:
    - a. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including the boundaries of the project and a subdivision plan that has been approved; and
    - b. For any subsequent phase of development, sufficient detail so that implementation of the requirements of this article to that phase of development would require a material change in that phase of the plan.
- (c) *Violations continue.* Any violation of provisions existing on the effective date of the ordinance from which this article is derived shall continue to be a violation under this article and be subject to penalties and enforcement under this article unless the use, development, construction, or other activity complies with the provisions of this article.

(Code 2003, § 32-10; Ord. No. 09-05, 3-19-2009)

Sec. 26-~~7981~~. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions set out in 15A NCAC 02H .1002 (definitions), and G.S. 143-212, and 143-213 shall be used when not in conflict with the definitions set out specifically in this article.

- *Built-upon area (BUA)* means that portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement, ~~and~~ gravel, and turf (for pedestrian or vehicular use) areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. The term "built-upon area" does not include a wooden slatted deck ~~or~~ the water area of a swimming pool, or other approved pervious materials as defined by the NC Division of Water Quality and NC General Statutes. ~~, or pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.~~
- *Department* means the North Carolina Department of Environmental Quality ~~state department of environment and natural~~

resources.

- *Design manual* means the ~~North Carolina Department of Environmental Quality~~ Town of Leland Stormwater Design Manual stormwater design manual approved for use in phase II jurisdictions by the department for the implementation of the requirements of the federal phase II stormwater program. All references herein to the design manual are to the latest published edition or revision. The design manual may be obtained from the town.
- ~~Development~~ Development means any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.
- *Division* means the North Carolina Department of Environmental Quality Division of Energy, Mineral, and Land Resources Stormwater Program division of water quality in the department.
- *Hazardous material* means any item or agent (biological, chemical, physical) which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.
- *High-density project* means any project that exceeds the low-density threshold for dwelling units per acre or built-upon area.
- *Larger common plan of development or sale* means any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (examples are a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (boundary signs, lot stakes, or surveyor markings are examples) indicating that construction activities may occur on a specific plot.
- *Low-density project*.
  - For a project that is not located within one-half mile of and draining to shellfish resource SA waters: the project is a low-density project if it has no more than 24 percent built-upon area (BUA).
  - For a project that is located within one-half mile of and draining to shellfish resource waters, the project is a low-density project only if it contains no more than 12 percent built-upon area.
  - A project with an overall density at or below the relevant low-density threshold, but containing areas with a density greater than the overall project density, may be considered low density as long as the project meets or exceeds the post-construction model practices for low-density projects and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.
- *Material change* means a modification which results in an alteration to 25 percent or more of the design.
- *Non-erosive velocity* means a rate of flow of stormwater runoff, measured in feet per second, which does not erode soils. Non-erosive velocities vary for individual sites, ~~taking into account~~ considering topography, soil type, and runoff rates.
- *One-year, 24-hour storm* means the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months.
- *Owner* means the legal or beneficial owner of land, including a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. The term "owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of the term "owner" under another description in this definition, such as a management entity.
- *Redevelopment* means any development on previously developed land, other than a rebuilding activity that results in no net increase in built-upon area and that provides equal or greater stormwater control than the previous development.

- *Residential development* means buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated outbuildings such as garages, storage buildings, and gazebos.
- *Shellfish resource waters* means Class SA waters as determined by the North Carolina Department of Environmental Quality Division of Water Resources. ~~that contain an average concentration of 500 parts per million of natural chloride ion. Average concentration is determined by averaging the chloride concentrations of five water samples taken one-half mile downstream from the project site that are taken on separate days, within one hour of high tide, and not within 48 hours following a rain event. The chloride ion concentrations are to be determined by a state-certified laboratory.~~

- *Structural BMP* means a physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. The term "structural BMP" is synonymous with the terms "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this article.
- *Substantial progress*. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur:
  - (1) Obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or
  - (2) Installation and approval of on-site infrastructure; or
  - (3) Obtaining a building permit for the construction and approval of a building foundation.

Substantial progress for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

- *Vegetative buffer* means an area of natural or established vegetation directly adjacent to surface waters through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation due to development activities.
- *Vegetative conveyance* means a permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.
- *Water dependent structures* means a structure for which the use requires access or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and boat storage areas are not water dependent uses.

(Code 2003, § 32-11; Ord. No. 09-05, 3-19-2009)

Secs. 26-8~~29~~—26-101. - Reserved.

## DIVISION 2. - ADMINISTRATION AND PROCEDURES

Sec. 26-102. - Review and decision-making entities; stormwater administrator.

- (a) *Designation*. A stormwater administrator shall be designated by the town manager to administer and enforce this article.
- (b) *Powers and duties*. In addition to the powers and duties that may be conferred by other provisions of the Code and other laws, the stormwater administrator shall have the following powers and duties under this article:
  - (1) To review and approve, approve with conditions, or disapprove stormwater management plans pursuant to this article;
  - (2) To make determinations and render interpretations of this article;
  - (3) To establish permit application requirements and schedules for submittal and review of stormwater management plans, permit applications, and appeals, to review and make recommendations to the town council and planning board on modification of this article or the process for stormwater management;
  - (4) To enforce the provisions of this article in accordance with its enforcement provisions;
  - (5) To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this article;
  - (6) To provide expertise and technical assistance to the town council, planning board, and stormwater advisory

committee upon request;

- (7) To designate an appropriate other person to carry out the powers and duties of the stormwater administrator; and
- (8) To take any other action necessary to administer the provisions of this article.

(Code 2003, § 32-21; Ord. No. 09-05, 3-19-2009)

Sec. 26-103. - Review procedures.

- (a) *Permit required; must apply for permit.* A stormwater management permit (hereafter "permit") shall be required for all development or redevelopment unless exempt pursuant to this article. A permit may be issued after submitting a stormwater permit application, a stormwater management plan, and the fee for stormwater management permit application review.
- (b) *Effect of permit.* A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including structural BMPs and elements of site design for stormwater management other than structural BMPs. The permit review process is intended to provide a mechanism for the review, approval, and inspection of the planned approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this article, whether the approach consists of structural BMPs or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions established in this article.
- (c) *Existing permit modifications. An existing development proposing to make modifications to an existing permit may be subject to permit revision by the Division or the town according to the following scenarios:*
  - (1) *For an existing subdivision that has an existing Division permit with some of the lots not yet developed, the developer of an undeveloped lot would continue to be subject to permitting through the Division.*
  - (2) *For existing developed parcels with existing Division permits that are redeveloped the following permitting requirements apply:*
    - a. *Minor modifications which could mean a change to impervious surface area but no change to the BMP(s) would be processed by the Division.*
    - b. *Major modifications, which means there is a required change to the BMP(s), would be permitted by the town. Division will rescind their permit after the new permit is issued.*
  - (3) *Permit renewals will be coordinated by the originating permit agency.*
- ~~(d)~~ *Authority to file applications.* All permit applications required pursuant to this Code shall be submitted to the stormwater administrator by the landowner or the landowner's authorized agent.
- ~~(e)~~ *Establishment of permit application requirements, schedule and fees.*
  - (1) *Permit application contents and form.* The stormwater administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. *Copies of required forms shall be available in the FL SWDM.* The stormwater permit application shall require in a detailed plan a description of:
    - a. The post-development stormwater runoff control and management;
    - b. The design of all stormwater facilities and practices;
    - c. Site identification information;
    - d. Ownership information; and
    - e. How the proposed project shall meet the requirements of this article.
  - (2) *Submission schedule.* The stormwater administrator shall establish a submission schedule for permit applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review plans and applications, and that the various stages in the review process are accommodated. *The submission schedule shall be available in the FL SWDM.*

(3) *Permit application review fees.* The town council shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application and may amend and update the fees and policies from time to time. A schedule of permit review fees shall be available in the TLSWDM.

~~(2) *Administrative manual.* For applications required under this Code, the stormwater administrator shall compile the application requirements, submission schedule, fee schedule, a copy of the ordinance from which this article derived, and information on how and where to obtain the design manual in an administrative manual, which shall be made available to the public.~~

~~(e)~~(f) *Submittal of complete application.*

- (1) Applications for a stormwater management permit shall be submitted to the stormwater administrator pursuant to the application submittal schedule established by the stormwater administrator, along with the stormwater management plan and appropriate fee established pursuant to this section.
- (2) An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this article, along with the appropriate fee. If the stormwater administrator finds that an application or stormwater management plan is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

~~(f)~~(g) *Review.* Within 45 working days after a complete application submittal, the stormwater administrator shall review the application and determine whether the stormwater management plan permit application complies with the standards of this article.

- (1) *Approval.* If the stormwater administrator finds that the application complies with the standards of this article, the stormwater administrator shall approve the application and issue a stormwater management permit.
- (2) *Approval with conditions.* The stormwater administrator may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included as part of the approval and included in the issued stormwater permit.
- (3) *Disapproval.* If the stormwater administrator finds that the stormwater management plan fails to comply with the standards of this article, the stormwater administrator shall notify the applicant and shall indicate how the application or plan fails to comply. The applicant shall have an opportunity to submit a revised application and plan.

~~(g)~~(h) *Revision and subsequent review.* Within 45 working days after a complete revised application submittal, the stormwater administrator shall review the revised application and determine whether the stormwater management plan and application complies with the standards of this article, and shall approve, approve with conditions, or disapprove the application.

- (1) *Fee for resubmittal.* One resubmittal of a revised application may be submitted without payment of an additional permit application review fee. Any resubmittal after the first resubmittal shall be accompanied by a permit application review additional fee, as established pursuant to this article.
- (2) *Time limit for resubmittal.* If a revised application is not resubmitted within 90 calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

(Code 2003, § 32-22; Ord. No. 09-05, 3-19-2009)

Sec. 26-104. - Applications for approval.

- (a) *Concept plan and consultation meeting.* Before a stormwater management permit application is deemed complete, the stormwater administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management

designs before formal site design engineering is commenced. Local watershed plans, other plans adopted by the town, and other relevant resource protection plans should be consulted in the discussion of the concept plan. To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

- (1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
  - (2) *Natural resources inventory.* A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide ~~particular~~ opportunities or constraints for development and stormwater management.
  - (3) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.
- (b) *Stormwater management permit application.*
- (1) The stormwater management permit application shall contain detailed plans and calculations on how post-development stormwater runoff shall be controlled and managed and how the proposed project shall meet the requirements of this article, including division 3 of this article. All such plans shall be prepared by a registered state professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of certification, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the design manuals, and that the designs and plans ensure compliance with this article.
  - (2) The submittal shall include all of the information required in the submittal checklist established by the stormwater administrator. Incomplete submittals shall be treated pursuant to section 26-103. The submittal checklist shall be available in the TLSWDM.
- (c) *As-built plans and final approval.*
- (1) Upon completion of a project, and before any certificate of occupancy or certificate of zoning compliance shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual as-built plans for all stormwater management facilities or practices.
  - (2) The as-built plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. A registered state professional engineer shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this article. Digital copies of the "as built" plans shall also be submitted by the applicant as specified in the SWDM. The digital format of the "as built" shall be in GIS shapefile (.shp) format and as specified in the SWDM. A final inspection and ~~final approval~~ acceptance by the stormwater administrator shall occur before the release of any performance securities.
- (d) *Other permits.* No certificate of zoning compliance or certificate of occupancy shall be issued by the town without final

as-built plans and a final inspection and ~~approval-acceptance~~ by the stormwater administrator, except where multiple units are served by the stormwater practice or facilities, in which case the town may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and ~~acceptance approval~~ has occurred.

(Code 2003, § 32-23; Ord. No. 09-05, 3-19-2009)

Sec. 26-105. - Approvals.

- (a) *Effect of approval.* Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.
- (b) *Time limit/expiration.*
  - (1) An approved plan shall become null and void if the applicant fails to make substantial progress on the site within 18 months after the date of approval. The stormwater administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.
  - (2) In granting an extension, the stormwater administrator may require compliance with standards adopted since the original permit was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

(Code 2003, § 32-24; Ord. No. 09-05, 3-19-2009)

Sec. 26-106. - Appeals.

- (a) *Right of appeal.* Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article made by the stormwater administrator may file an appeal to the town board of adjustment within 30 days of the decision, order, requirement or determination.
- (b) *Filing of appeal and procedures.*
  - (1) An appeal shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by the town. The stormwater administrator shall transmit to the town board of adjustment all documents constituting the record on which the decision appealed from was taken.
  - (2) The hearing conducted by the town board of adjustment shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.
- (c) *Review by superior court.* Every decision of the town board of adjustment shall be subject to superior court review by proceedings in the nature of certiorari. Petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the latter of the following:
  - (1) The decision of the town board of adjustment is filed; or
  - (2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the chair of the town board of adjustment at the time of its hearing of the case.

(Code 2003, § 32-25; Ord. No. 09-05, 3-19-2009)

Secs. 26-107—26-125. - Reserved.

DIVISION 3. - STANDARDS

Sec. 26-126. - General standards.

- (a) All development or redevelopment to which this article applies, regardless of project ~~shall~~ density, shall comply with the standards of this section.

- (b) Refer to the town's website for information regarding floodplain management. Floodplain management is a critical aspect of all development and redevelopment activities. Floodplain development standards must be considered in conjunction with stormwater standards in order to provide effective protection of life and property.
- (c) Water quantity design standards. All development or redevelopment activities, regardless of project density, shall control the post-development peak discharge rate of the two-year, ten-year, and twenty-five-year storm events to not exceed the predevelopment peak runoff discharge rate for the same storm events.
- (d) Water quality design standards. Treat runoff from all surfaces generated by 1½ inches of rain. In addition, projects that are located within one-half mile and draining to SA waters must control and treat the difference in stormwater runoff from the pre- and post-development conditions for the one-year, 24-hour storm. Runoff volume draw down time shall be a minimum of 48 hours, but not more than 120 hours.
- (e) All development or redevelopment activities, regardless of project density, shall be responsible for analyzing the capacity of conveyances located downstream of the project impacts to the receiving conveyance(s) at the point of discharge for a proposed project. The evaluation should address how the proposed design will prevent adverse impacts including flooding and bank erosion at a proposed discharge point. The evaluation shall include how downstream conveyances affect the development or redevelopment's on-site stormwater system (i.e. tailwater conditions at a proposed stormwater outfall). The owner must furnish a statement of an on-site downstream evaluation for assessment of the two-year, ten-year, and twenty-five-year storm event capacity impacts to adjoining downstream property. The design engineer shall include a statement in the permit application package shall include concerns, potential problems, possible solutions, additional temporary and permanent measures that are considered as part of downstream capacities analysis that describes the potential adverse impacts at the discharge point and how the proposed design will address these situations and prevent them from occurring.
- (a)(f) All culverts associated with development or redevelopment shall be sized in accordance with the *North Carolina Department of Transportation Guidelines for Drainage Studies and Hydraulic Design*, most recent edition.
- (b)(g) A 50-foot-wide ~~thirty-foot-wide~~ undisturbed vegetative buffer for new development activities and a 30-foot-wide ~~undisturbed~~ vegetative buffer for ~~and~~ redevelopment activities is required along all perennial or intermittent surface waters. Redevelopment activities are not permitted to reduce the width of an existing 50-foot-wide buffer that was previously established. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the top of bank for each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The town may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by state water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.
- (1) Approved stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds are allowed in the buffer and the area required to construct the practices may be disturbed.
  - (2) Walking trails, picnic areas, benches, and water dependent structures, including, but not limited to, boat docks, boat ramps, and bulkheads, are allowed in the buffer and the area required to construct the practices may be disturbed provided that they have received all applicable federal, state, and local permits and approvals.
  - (3) Development in urban waterfronts that meet the requirements of 15A NCAC 07H .0209(g), development in new urban waterfront areas that meet the requirements of session law 2004-117, those activities listed in 15A NCAC 07H

- (3) .0209(d)(10)(A)—15A NCAC 07H .0209(d)(10)(H), and development of upland marinas that have received a Coastal Area Management Act major permit are allowed in the buffer and the area required to construct the practices may be disturbed.
- (4) Buffer management and maintenance. The buffer, including wetlands and floodplains, shall be managed to enhance and maximize the unique value of these resources. Management and maintenance ~~includes~~include specific limitations on alteration of the natural conditions of these resources. Any substantial vegetation that is removed must be replaced accordingly. The following management and maintenance practices and activities are permitted within the buffer area:
- a. General pruning of trees.
  - b. Removal and replacement of dead or diseased plant ~~materials, and materials~~ and clearing nuisance of underbrush.
  - c. The application of pesticides by appropriate professionals for the spraying of noxious weeds or non-native species as listed by the state department of agriculture and consumer services.
  - d. Stream restoration projects, facilities and activities approved by federal, state, or local agencies.
  - e. Individual trees within the forest buffer may be removed which are in immediate danger of falling and causing damage to dwellings, other structures, or causing blockage of the stream.
  - f. Other timber cutting techniques approved by the agency may be undertaken within the forest buffer under the advice and guidance of the state division of forest resources, state cooperative extension service, or the United States Department of Agriculture, if necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire.
  - g. Repairing erosion problems internal to the buffer.
  - h. Removal of debris after a storm event.
- (h) For the purposes of this section, areas defined as coastal wetlands under 15A NCAC 07H .0205, as measured landward from the normal high waterline, shall not be included in the overall project area to calculate impervious surface density. Wetlands that are not regulated as coastal wetlands pursuant to 15A NCAC 07H .0205 and that are located landward of the normal high waterline may be included in the overall project area to calculate impervious surface density.
- (i) Covenant restrictions. The approval of the stormwater management permit shall require an enforceable restriction on property that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development, management, redevelopment, or expansion maintains the site consistent with the approved project plans, including recordation on any approved plat limits of impervious surface area on a per-lot basis, if applicable.
- (j) New stormwater technologies: Structural BMPs not approved for use by the North Carolina Department of Environmental Quality may be proposed for use in development and redevelopment projects in accordance with 15A NCAC 02H .01050(15).

(Code 2003, § 32-36; Ord. No. 09-05, 3-19-2009)

Sec. 26-127. - Development or redevelopment standards for low-density projects.

- (a) All low-density projects shall comply with the standards set forth in 15A NCAC 02H .1003 and 15A NCAC 02H .1019.

Low-density projects shall comply with each of the following standards:

- ~~(5) Stormwater runoff from the development shall be transported from the development primarily by vegetated conveyances. As used in this section, the term "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built-upon or disturbed areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity. In the event that excessive erosion is found to occur after the construction and final inspection, it shall be the responsibility of the permittee to make the necessary corrections to halt and prevent the erosion as well as repair the damage caused by the erosion.~~
- ~~(6) All built-upon area shall be 30 feet landward of all perennial and intermittent surface waters. A perennial or~~

~~intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site specific determination made using division approved methodology. Development in urban waterfronts that meet the requirements of 15A NCAC 07H .0209(g), development in new urban waterfront areas that meet the requirements of session law 2004-117, those activities listed in 15A NCAC 07H .0209(d)(10)(A) through 15A NCAC~~

~~07H .0209(d)(10)(H), development of upland marinas, and water dependent structures, including, but not limited to, boat docks, boat ramps, and bulkheads, are allowed within 30 feet of surface waters provided that they have received all applicable federal, state, and local permits and approvals.~~

- ~~(7) A condition of the issuance of the stormwater management permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants or both, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.~~

(Code 2003, § 32-37; Ord. No. 09-05, 3-19-2009)

Sec. 26-128. - Development or redevelopment standards for high-density projects.

High-density projects shall implement stormwater control measures that comply with each of the following standards:

- ~~(a) All high-density projects shall comply with the standards set forth in 15A NCAC 02H .1003 and 15A NCAC 02H .1019.~~
- ~~(c) The measures shall control and treat runoff from all surfaces generated by 1½ inches of rain. In addition, projects that are located within one half mile and draining to SA waters must control and treat the difference in stormwater runoff from the pre- and post-development conditions for the one year, 24-hour storm. Runoff volume draw down time shall be a minimum of 48 hours, but not more than 120 hours.~~
- ~~(d) All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of 85 percent average annual removal for total suspended solids (TSS).~~
- ~~(e) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the design manual.~~
- ~~(f) All built upon area shall be 30 feet landward of all perennial and intermittent surface waters. A surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site specific determination made using division approved methodology. Development in urban waterfronts that meet the requirements of session law 2004-117, those activities listed in 15A NCAC 07H .0209(d)(10)(A) through 15A NCAC 07H .0209(d)(10)(H), development of upland marinas, and water dependent structures, including, but not limited to, boat docks, boat ramps, and bulkheads, are allowed within 30 feet of surface waters provided that they have received all applicable federal, state, and local permits and approvals.~~
- ~~(g) Stormwater runoff from built upon or disturbed areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity. In the event that excessive erosion is found to occur after the construction and final inspection, it shall be the responsibility of the permittee to make the necessary corrections to halt, prevent, and restore the erosion.~~
- ~~(h) A condition of the issuance of the stormwater management permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, or both, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.~~

(Code 2003, § 32-38; Ord. No. 09-05, 3-19-2009)

Sec. 26-129. - Standards for stormwater control measures.

- ~~(a) Stormwater control measures shall comply with the standards set forth in 15A NCAC 02H .1050 through 15A NCAC 02H .1062.~~
- ~~(a) *Evaluation according to contents of design manual.* All stormwater control measures and stormwater treatment practices (also referred to as best management practices, or BMPs) required under this article shall be evaluated by the stormwater administrator according to the policies, criteria, information, technical specifications, standards, and the~~

~~specific design criteria for each stormwater practice in the design manual. The stormwater administrator shall determine whether BMPs in the plan will be adequate to meet the requirements of this article.~~

- ~~(b) *Determination of adequacy; presumptions and alternatives.* Stormwater treatment practices that are designed, constructed and maintained in accordance with the criteria and specifications in the design manual shall be presumed to meet the water quantity performance standards of this article. Whenever a plan proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the design manual, the applicant shall have the burden of demonstrating that the practice shall satisfy the water quality and quantity performance standards of this article. The storm administrator may require the applicant to provide the documentation, calculations, and examples necessary for the storm administrator to determine whether such an affirmative showing is made.~~
- ~~(c) *Separation from seasonal high water table.* For structural stormwater controls that are required under this section and that require separation from the seasonal high water table, a minimum separation of two feet is required. Where a separation of two feet from the seasonal high water table is not practicable, the division of water quality may grant relief from the separation requirement pursuant to the alternative design criteria set out in 15A NCAC 02H .1008(h). No separation from the seasonal high water table is required for a secondary stormwater best management practice that is used in a series with another stormwater best management practice.~~
- ~~(d) *Additional standards.* The following additional standards shall apply:
 
  - ~~(1) Remove an 85 percent average annual amount of total suspended solids;~~
  - ~~(2) For detention ponds, draw down the treatment volume no faster than 48 hours, but no slower than 120 hours;~~
  - ~~(3) Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm; and~~
  - ~~(4) Meet the general engineering design criteria set forth in 15A NCAC 02H .1008(c).~~~~

(Code 2003, § 32-40; Ord. No. 09-05, 3-19-2009)

Sec. 26-130. - Variances.

- (a) Any person may petition the town board of adjustment for a variance granting permission to use the person's land in a manner otherwise prohibited by this article. To qualify for a variance, the petitioner must show all of the following:
  - (1) Unnecessary hardships would result from strict application of this article;
  - (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property;
  - (3) The hardships did not result from actions taken by the petitioner; and
  - (4) The requested variance is consistent with the spirit, purpose, and intent of this article; shall secure public safety and welfare; and shall preserve substantial justice.
- (b) The town board of adjustment may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
- (c) Notwithstanding subsection (a) of this section, exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:
  - (1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs;
  - (2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs; or

- (3) ~~A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished which would avoid or result in less adverse impact to surface waters. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.~~

(Code 2003, § 32-42; Ord. No. 09-05, 3-19-2009)

Secs. 26-131—26-158. - Reserved.

#### DIVISION 4. - MAINTENANCE

Sec. 26-159. - General standards for maintenance.

- (a) *Function of BMPs as intended.* The owner of each structural BMP installed pursuant to this article shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.
- (b) ~~It shall be the responsibility of individual property owners of developed or undeveloped land within the town to maintain stormwater conveyance facilities, such as waterways, streams, creeks, ditches, swales, channels, canals, conduits and culverts, and stormwater control facilities, such as ponds and lakes within their property. Where conditions of existing stormwater facilities are determined to be deficient and a public nuisance, and the property owner fails to correct the deficiencies after being notified, the town may arrange for the deficiencies to be corrected and recover all costs thereto from the property owner. However, the recovery of costs from property owners is subject to appeal as described in the town's ordinances.~~
- ~~(b) It shall be the responsibility of individual property owners of developed or undeveloped land within the town to maintain stormwater conveyance facilities, such as waterways, streams, creeks, ditches, swales, channels, canals, conduits and culverts, and stormwater control facilities, such as ponds and lakes within their property. Where conditions of existing stormwater facilities are determined to be deficient and a public nuisance, and the property owner fails to correct the deficiencies after being notified, the town may arrange for the deficiencies to be corrected and recover all costs thereto from the property owner. However, the recovery of costs from property owners is subject to appeal as described in the town's ordinances.~~
- (c) *Annual maintenance inspection and report.*
- (1) The person responsible for maintenance of any structural BMP installed pursuant to this article shall submit to the stormwater administrator an inspection report from one of the following persons performing services only in their area of certification: a registered state professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the state cooperative extension service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:
- The name and address of the ~~land~~landowner;
  - The recorded book and page number of the lot of each structural BMP;
  - A statement that an inspection was made of all structural BMPs;
  - The date the inspection was made;
  - A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this article; and
  - The original signature of the inspector.
- (2) All inspection reports shall be on forms ~~supplied by~~included in the ~~stormwater administrator~~town SWDM.

(3) An original inspection report shall be provided to the stormwater administrator beginning one year from the date of ~~as-built certification~~installation and each year thereafter on or before the anniversary date of the ~~as-built certification~~installation.

(4) Maintenance responsibilities, as described in this division, Division 4, that are not met by the owner will result in a civil penalty being issued to the owner by the town.

(Code 2003, § 32-54; Ord. No. 09-05, 3-19-2009)

Sec. 26-160. - Operation and maintenance agreement.

(a) *In general.*

- (1) Prior to the conveyance or transfer of any lot or building site to be served by a structural BMP pursuant to this article, and prior to issuance of any permit for development or redevelopment requiring a structural BMP pursuant to this article, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of the stormwater permit through the Town or State is completed the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement. The operation and maintenance agreement shall require the owner or owners to maintain, repair, and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the town a right of entry in the event that the stormwater administrator or designee has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the structural BMP, all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.
- (2) The operation and maintenance agreement shall require the owner or owners to maintain, repair, and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the town a right of entry in the event that the stormwater administrator

has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the structural BMP.

- (3) The operation and maintenance agreement must be approved by the stormwater administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county register of deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the stormwater administrator within 14 days following its recordation.
- (b) *Special requirement for homeowners' and other associations.* For all structural BMPs required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:
- (1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities;
  - (2) ~~Establishment of an escrow account with the town, which can be expended solely for the cost of sediment or vegetative removal; structural or vegetative replacement; repair; or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the town, in its sole discretion, may remedy the situation, and in such instances the town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal; structural, biological or vegetative replacement; repair; or reconstruction of the structural BMPs, provided that the town shall first consent to the expenditure;~~
  - (3) ~~Both developer contribution and annual accrued association funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15 percent of the estimated construction cost of the structural BMPs. Two-thirds of the total amount of the escrow fund budget shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the structural BMPs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the escrow fund budget;~~
  - (4) ~~The percent of developer contribution and lengths of time to fund the escrow account may be varied by the town depending on the design and materials of the stormwater control and management facility;~~
- ~~(5)(2)~~ Granting to the town a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs;
- ~~(6)(3)~~ Allowing the town to recover from the association and its members any and all costs the town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the town all of its expended costs, after 45 days written notice, shall constitute a breach of the agreement. In case of a deficiency, the town shall thereafter be entitled to bring an action against the association and its members to pay or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery;
- ~~(7)(4)~~ A statement that this agreement shall not obligate the town to maintain or repair any structural BMPs, and the town shall not be liable to any person for the condition or operation of structural BMPs;
- ~~(8)(5)~~ A statement that this agreement shall not in any way diminish, limit, or restrict the right of the town to enforce any of its ordinances as authorized by law; and
- ~~(9)(6)~~ A provision indemnifying and holding harmless the town for any costs and injuries arising from or related to the structural BMP, unless the town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

(Code 2003, § 32-55; Ord. No. 09-05, 3-19-2009)

Sec. 26-161. - Inspection program.

- (a) Inspections and inspection programs by the town may be conducted or established on any reasonable basis, including routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include reviewing maintenance and repair, sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.
- (b) If the owner or occupant of any property refuses to permit such inspection, the stormwater administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the stormwater administrator while carrying out his official duties.

(Code 2003, § 32-56; Ord. No. 09-05, 3-19-2009)

Sec. 26-162. - Performance ~~security for~~ security for installation ~~and maintenance.~~

(a) General

A performance security will be required for all development and redevelopment to which this ordinance applies. The security will be released by the Town upon approval of as-built record drawings and an engineer's certification that states the BMPs have been built in accordance with the information included in this ordinance and are functioning properly at the time of certification.

In a phased development or redevelopment project, the security will be released as each phase of the project is completed and approved by the Town in accordance with the requirements listed in this ordinance. No security will be released for any phase of proposed development/redevelopment until all close out documents are received, reviewed, and approved by the Town.

~~May be required.~~

~~In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat or permit approval, the town council may enter into an agreement with the applicant whereby the applicant shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved, if all other requirements of this article are met. To secure this agreement, the applicant shall provide, subject to the approval of the town council, a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement for 1.25 times the entire cost of the guaranteed improvements.~~

~~±~~

(b) The performance security will ensure that BMPs are:

- (1) Installed by the permit holder as required by the approved stormwater management plan; or
- (4) Maintained by the owner as required by the operation and maintenance agreement
- (2)

(c) Amount

~~The performance security will ensure that BMPs are:~~

- ~~a. Installed by the permit holder as required by the approved stormwater management plan;~~
- ~~b. or Maintained by the owner as required by the operation and maintenance agreement.~~

~~Amount.~~

~~(2)(1) Installation.~~ (2)(1) Installation. The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25 percent.

~~(3) Maintenance.~~ (3) Maintenance. The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

~~(b)~~(d) Uses of performance security.

- (1) *Forfeiture provisions.* The performance security shall contain forfeiture provisions for failure to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this article, permits issued pursuant to this article, or an operation and maintenance agreement established pursuant to this article.
- (2) *Default.* Upon default of the owner to construct, maintain, repair, or reconstruct any structural BMP in accordance with the applicable permit or operation and maintenance agreement, the stormwater administrator shall obtain and use all or any portion of the security to construct, maintain, repair or reconstruct any structural BMP in accordance with the applicable permit or operation and maintenance agreement. Such expenditure of funds shall only be made after a written request to the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the town shall retain any of the unused deposited cash funds or other security, which shall be retained for ~~the maintenance~~ *escrow fund*.
- (3) *Costs in excess of performance security.* If the town takes action upon such failure by the applicant or owner, the town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.
- (4) *Refund.* Within 60 days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25 percent) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected

one year after installation and deficiencies shall be corrected for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

(Code 2003, § 32-57; Ord. No. 09-05, 3-19-2009)

Sec. 26-163. - Notice to owners.

- (a) *Deed recordation and indications on plat.* The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance (whichever is applicable) pertaining to every structural BMP on the plan shall be referenced on the final plat and shall be recorded with the county register of deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, shall be recorded with the county register of deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.
- (b) *Signage.* At the determination of the stormwater administrator, to ensure compliance with this article, structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

(Code 2003, § 32-58; Ord. No. 09-05, 3-19-2009)

Sec. 26-164. - Records of installation and maintenance activities.

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least ten years from the date of creation of the record and shall submit the same upon request to the stormwater administrator.

(Code 2003, § 32-59; Ord. No. 09-05, 3-19-2009)

Sec. 26-165. - Nuisance.

The owner of each stormwater BMP, whether structural or nonstructural, shall maintain it to prevent a nuisance condition.

(Code 2003, § 32-60; Ord. No. 09-05, 3-19-2009)

Sec. 26-166. - Maintenance easement.

Every structural BMP and stormwater conveyance installed pursuant to this article shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be ~~recorded~~recorded, and its terms shall specify who may make use of the easement and for what purposes. The town must be listed as a party that has access to the easement and the easement must specify that the town has the right to maintain structural BMPs and stormwater conveyances within the easement.

(Code 2003, § 32-61; Ord. No. 09-05, 3-19-2009)

Secs. 26-167—26-185. - Reserved.

DIVISION 5. - ENFORCEMENT AND VIOLATIONS

Sec. 26-186. - General.

- (a) *Authority to enforce.* The provisions of this article shall be enforced by the stormwater administrator, his designee, or any authorized agent of the town. Whenever this article refers to the stormwater administrator, it includes his designee as well as any authorized agent of town.
- (b) *Violation unlawful.* Failure to comply with any applicable requirement, prohibition, standard, or limitation imposed by

this article, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article.

- (c) *Each day a separate offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense.
- (d) *Penalty assessed after notice served.* No penalty shall be assessed until the person alleged to be in violation has been served notice of the violation as described in section 26-188 except as provided below. Refusal to accept the notice shall not relieve the violator of the obligation to pay such penalty.
- (e) *Responsible persons/entities.*
  - (1) Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this article shall be subject to the remedies, penalties, or enforcement actions in accordance with this article. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.
  - (2) For the purposes of this article, the term "responsible person" shall include:
    - a. Person maintaining condition resulting in or constituting violation. An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists; and
    - b. Responsibility for land or use of land. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(Code 2003, § 32-72; Ord. No. 09-05, 3-19-2009)

#### Sec. 26-187. - Remedies and penalties.

The remedies and penalties provided herein, whether civil or criminal, are not exclusive; may be exercised singly, simultaneously, or cumulatively; may be combined with any other remedies authorized under the law; and may be exercised in any order.

- (1) *Remedies.*
  - a. *Withholding of certificate of occupancy.* The stormwater administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
  - b. *Disapproval of subsequent permits and developments approvals.* As long as a violation of this article continues and remains uncorrected, the stormwater administrator or other authorized agent may withhold, and the town council, planning board, planning department, and building inspections department may disapprove, any request for permit or development approval or authorization provided for by this article or the zoning, subdivision, or building regulations for the land on which the violation occurs.
  - c. *Injunction, abatements, etc.* The stormwater administrator, with the written authorization of the town manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the general statutes or at common law.

- d. *Correction as public health nuisance, costs as lien, etc.* If the violation is deemed dangerous or prejudicial to the safety and is within the geographic limits prescribed by G.S. 160A-193, the stormwater administrator, with the written authorization of the town manager, may cause the violation to be corrected and the costs to be assessed as a lien against the pro
- e. *Stop-work order.* The stormwater administrator may issue a stop-work order to the person violating this article. The stop-work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop-work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(2) *Civil penalties.*

- a. Any person who allows, acts in concert, participates, directs, or assists directly or indirectly in the creation of a violation of this article is subject to a civil penalty. A civil penalty may be assessed from the date the violation first occurs.
- b. Civil penalties may be assessed up to the full amount of penalty to which the town is subject for violations of its NPDES stormwater permit, or \$5,000.00 for each violation of this article, whichever is greater. Each day of violation shall constitute a separate violation.
- c. Penalties may be assessed concurrently with a notice of violation for any of the following:
  - 1. Obstructing, hampering, or interfering with an authorized town representative who is in the process of carrying out official duties under this article;
  - 2. A repeated violation for which a notice of violation was previously given to the person responsible for the violation; or
  - 3. Willful violation of this article.
- d. In determining the amount of a civil penalty, the stormwater ~~manager-administrator~~ shall consider any relevant mitigating and aggravating factors, including:
  - 1. Degree and extent of harm caused by the violation;
  - 2. Cost of rectifying the damage;
  - 3. Amount of money saved through noncompliance;
  - 4. Whether the violator took reasonable measures to comply with this article;
  - 5. Knowledge of the requirements by the violator and/or reasonable opportunity or obligation to obtain such knowledge;
  - 6. Whether the violator voluntarily took reasonable measures to restore any areas damaged by the violation;
  - 7. Whether the violation was committed willfully;
  - 8. Whether the violator reported the violation to an appropriate authority;
  - 9. Technical and economic reasonableness of reducing or eliminating the discharge; and
  - 10. Prior record of the violator in complying or failing to comply with this article or any other water pollution control ordinance or regulation.
- e. The stormwater ~~manager-administrator~~ shall determine the amount of the civil penalty to be assessed under this article and shall make written demand for payment upon the person in violation and shall set forth in detail a description of the violation for which the penalty was imposed. Notice of said assessment shall be by registered or certified mail or other means reasonably calculated to give adequate notice. If a violator does not pay a civil penalty assessed by the town within 30 days after it is due, the stormwater ~~manager-administrator~~ shall request the town attorney to institute a civil action to recover the amount of the assessment. The civil action shall be brought in the county superior court or in any other court of competent jurisdiction. Such civil actions must be filed within three years of the date the notice of assessment was served on the violator.

f. An assessment that is not contested is due when the violator is served with a notice of assessment. An

assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

- g. Civil penalties collected pursuant to this article shall be credited to the town general fund as a non-tax revenue.
- h. A violation of this article shall not constitute a misdemeanor or infraction punishable under G.S. 14-4, but instead shall be subject to the civil penalties fixed by this article.

(Code 2003, § 32-73; Ord. No. 09-05, 3-19-2009)

Sec. 26-188. - Procedures.

- (a) *Initiation/complaint.* Whenever a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the stormwater administrator, who shall record the complaint. The complaint shall be investigated promptly by the stormwater administrator.
- (b) *Inspection.* The stormwater administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this article.
- (c) *Notice of violation and order to correct.*
  - (1) When the stormwater administrator finds that any building, structure, or land is in violation of this article, the stormwater administrator shall notify, in writing, the property owner or other person violating this article. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.
  - (2) The stormwater administrator may deliver the notice of violation and correction order personally, by the police department, code enforcement officer, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by rule 4 of the North Carolina Rules of Civil Procedure.
  - (3) If a violation is not corrected within the period of time provided in the notification, the stormwater administrator may take appropriate action under this article to correct and abate the violation and to ensure compliance with this article.
- (d) *Extension of time.* A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the stormwater administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the stormwater administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation. The stormwater administrator may grant extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this article. The stormwater administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator shall be subject to the penalties described in the notice of violation and correction order.
- (e) *Enforcement after time to correct.* After the time has expired to correct a violation, including any extension if authorized by the stormwater administrator, the stormwater administrator shall determine if the violation is corrected. If the violation is not corrected, the stormwater administrator may act to impose one or more of the remedies and penalties authorized by this article.
- (f) *Emergency enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this article or pose an immediate danger to the public health, safety, or welfare, then the stormwater administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The

stormwater administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

(Code 2003, § 32-74; Ord. No. 09-05, 3-19-2009)

Secs. 26-189—26-236. - Reserved.

#### DIVISION 6. - ILLICIT DISCHARGES

Sec. 26-237. - Illicit discharges and connections.

- (a) *Illicit discharges.* The discharge, emission, disposal, pouring, or pumping directly or indirectly any liquid, solid, gas, or other substance, other than stormwater to any stormwater conveyance, the waters of the state, or upon the land in a manner or amount that the substance is likely to reach a stormwater conveyance or the waters of the state is prohibited. Prohibited substances include: oil, anti-freeze, chemicals, animal waste, paints, garbage, debris, or litter.
- (b) *Exemptions.* Non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality:
  - (1) Waterline flushing;
  - (2) Landscape irrigation;
  - (3) Diverted stream flows;
  - (4) Rising groundwaters;
  - (5) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20));
  - (6) Uncontaminated pumped groundwater;
  - (7) Discharges from potable water sources;
  - (8) Foundation drains;
  - (9) Air conditioning condensation;
  - (10) Irrigation water;
  - (11) Springs;
  - (12) Water from crawl space pumps;
  - (13) Footing drains;
  - (14) Lawn watering;
  - (15) Individual residential car washing;
  - (16) Flows from riparian habitats and wetlands;
  - (17) Dechlorinated swimming pool discharges;
  - (18) Street wash water; and
  - (19) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the state, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the town.
- (c) *Illicit connections.*
  - (1) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (a) of this section, are unlawful. Prohibited connections include, but are not limited to: floor drains, wastewater from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.
  - (2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said

connection shall remove the connection within one year following the effective date of the ordinance from which this article is derived. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

- (3) Where it is determined that said connection may result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or was made in violation of any applicable regulation or ordinance, other than this section; the stormwater administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the stormwater administrator shall take into consideration:
  - a. The quantity and complexity of the work;
  - b. The consequence of delay;
  - c. The potential harm to the environment, to the public health, and to public and private property; and
  - d. The cost of remedying the damage.
- (d) *Spills.*
  - (1) Spills or leaks of prohibited substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.
  - (2) Persons in control of the prohibited substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the fire chief and the stormwater ~~manager~~ administrator of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.
- (e) *Nuisance.* Illicit discharges and illicit connections which exist within the town limits are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in chapter 34, article III.

(Code 2003, § 32-96; Ord. No. 09-05, 3-19-2009)

# Town of Leland Stormwater Design Manual

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## **Section 1 Introduction**

### **1.1 General**

The Town of Leland (Town) Stormwater Design Manual is intended to present pertinent information related to stormwater management for new development and redevelopment of parcels within the Town of Leland and the Town's Planning & Extraterritorial Jurisdiction (ETJ). More specifically, this manual describes the Town's stormwater management policy, the permitting process, design standards, construction recommendations, project close out, and maintenance. In addition to that information, copies of all the forms required for the stormwater management permit application process and ongoing operation and maintenance are included in this manual. This manual is intended to be used in tandem with the Town's Phase II Stormwater Ordinance. Please use the Town's stormwater ordinance and this design manual to guide stormwater management design, construction, and operation and maintenance activities within the Town. All questions related to stormwater management in the Town should be directed to the stormwater administrator. The stormwater administrator has the authority to enforce the provisions of the stormwater ordinance and has the power to make final decisions on conflicts. The stormwater administrator can be reached by contacting Leland Town Hall. The information presented herein is intended to simplify the design, review, and maintenance processes for stormwater management systems in the Town of Leland.

### **1.2 Relationship to Ordinance**

The Town's stormwater ordinance is found in Article III of Chapter 26 in the *Code of Ordinances, Town of Leland, North Carolina* (Code). This manual does not take precedence over the Code; the Code shall be the final rule as it relates to stormwater management in the Town. This manual is intended to be a guide to assist with application of the ordinance and should be utilized in tandem with the ordinance and as a reference by all parties who hold a stake in the management of stormwater in the Town.

### **1.3 State of North Carolina Stormwater Design Manual**

In addition to this design manual, the North Carolina Department of Environmental Quality (NCDEQ) provides a stormwater design manual to the public for guidance on how to meet state stormwater rules. Information included in that manual will be referenced by the Town in their ordinance and design manual. The NCDEQ *Stormwater Design Manual* can be used as a reference for projects within the Town of Leland to improve stormwater management and provide a level of continuity to landowners and developers. The state manual will be utilized by the Town to help meet the objectives of the Town's stormwater policy. A copy of the NCDEQ *Stormwater Design Manual* is available for download from the NCDEQ's website: <https://deq.nc.gov/sw-bmp-manual>.

## **Section 2 Stormwater Management Policy**

### **2.1 Purpose**

The purpose of the Town's stormwater ordinance is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point and point source pollution associated with new development and redevelopment, as well as illicit discharges into municipal stormwater systems. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

### **2.2 Objectives**

The Town's stormwater management policy, as described in the Town's stormwater ordinance, seeks to accomplish the following:

- Establish decision-making processes for new development and redevelopment that protect the integrity of watersheds and preserve the health of water resources
- Require that new development and redevelopment:
  - maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm
  - reduce flooding, stream bank erosion, non-point and point source pollution and increases in stream temperature
  - maintain the integrity of stream channels and aquatic habitats
- Establish stormwater management standards and design criteria to regulate and control post-development stormwater runoff quantity and quality
- Establish design and review criteria for the construction, function, and use of structural stormwater Best Management Practices (BMPs) that may be used to meet the post-development stormwater management standards
- Encourage the use of better management and site design practices, such as the preservation of green space, riparian buffers, and other conservation areas to the maximum extent practicable
- Establish provisions for long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to

function as designed, are maintained appropriately, and pose no threat to public safety

- Establish administrative procedures:
  - for the submission, review, approval, and disapproval of stormwater management plans
  - for the inspection of approved projects
  - to ensure long-term maintenance
- Control illicit discharges into the municipal separate stormwater system
- Control erosion and sedimentation from construction activities

### **2.2.1 Off-Site Stormwater Flow**

To prevent adverse impacts from proposed development the Town requires the evaluation of impacts at the discharge point of proposed developments as part of the permitting process. Designers will be required to evaluate stormwater conditions at the discharge point related to stability in the receiving channel and/or existing downstream flooding as deemed necessary by the Stormwater Administrator. Please refer to Division 3 in the Town's stormwater ordinance for additional information.

### **2.2.2 Stream Flow through Culverts**

Flow through culverts crossing public and private streets is required to be evaluated and designed per North Carolina Department of Transportation (NCDOT) standards as part of the Town's stormwater management policy. Improper sizing or lack of sizing of culverts can lead to severe ponding problems that are costly to fix and difficult to remedy. Please refer to Section 5.0 of this manual and the Town's stormwater ordinance for additional information.

### **2.2.3 Conveyance of Public Stormwater Across Private Property**

Designers are required to evaluate flows generated from upstream of their sites and accommodate those flows in their stormwater conveyance system and stormwater control measure (SCM) design or provide an adequate by-pass conveyance for upstream flows through the site. Please refer to Division 3 in the Town's stormwater ordinance for additional information.

### **2.2.4 Maintenance Easements**

Owners will be required to record maintenance easements for proposed SCMs and execute an operation and maintenance agreement as part of the stormwater management permit application. The owner will be responsible for maintaining all

SCM's associated with the proposed project. The Town has authority to access SCM's through the maintenance easement and make necessary repairs if the owner has not followed appropriate maintenance provisions. Any work completed by the Town will be required to be reimbursed by the owner or fines will be levied. Please refer to Section 8.7 of this manual for additional information.

## **2.2.5 Cooperatively Funded Stormwater Projects**

The Town of Leland will review requests for joint funding of stormwater projects within the Town. The entity requesting joint funding must clearly demonstrate how the proposed project will assist the Town in more effectively managing stormwater and meeting the objectives of the Town's stormwater ordinance. Please contact the stormwater administrator for more information regarding these types of projects.

## **2.2.6 Low-impact Development (LID)**

The Town of Leland allows and encourages owners/developers and designers to implement stormwater LID practices on all projects located within the Town's jurisdiction. The Town defines stormwater LID according to the definition provided to the public by NCDEQ. Please refer to NCDEQ's website for information regarding LID including requirements and guidance on specific practices that can be applied to a proposed site to meet stormwater LID requirements. Contact the stormwater administrator during the planning phase of a project if the owner/developer is interested in utilizing stormwater LID practices to discuss site specific goals and constraints.

## **2.3 Applicability and Jurisdiction**

The Town's stormwater ordinance applies within the corporate limits of the Town and the Town's Planning & Zoning Extraterritorial Jurisdiction (ETJ), as shown in a map maintained by the Town Clerk. In addition, all development and redevelopment projects must comply with the Town's stormwater ordinance unless they are exempt under one of the criteria outlined in the Town's Ordinance. Refer to Division 1 in the Town's stormwater ordinance for specific details regarding applicability.

## **Section 3 Stormwater Management Permitting Procedure**

### **3.1 Applicability**

All development or redevelopment projects, regardless of project type and density, need to consider stormwater management early during the design phase. Owners and design professionals must consider the effects development/redevelopment will have on stormwater at a site. Even if projects are exempt from the regulations listed in the Town's stormwater ordinance, the owner and design professional must work to mitigate the effects of stormwater runoff that a proposed development/redevelopment project may create. Projects that are pursuant to the requirements of the Town's stormwater ordinance must apply for and be issued a stormwater management permit prior to any construction taking place, in addition to any other permits required for development/redevelopment. Exempt projects, as described in Division 1 of the Town's stormwater ordinance, will not be required to have a stormwater management permit.

### **3.2 Required Documentation**

It is recommended that owners and design professionals contact the Town and schedule a predevelopment meeting prior to the submission of any permit applications. Although not required, this meeting can help identify project-specific constraints at an early stage in the design process. A complete stormwater management application consists of all documents listed in section VI of the stormwater management permit application. The required documents are also listed below.

- One (1) original copy of the executed stormwater management permit application form
- One (1) original copy of the executed deed restrictions and protective covenants form (if applicable)
- One (1) original copy of the executed operation and maintenance agreement and copies of the project specific inspection forms
- Permit application processing fee made payable to the Town of Leland
- One (1) copy of the stormwater management narrative and supporting calculations
- One (1) copy of any applicable soils report
- Two (2) copies of sealed plans and specifications

- One (1) digital copy of all documents and plans included in the submittal

Additionally, in order for a project closure to proceed properly, specific close out documents must also be received by the Town. Refer to Section 7 for detailed information regarding project close out.

### **3.3 Review Procedures**

The Town will review complete stormwater management permit applications on a first come, first serve basis. Applicants should ensure that all applicable sections of an application and all required attachments are complete prior to submitting to the Town. Incomplete applications will not be reviewed and will be returned to the applicant, delaying the review process. Please refer to Division 2 in the Town's stormwater ordinance for additional information regarding permit application reviews.

### **3.4 Existing Permits**

Permit revisions to existing stormwater permits become necessary when alterations at a site substantially change how stormwater is managed. The changes to an existing permit as a result of site modifications will be handled by the original permitting authority. Please refer to Division 2 in the Town's stormwater ordinance for additional information regarding existing permits.

## **Section 4 Stormwater Management Design Standards**

### **4.1 Project Types**

The Town of Leland requires all designers to complete project density and built-upon area calculations as part of the stormwater management permit application. Based on the results of these calculations a project density classification can be determined. Specific design standards related to the project density can be found in Division 3 in the Town's stormwater ordinance. In addition to project density, designers will also need to determine NCDEQ surface water classifications in the vicinity of the proposed project site. Certain surface water classifications carry specific stormwater management design standards with them that must be implemented for a proposed project.

### **4.2 Water Quality Standards**

All projects, regardless of project density, shall treat the runoff from all surfaces generated by 1½ inches of rain. Runoff drawdown time shall be a minimum of 48 hours, but not more than 120 hours.

### **4.3 Water Quantity Standards**

All development or redevelopment activities, regardless of project density, shall control the post-development peak discharge rate of the two-year, ten-year, and twenty-five-year storm events in order to not exceed the predevelopment peak runoff discharge rate for the same storm events. This can be achieved via the use of 1 or more approved SCM's. A compensatory design approach is allowable if the discharge points are conveyed to the same receiving stream and the discharge also complies with limitations on downstream impacts. Approval of compensatory treatment as part of a development permit is to the discretion of the Town.

### **4.4 Stormwater Control Measures Design**

Some projects may require the use of one or more stormwater control measures (SCM, aka Best Management Practice (BMP), or structural BMP) to meet the requirements set forth by the Town. In those instances, SCMs shall be designed in accordance with the minimum design criteria (MDC) set forth in the NCDEQ *Stormwater Design Manual*. If SCMs designed to meet NCDEQ requirements are also intended to address Town water quality standards, the design shall include provisions to prevent hydraulic overload of the SCM that may re-entrain or short-circuit captured pollutants. Please refer to Division 3 in the Town's stormwater ordinance for a detailed description of where to find the MDC in the *North Carolina Administrative Code (NCAC)*.

## **4.5 Calculations Guidance**

All calculations related to stormwater for a proposed project must be completed as described in the NCDEQ *Stormwater Design Manual* and associated design aids shall be included in the stormwater management permit application package. Any questions related to approved calculation methods should be directed to the stormwater administrator.

## **Section 5 Culvert Design Standards**

### **5.1 Reference to Design Standards**

Culverts located within the Town must be sized appropriately in order to ensure adequate flow capacity and proper structural strength exist to protect public health and the environment. Tailwater effects for culverts are also a critical consideration during the design process that need to be incorporated into a project's stormwater calculations. Culverts must be able to convey the runoff from a given design storm and withstand the static and live loads generated based on its installed location. All proposed culverts in the Town must be designed in accordance with the NCDOT *Guidelines for Drainage Studies and Hydraulic Design*, most recent edition. Please refer to the NCDOT's website for information about how to access this manual.

## **Section 6 Construction**

### **6.1 Standards**

All stormwater improvements shall be constructed in accordance with NCDOT Roadway Standard Drawings. Please specify these drawings, or equals that have been approved by the Town, on all engineering plans related to a proposed project.

### **6.2 Construction Procedures for Stormwater Control Measures**

Please refer to Part A in the NCDEQ *Stormwater Design Manual* for guidance on construction considerations for SCMs (aka structural BMPs). In addition to being properly sized and maintained, SCMs must be constructed using appropriate design criteria that include, but not limited to, equipment usage, water management, and stabilization, as these are critical to ensure intended function is realized. The information included in the construction procedures should be communicated to the contractor by the owner's engineer and be monitored by regular inspections. Costs associated with operating and maintaining a SCM may be reduced if the SCM is constructed properly and with care.

## **Section 7 Project Close Out**

### **7.1 Close Out Process**

Upon completion of a project, and before any certificate of occupancy or certificate of zoning compliance shall be granted, the applicant shall certify that the completed project is in accordance with approved stormwater management plans and designs, and shall submit actual as-built plans for all stormwater management facilities or practices to the stormwater administrator.

### **7.2 Close Out Documents**

Please refer to Division 2 in the Town's stormwater ordinance for detailed information regarding the required documents that must be submitted for close out of a project. All required operation and maintenance forms and documents must be approved by the stormwater administrator prior to releases of certificates of occupancy or certificates of zoning compliance.

### **7.3 As-Built Record Drawing Requirements**

The as-built plans shall show final design specifications for all stormwater management facilities and practices, as well as the field location, size, depth, and planted vegetation as prescribed for all measures, controls, and devices, as installed. A registered North Carolina professional engineer shall prepare a signed and sealed certification stating that all as-built stormwater measures, controls, and devices have been constructed consistent with the approved stormwater management plans and designs. The note "As-Built Record Drawing" shall be clearly placed on all sheets.

### **7.4 Digital As-Built Requirements**

A digital copy of the as-built plans shall be submitted by the owner. The digital format of the as-built shall be in esri GIS shapefile (.shp) format on a USB flash drive, CD, DVD, or file-sharing site. The shapefiles must include appropriately annotated stormwater pipes, structures, culverts, conveyances, and SCM's associated with the project. All annotations shall be provided in an attribute table. The Town will review the digital as-built and contact the owner if there are any issues with the digital as-built data.

## **Section 8 Stormwater Measures Operation and Maintenance**

### **8.1 Responsibility**

The owner shall maintain and operate SCMs to preserve and continue their function in controlling stormwater quality and quantity at the degree or amount of function for which the SCM was designed. Until the transference of the stormwater permit through the Town or State is completed the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement. The owner or legally bound transferee will have sole responsibility for maintaining the SCMs. The Town will not be responsible for completing SCM maintenance. Maintenance items shall be described in an operation and maintenance agreement that details the requirements for each individual SCM. A maintenance easement at each SCM is also required for Town access. Please see the NCDEQ *Stormwater Design Manual* for maintenance easement requirements.

### **8.2 Acceptable Entities**

An acceptable entity shall be responsible for maintenance of the stormwater management system. The Town recognizes the following entities as acceptable:

- Governmental units and private corporations
  - If the entity is a governmental unit or private corporation, written proof shall be supplied in an appropriate form stating that the entity will operate and maintain the facilities.
- Non-profit corporations including homeowners' associations, property owners' associations, condominium associations or associations of unit owners
  - The property owner or developer as applicant for site plan or subdivision plat approval is normally not acceptable as a responsible entity, especially when the property is to be sold to various third parties. However, the property owner may be acceptable if the property will be retained by the owner and will be rented, leased, or operated by the owner. The property owner shall supply evidence acceptable to the Town that they will operate and maintain the stormwater improvements.

### **8.3 Powers**

If a homeowner's association, property owner's association, or association of unit owners is proposed for maintenance of the facilities, the applicant shall submit draft articles of incorporation, declarations of protective covenants, deed restrictions, declarations of unit ownership, or by-laws.

The association shall have the general power to:

- Own and convey property
- Operate and maintain common property
- Establish rules and regulations
- Assess members and enforce assessments
- Sue and be sued
- Contract for services to provide operation and maintenance

All lot owners, all homeowners, or unit owners shall be members of the association and the association shall exist in perpetuity.

#### **8.4 Maintenance Claims**

The articles of incorporation, declaration of protective covenants, deed restrictions, declaration of unit ownership, or by-laws shall set forth the following:

- That it is the responsibility of the association to operate and maintain that portion of the stormwater management system not maintained by the Town. A description specifying the areas of responsibility shall be included. These areas also shall be indicated on the subdivision plat or on the site plan on non-subdivision projects.
- A maintenance plan with schedules and work
- A statement that those areas to be maintained by the association are owned by the association or that they are common areas or common property.
- The method of assessment and collection for operation and maintenance costs of the stormwater management system.
- The declaration of covenants shall be in effect for a minimum of 25 years with provisions for renewal in accordance with the law.

#### **8.5 Phased Development**

If a property owner's association or association of unit owners is proposed for a development that will be constructed in phases or that will be added to in the future; the organization shall be created with the ability to accept future phases into the

organization in order to ensure the continued operation and maintenance of the stormwater management system for the development.

## **8.6 General Maintenance Guidelines**

All maintenance requirements shall be met to ensure the functionality of a stormwater system. Maintenance requirements for each individual stormwater control measure shall be outlined in an operation and maintenance agreement that is executed by the owner and remains with the property. Please utilize NCDEQ's O&M EZ Form to create an operation and maintenance agreement for a project.

## **8.7 Enforcement and Penalties**

If maintenance requirements for the stormwater management system are not met the Town has the right to enforce the maintenance provisions for the system and levy penalties on the responsible party. Please refer to Division 5 in the Town's stormwater ordinance for detailed information regarding enforcement and penalties.

## **Section 9 Fees and Forms**

- 9.1 Stormwater Management Fee Schedule
- 9.2 Stormwater Management Application
- 9.3 Deed Restrictions and Protective Covenants Agreement (LSW102)
- 9.4 Annual Structural BMP Inspection Report Cover Sheet (BMP101)
- 9.5 Annual Wet Pond Inspection Report (BMP102)
- 9.6 Annual Bioretention Area Inspection Report (BMP103)
- 9.7 Annual Stormwater Wetlands Inspection Report (BMP104)
- 9.8 Annual Dry Pond BMP Inspection Report (BMP105)
- 9.9 Annual Grassed Swale BMP Inspection Report (BMP106)
- 9.10 Annual Sand Filter BMP Inspection Report (BMP107)
- 9.11 Annual Level Spreader BMP Inspection Report (BMP108)
- 9.12 Annual Hydrodynamic Separator BMP Inspection Report (BMP109)
- 9.13 Annual Underground Detention BMP Inspection Report (BMP110)
- 9.14 Stormwater Permit Name/Ownership Change Form (LSW103)

# STORMWATER MANAGEMENT FEE SCHEDULE

Town of Leland, North Carolina



102 Town Hall Dr., Leland, NC 28451  
www.townofleland.com

*Economic & Community Development*  
Phone 910-371-3390  
Fax 910-371-1158

## **STORMWATER FEE SCHEDULE**

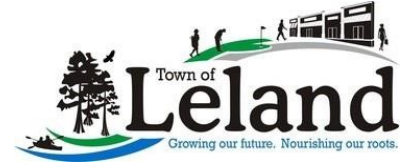
Stormwater fees are calculated using the acreage contained in the Stormwater Project Area Boundary. Acreages will be rounded up to the next full acre.

Residential Stormwater Permit Application	\$250 per acre (\$5000 cap)
Non-Residential Stormwater Permit Application	First 0-10 acres \$500 per acre Next 11-20 acres \$400 per acre Next 21-30 acres \$300 per acre Next 31-40 acres \$200 per acre Remaining acres \$100 per acre (\$15,000 cap)
Resubmission Fee (after first resubmission)	\$200
Permit Name Change	\$40

**There will be no refund of any fees once a complete application has been submitted.**

# STORMWATER MANAGEMENT APPLICATION

Town of Leland, North Carolina



102 Town Hall Dr., Leland, NC 28451  
www.townofleland.com

*Economic & Community Development*  
Phone 910-371-3390 Fax 910-371-1158

OFFICE USE ONLY		
Date Received	Fee Paid	Permit Number

## I. GENERAL INFORMATION

- Applicants Name (specify the name of the corporation, individual, etc. who owns the project):  
\_\_\_\_\_
- Print Owner/Signing Official's name and title (person legally responsible for the facility and compliance):  
\_\_\_\_\_
- Mailing Address for person listed in item 2 above: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: (\_\_\_\_\_) \_\_\_\_\_ Mobil: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_  
Email: \_\_\_\_\_
- Project Name (subdivision, facility, or establishment name- should be consistent with project name on plans, specifications, letters, operation and maintenance agreements, etc.):  
\_\_\_\_\_
- Location of Project (street address): \_\_\_\_\_  
City: \_\_\_\_\_ Zip: \_\_\_\_\_
- Directions to project (from nearest major intersection): \_\_\_\_\_  
\_\_\_\_\_
- Latitude: \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ " N      Longitude: \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ " W
- Contact person who can answer questions about the project:  
Name: \_\_\_\_\_ Telephone Number: (\_\_\_\_\_) \_\_\_\_\_  
Email: \_\_\_\_\_

## II. PERMIT INFORMATION:

- Specify whether the project is (check one):     New             Renewal             Modification
- If this application is being submitted as the result of a renewal or modification to an existing permit, list the existing permit number \_\_\_\_\_ and its issue date (if known) \_\_\_\_\_

3. Specify the type of project (check all that apply):  
 Low Density       High Density       Redevelopment       Residential       Commercial

**III. PROJECT INFORMATION**

1. In the space below, summarize how stormwater will be treated. Also attach a detailed narrative (one to two pages) describing the stormwater management for this project.

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2. Stormwater runoff from this project drains to the \_\_\_\_\_ River Basin.
3. Total Property Area: \_\_\_\_\_ acres      4. Total Coastal Wetlands Area: \_\_\_\_\_ acres
5. Total Property Area (3) – Total Coastal Wetlands Area (4) = Total Project Area\*\*: \_\_\_\_\_ acres
6. (Total Impervious Surface Area / Total Project) x 100 = Project Built Upon Area (BUA): \_\_\_\_\_ %
7. How many drainage areas does the project have? \_\_\_\_\_
8. Complete the following information for each drainage area. If there are more than two drainage areas in the project, attach an additional sheet with the information for each area provided in the same format below. For High Density Projects, complete the table with one drainage area for each engineered stormwater device.

Basin Information	Drainage Area 1	Drainage Area 2
Receiving Stream Name		
Stream Class and Index Number		
Total Drainage Area (sf)		
On-site Drainage Area (sf)		
Off-site Drainage Area (sf)		
Existing Impervious* Area (sf)		
Proposed Impervious* Area (sf)		
% Impervious* Area (total)		

Impervious* Surface Area	Drainage Area 1	Drainage Area 2
On-site Buildings (sf)		
On-site Streets (sf)		
On-site Parking (sf)		
On-site Sidewalks (sf)		
Other On-site (sf)		
Off-site (sf)		
Total (sf):		

*\*Impervious area is defined as the built upon area including but not limited to buildings, roads, parking areas, sidewalks, gravel areas, etc. Total Project Area shall be calculated to exclude Coastal Wetlands from use when calculating the built upon area percentage calculation. This is the area to calculate overall percent project built upon area (BUA).*

9. How was the off-site impervious listed above derived? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IV. DEED RESTRICTIONS AND PROTECTIVE COVENTANTS**

The property restrictions and protective covenants in the form listed below, are required to be recorded for all subdivisions, outparcels, and future development prior to the sale of any lot. If lot sizes vary significantly, a table listing each lot number, size ant the allowable built-upon area for each lot must be provided as an attachment.

Form LSW102      Covenants

By signing this application, you certify that the recorded property restrictions and protective covenants for this project shall include all applicable items required in the above form, that the covenants will be binding on all parties and persons claiming under them, that they will run with the land, that the required covenants cannot be changed or deleted without concurrence from the Town of Leland, and that they will be recorded prior to the sale of any lot.

**V. SUPPLEMENT FORMS**

The applicable stormwater management permit supplemental form(s) listed below must be submitted for each BMP specified for this project. Contact the Town of Leland at (910) 371-3390 for the status and availability of these forms. Forms can also be downloaded from the North Carolina Department of Environmental Quality's website (<https://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permit-guidance/stormwater-bmp-manual/forms>)

Detention Basin	Dry Extended Detention Basin Supplement
Proprietary Systems	Stormfilter Proprietary Systems Supplement
Rainwater Harvesting	Rainwater Harvesting Supplement
Wet Detention Basin	Wet Detention Basin Supplement
Infiltration Basin	Infiltration Basin Supplement
Infiltration Trench	Underground Infiltration Trench Supplement
Bioretention Cell	Bioretention Cell Supplement
Level Spreader	Level Spreader/Filter Strip/Restored Riparian Buffer Supplement
Wetland	Stormwater Wetland Supplement
Grassed Swale Rev. 4	Grassed Swale Supplement
Sand Filter	Sand Filter Supplement
Permeable Pavement	Permeable Pavement Supplement
Low Density	Low Density Supplement
Offsite System	Offsite System Supplement

**VI. SUBMITTAL REQUIREMENTS**

**Only complete application packages will be accepted and reviewed by the Town of Leland. A complete package includes all of the items listed below.**

1. Please indicate that you have provided the following required information by initialing in the space provided next to each item.

- |  | <u>Initials</u> |
|--|-----------------|
| ▪ <i>Original and one copy</i> of the Stormwater Management Permit Application Form                                    | _____           |
| ▪ <i>Original and one copy</i> of the Deed Restrictions & Protective Covenants Form (if required as per Part IV above) | _____           |
| ▪ <i>Original</i> of the applicable Supplement Form(s) and O&M agreement(s) for each BMP                               | _____           |
| ▪ Permit application processing fee (see Fee Schedule) Payable to the Town of Leland                                   | _____           |

- Calculations & detailed narrative description of stormwater treatment/management \_\_\_\_\_
- Copy of any applicable soils report \_\_\_\_\_
- Two copies of plans and specifications (sealed, signed & dated), including: \_\_\_\_\_
  - Development/Project name
  - Engineer and firm
  - Legend
  - North arrow
  - Scale
  - Revision number & date
  - Mean high water line
  - Dimensioned property/project boundary
  - Location map with named streets or NCSR numbers
  - Original contours, proposed contours, spot elevations, finished floor elevations
  - Details of roads, drainage features, collection systems, and stormwater control measures
  - Wetlands delineated, or a note on plans that none exist
  - Existing drainage (including off-site), drainage easements, pipe sizes, runoff calculations
  - Drainage areas delineated
  - Vegetated buffers (where required)
- An electronic copy of all above mentioned forms, documents and plans \_\_\_\_\_

**VII. AGENT AUTHORIZATION**

If you wish to designate authority to another individual or firm so that they may provide information on your behalf (such as additional information requests), please complete this section. (Ex. designing engineer or firm)

Designated agent (individual or firm): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_ Mobile: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

**VIII. APPLICANT'S CERTIFICATION**

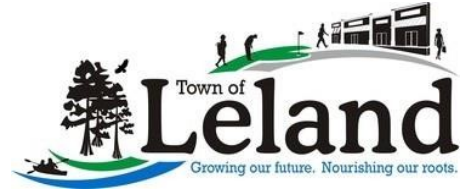
I, (*print or type name of person listed in General Information, item 2*), \_\_\_\_\_  
certify that the information included on this permit application form is, to the best of my knowledge, correct and that the project will be constructed in conformance with the approved plans, that the required deed restrictions and protective covenants will be recorded, and that the proposed project complies with the requirements of 15A NCAC 2H .1000.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# DEED RESTRICTIONS AND PROTECTIVE COVENANTS AGREEMENT

Town of Leland, North Carolina



102 Town Hall Dr., Leland, NC 28451  
www.townofleland.com

Economic & Community Development  
Phone 910-371-3390 Fax 910-371-1158

## For All Development Requiring a Stormwater Management Permit

In accordance with Chapter 26, the Stormwater Management Regulations for the Town of Leland, deed restrictions and protective covenants are required for projects where lots will be subdivided and sold. Deed restrictions and protective covenants are necessary to ensure that the development maintains a "built-upon" area consistent with the Stormwater Management Permit. This must be referenced on all final plats recorded for the area covered under the permit.

I, \_\_\_\_\_, acknowledge, affirm and agree by my signature below, that I will record deed restrictions and covenants that meet the following stipulations prior to the sale of any lot:

1. *The following covenants are intended to ensure ongoing compliance with Town of Leland Stormwater Management Permit Number \_\_\_\_\_, as issued by the Stormwater Management Division under Chapter 26 of the Town Code.*
2. *The Town of Leland and State of North Carolina are made beneficiaries of these covenants to the extent necessary to maintain compliance with the stormwater management permit.*
3. *These covenants are to run with the land and be binding on all persons and parties claiming under them.*
4. *The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the Town of Leland Stormwater Management Division.*
5. *Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Town of Leland Stormwater Management Division.*
6. *The maximum allowable built-upon area per lot is \_\_\_\_\_ square feet. This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.*

**OR, if the proposed built-upon areas per lot will vary, please REPLACE #6 above with the following:**

6. *The maximum built-upon area per lot, in square feet, is as listed below:*

<b><i>Lot # BUA</i></b>	<b><i>Lot # BUA</i></b>	<b><i>Lot # BUA</i></b>	<b><i>Lot # BUA</i></b>
_____	_____	_____	_____

*This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.*

- 7. Built-upon area in excess of the permitted amount will require a permit modification. For Low Density Projects this may require modification to a High Density Project.*
- 8. All runoff from the built-upon areas on the lot must drain into the permitted system. This may be accomplished through a variety of means including roof drain gutters which drain to the street, grading the lot to drain toward the street, or grading perimeter swales to collect the lot runoff and directing them into a component of the stormwater collection system. Lots that will naturally drain into the system are not required to provide these additional measures (NOT APPLICABLE TO LOW DENSITY PROJECTS)*
- 9. In the case of a lot within CAMA's regulated AEC, where the Division of Coastal Management calculates a different maximum allowable built-upon area for that lot than is shown herein, the governing maximum built-upon area for that lot shall be the more restrictive of the two.*
- 10. Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with the Stormwater Management Permit except for average driveway crossings is strictly prohibited by any persons.*
- 11. Each lot will maintain a 50 foot (30 foot for redevelopment) wide vegetated buffer between all impervious areas and surface water.*
- 12. All roof drains shall terminate at least 50 foot from the mean high water mark of surface waters.*
- 13. The Operations and Maintenance Agreements recorded on Deed Book \_\_\_\_\_ Page will be followed for all structural stormwater BMP's permitted under Town of Leland Stormwater Management Permit Number \_\_\_\_\_.*
- 14. The Town of Leland and State of North Carolina shall have a right of entry to inspect, monitor, maintain, repair, or reconstruct the permitted structural BMP's; however, in no case shall the right of entry, of itself, confer an obligation on the Town of Leland or State of North Carolina to assume responsibility for said BMP. Any costs incurred to the Town of Leland pursuant to this shall be fully reimbursed.*
- 15. A provision indemnifying and holding harmless the Town of Leland for any costs and injuries arising from or related to the structural BMP, unless the Town of Leland has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.*

### **Special Requirements for High Density Commercial Developments with Out-parcels**

- 1. The runoff from all built-upon area within the out-parcel or future development area must be directed into the permitted stormwater control system.*
- 2. The connection from the out-parcel's collection system into the stormwater control shall be made such that short-circuiting of the system does not occur.*
- 3. For those out-parcels or future development areas whose ownership is not retained by the permittee, the new owner shall submit a separate offsite stormwater permit application to the Town of Leland and receive a permit prior to construction.*

### **Special Requirements for Low Density Commercial Projects**

1. *Each lot, whose ownership is not retained by the permittee, shall submit a separate stormwater permit application to the Town of Leland and receive a permit prior to construction. The application shall demonstrate compliance with the maximum BUA limit and the low density requirements set forth in Chapter 26 of the Town Code. Lots whose ownership is retained by the permittee shall be submitted as modifications to the original permit.*

### **Special Requirements for Low Density Projects with Curb Outlet Swales**

1. *This project proposes a curb outlet system. Each designated curb outlet swale shown on the approved plan must be maintained at a minimum of 100' long with 5:1 (H:V) side slopes or flatter, have a longitudinal slope no steeper than 5%, carry the flow from a 10 year storm in a non-erosive manner, and maintain a dense vegetated cover.*
2. *Filling in, piping or altering any designated 5:1 curb outlet swale associated with the development is prohibited by any persons.*

### **Special Requirements for Homeowners Associations, Property Owners Associations and other Associations**

1. *Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.*
2. *This agreement grants to the Town a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.*
3. *This agreement indemnifies and holds harmless the Town for any costs and injuries arising from or related to the structural BMP, unless the Town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.*
4. *Allowing the Town of Leland to recover from the association and its members any and all costs the Town of Leland expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town of Leland all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town of Leland shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.*
5. *This agreement shall not obligate the Town of Leland to maintain or repair any structural BMPs, and the Town of Leland shall not be liable to any person for the condition or operation of structural BMPs.*
6. *This agreement shall not in any way diminish, limit, or restrict the right of the Town of Leland to enforce any of its ordinances as authorized by law.*

**Performance Security Requirements for All Development/Redevelopment Projects**

*1. A performance security will be required that will be released by the Town upon approval of as-built record drawings and an engineer's certification that states structural BMPs have been built in accordance with the information included in this ordinance and are functioning properly at the time of the certification. In a phased project the security will be released as each phase of the project is completed and approved by the Town in accordance with the ordinance requirements. No security will be released for any phase of a project until all close out documents are received, reviewed, and approved by the Town.*

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in the State of \_\_\_\_\_, County of \_\_\_\_\_,

do hereby certify that \_\_\_\_\_ personally appeared before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and acknowledge the due execution of the foregoing instrument. Witness my hand and official seal,

**SEAL**

\_\_\_\_\_  
Signature

My Commission expires \_\_\_\_\_

## Annual Structural BMP Inspection Report Cover Sheet Town of Leland, North Carolina

The Town of Leland Stormwater Management Ordinance (Chapter 26) requires that Structural BMP's be inspected annually to ensure they are being maintained properly and are functioning as originally designed and intended.

### A. GENERAL INFORMATION

Use only one Cover Sheet per site with as many specific structural BMP Inspection Report attachments as needed. Please include digital photographs of the site and structural BMP's as applicable.

Project Name: _____	Inspection Date: _____
Site ID (Provided by Town): _____	Weather Conditions: _____
BMP Owner: _____	Inspection Company: _____
Mailing Address: _____ _____	Mailing Address: _____ _____
Phone #: (____) _____	BMP Inspector Name: _____
Fax #: (____) _____	Inspector Phone #: (____) _____
Deed Book & Page: _____	Receiving Stream: _____

### B. INSPECTION REPORT ATTACHMENTS

The listed forms below are the Structural BMP Inspection Reports to be completed for this particular site. Please use one form per BMP on site and submit all forms together with this Cover Sheet (BMP101) as one single report. Also, document the number of each structural BMP found at this site in the spaces below.

		Number of BMP's at this site
Form BMP102	Wet Detention Pond	_____
Form BMP103	Bioretention Area	_____
Form BMP104	Stormwater Wetlands	_____
Form BMP105	Dry Detention Pond	_____
Form BMP106	Grassed Swale	_____
Form BMP107	Sand Filter	_____
Form BMP108	Level Spreader	_____
Form BMP109	Hydrodynamic Separator	_____
Form BMP110	Underground Detention	_____
Form BMP111	Filter Strip	_____
Form BMP112	Infiltration Device	_____
Form BMP113	Permeable Pavement	_____

Annual Structural BMP Inspection Report Cover Sheet  
Town of Leland, North Carolina

C. INSPECTION RESULTS

**FAIL**

- If any one item on the inspection form is coded as 'Work Needed', then the entire BMP Inspection fails.
- If a site has multiple BMP's and one fails inspection, this cover sheet is marked as 'FAIL' until all items on BMP's pass inspection.

**Note:** Applicable BMP Inspection Reports and confirmatory digital photographs summarizing required repairs must be completed within 60 days of a failed preliminary report. It is strongly encouraged that the inspector be part of the repair and maintenance process in a QA/QC role in order to ensure that the repairs are being performed properly.

**PASS**

**Note:** A passed inspection form should be signed, stamped, and sealed below by the appropriate Professional and submitted to the Town on or before the established inspection due date. Attach all applicable BMP Inspection Reports and confirmatory digital photographs accordingly.

D. PROFESSIONAL CERTIFICATION (Registered North Carolina professional engineer, surveyor, or landscape architect):

*To be completed only when all structural BMPs at this site are functional with no outstanding maintenance issues.*

I, \_\_\_\_\_, as a duly registered \_\_\_\_\_ in the State of North Carolina attest that a thorough inspection has been completed for ALL structural BMPs that are associated with this particular site. All inspected structural BMPs are performing as designed and intended and are in compliance with the terms and conditions of the approved operation and maintenance agreements required by the Town of Leland.

SEAL

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# BMP102: Annual Wet Pond Inspection Report

## Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently:

acting as a temporary sediment collection device      OR       a permanent structural BMP

**Code Key:**

N/A = Not Applicable                      M = Monitor (potential for future problem)  
NP = Not a Problem                        WN= Work Needed

**INFLOW POINTS**

Assessment	Code	Explanation
Obstruction: Vegetation/debris/sediment		
Erosion/undercutting		
Displacement of fabric/rip rap		
Pipe Condition		
Other (describe)		

**FOREBAY**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Side Slope Erosion		
Invasive Vegetation		
Other (describe)		

**EMBANKMENT**

Assessment	Code	Explanation
Erosion and/or loss of dam material		
Shrubs/trees present		
Animal burrows		
Soft spots or boggy areas		
Other (describe)		

\*The Town of Leland highly recommends that a dam specialist be consulted regarding established trees growing on a dam. The BMP owner may choose to leave the trees on the dam provided they are not adversely affecting the BMP functionality or creating a nuisance. However, the Town assumes no liability for any future damage caused by the trees remaining on the dam.

**VEGETATED SHELF / MAIN TREATMENT AREA**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Visual pollution/muddiness		
Plants are dead/diseased/dying		
Vegetation length (too short/long)		
Bare soil/erosion gullies		
Invasive vegetation (%)		
Algae cover (%)		
Other (describe)		

**OUTLET DEVICE**

Assessment	Code	Explanation
Obstruction: vegetation/debris/sediment		
Erosion/undercutting		
Joint failure/loss of joint material		
Leaking device		
Other (describe)		

**MISCELLANEOUS**

Assessment	Code	Explanation
Trash/Debris		
Access		
Vandalism		
Fence Condition		
Fish/wildlife observations		
Signage		
Other (describe)		

**PHOTOGRAPHS** Attach digital photographs of the site and structural BMP's including a caption describing the photo.

**ADDITIONAL COMMENTS**

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Inspector Initials \_\_\_\_\_

# BMP103: Annual Bioretention Area Inspection Report

## Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently:

acting as a temporary sediment collection device

OR

a permanent structural BMP

**Code Key:**

N/A = Not Applicable

M = Monitor (potential for future problem)

NP = Not a Problem

WN= Work Needed

**INLET DEVICE**

Assessment	Code	Explanation
Obstruction: Vegetation/debris/sediment		
Erosion/undercutting		
Displacement of fabric/rip rap		
Structural Condition		
Other (describe)		

**PERIMETER**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Bare soils/erosion gullies		
Other (describe)		

**PRETREATMENT AREA**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Erosion/gullies present		
Invasive Vegetation		
Flow bypassing pretreatment		
Other (describe)		

**BIORETENTION CELL**

Assessment	Code	Explanation
Overgrown vegetation		
Plants are dead/diseased/dying		
Mulch is broken down/floated away		
Soil/mulch clogged with sediment		
Low soil PH/heavy metals accumulation		
Other (describe)		

**OUTLET DEVICE**

Assessment	Code	Explanation
Obstruction: vegetation/debris/sediment		
Erosion/undercutting		
Structural condition		
Other (describe)		

**MISCELLANEOUS**

Assessment	Code	Explanation
Trash/Debris		
Access		
Vandalism		
Fence Condition		
Wildlife observations		
Signage		
Other (describe)		

**PHOTOGRAPHS**

Attach digital photographs of the site and structural BMP's including a caption describing the photo.

**ADDITIONAL COMMENTS**

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Inspector Initials \_\_\_\_\_

# BMP104: Annual Stormwater Wetlands Inspection Report Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently:

acting as a temporary sediment collection device

OR

a permanent structural BMP

**Code Key:**

N/A = Not Applicable

M = Monitor (potential for future problem)

NP = Not a Problem

WN= Work Needed

**INFLOW POINTS**

Assessment	Code	Explanation
Obstruction: Vegetation/debris/sediment		
Erosion/undercutting		
Displacement of fabric/rip rap		
Pipe Condition		
Other (describe)		

**FOREBAY**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Side Slope Erosion		
Invasive Vegetation		
Other (describe)		

**DEEP POOL, SHALLOW WATER, SHALLOW LANDS AREAS**

Assessment	Code	Explanation
Shallow land flooded (>5 days after storm)		
Accumulation: Vegetation/debris/sediment		
Plants are dead/diseased/dying		
Vegetation length (too short/long)		
Bare soil/erosion gullies		
Invasive vegetation (%)		
Algae cover (%)		
Other (describe)		

**EMBANKMENT/MICROPOOL**

Assessment	Code	Explanation
Erosion and/or loss of dam material		
Shrubs/trees present (embankment)		
Animal burrows (embankment)		
Accumulation: Vegetation/debris/sediment (micropool)		
Invasive vegetation (micropool)		
Other (describe)		

\*The Town of Leland highly recommends that a dam specialist be consulted regarding established trees growing on a dam. The BMP owner may choose to leave the trees on the dam provided they are not adversely affecting the BMP functionality or creating a nuisance. However, the Town assumes no liability for any future damage caused by the trees remaining on the dam.

**OUTLET DEVICE**

Assessment	Code	Explanation
Obstruction: vegetation/debris/sediment		
Erosion/undercutting		
Joint failure/loss of joint material		
Leaking device		
Other (describe)		

**MISCELLANEOUS**

Assessment	Code	Explanation
Trash/Debris		
Access		
Vandalism		
Fence Condition		
Fish/wildlife observations		
Signage		
Other (describe)		

**PHOTOGRAPHS**

Attach digital photographs of the site and structural BMP's including a caption describing the photo.

**ADDITIONAL COMMENTS**

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Inspector Initials \_\_\_\_\_

## BMP105: Annual Dry pond BMP Inspection Report Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently: <input type="checkbox"/> acting as a temporary sediment collection device      OR <input type="checkbox"/> a permanent structural BMP
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**Code Key:**

N/A = Not Applicable	M = Monitor (potential for future problem)
NP = Not a Problem	WN= Work Needed

**INFLOW POINTS**

Assessment	Code	Explanation
Obstruction: Vegetation/debris/sediment		
Erosion/undercutting		
Displacement of fabric/rip rap		
Pipe Condition		
Other (describe)		

**FOREBAY**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Side Slope Erosion		
Invasive Vegetation		
Other (describe)		

**DEEP POOL, SHALLOW WATER, SHALLOW LANDS AREAS**

Assessment	Code	Explanation
Standing water (>5 days after storm)		
Accumulation: Vegetation/debris/sediment		
Plants are dead/diseased/dying		
Vegetation length (too short/long)		
Bare soil/erosion gullies		
Invasive vegetation (%)		
Other (describe)		

**EMBANKMENT**

Assessment	Code	Explanation
Erosion and/or loss of dam material		
Shrubs/trees present		
Animal burrows		
Grass cover eroding/unhealthy		
Signs of seepage on downstream face		
Other (describe)		

\*The Town of Leland highly recommends that a dam specialist be consulted regarding established trees growing on a dam. The BMP owner may choose to leave the trees on the dam provided they are not adversely affecting the BMP functionality or creating a nuisance. However, the Town assumes no liability for any future damage caused by the trees remaining on the dam.

**OUTLET DEVICE**

Assessment	Code	Explanation
Obstruction: vegetation/debris/sediment		
Erosion/undercutting		
Joint failure/loss of joint material		
Leaking device		
Other (describe)		

**MISCELLANEOUS**

Assessment	Code	Explanation
Trash/Debris		
Access		
Vandalism		
Fence Condition		
Fish/wildlife observations		
Signage		
Other (describe)		

**PHOTOGRAPHS**

Attach digital photographs of the site and structural BMP's including a caption describing the photo.

**ADDITIONAL COMMENTS**

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Inspector Initials \_\_\_\_\_

# BMP106: Annual Grassed Swale BMP Inspection Report

## Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently:

acting as a temporary sediment collection device

OR

a permanent structural BMP

### Code Key:

N/A = Not Applicable

M = Monitor (potential for future problem)

NP = Not a Problem

WN= Work Needed

### ENTIRE LENGTH OF SWALE

Assessment	Code	Explanation
Accumulation Trash/debris/sediment		
Bare soil/erosion gullies		
Vegetation length (too short/too long)		
Invasive Vegetation		
Displacement of fabric/rip rap		
Inlet damage		
Outlet damage		
Other (describe)		

### PHOTOGRAPHS

Attach digital photographs of the site and structural BMP's including a caption describing the photo.

### ADDITIONAL COMMENTS

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Inspector Initials \_\_\_\_\_

## BMP107: Annual Sand Filter BMP Inspection Report Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently:

acting as a temporary sediment collection device      OR       a permanent structural BMP

**Code Key:**

N/A = Not Applicable                      M = Monitor (potential for future problem)

NP = Not a Problem                      WN= Work Needed

**FLOW DIVERSION STRUCTURE**

Assessment	Code	Explanation
Obstruction: Vegetation/debris/sediment		
Erosion/undercutting		
Structural Condition		
Other (describe)		

**PERIMETER**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Bare soils/erosion gullies		
Vegetation length (too long/too short)		
Other (describe)		

**PRETREATMENT AREA**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Erosion		
Invasive Vegetation		
Flow bypassing pretreatment		
Other (describe)		

**FILTER BED & UNDERDRAIN SYSTEM**

Assessment	Code	Explanation
Ponding water present		
Shrubs/trees present		
Oil, grease and/or grit present		
Other (describe)		

**OUTLET DEVICE**

Assessment	Code	Explanation
Obstruction: vegetation/debris/sediment		
Erosion/undercutting		
Structural condition		
Vegetation growth		
Other (describe)		

**MISCELLANEOUS**

Assessment	Code	Explanation
Trash/Debris		
Access		
Vandalism		
Fence Condition		
Signage		
Other (describe)		

**PHOTOGRAPHS**

Attach digital photographs of the site and structural BMP's including a caption describing the photo.

**ADDITIONAL COMMENTS**

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Inspector Initials \_\_\_\_\_

# BMP108: Annual Level Spreader BMP Inspection Report

## Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently:

acting as a temporary sediment collection device      OR       a permanent structural BMP

**Code Key:**

N/A = Not Applicable      M = Monitor (potential for future problem)  
NP = Not a Problem      WN= Work Needed

**INLET/FLOW DIVERSION STRUCTURE**

Assessment	Code	Explanation
Obstruction: Vegetation/debris/sediment		
Erosion/undercutting		
Rip rap location/condition		
Structural Condition		
Other (describe)		

**SWALE AND LEVEL LIP**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Level lip is cracked, settled, undercut or eroded		
Flow bypassing level spreader		
Vegetation growth on swale or downstream side of lip		
Other (describe)		

**FILTER STRIP**

Assessment	Code	Explanation
Accumulation: Vegetation/debris/sediment		
Bare soil/erosion gullies		
Plants are dead, diseased or dying		
Invasive vegetation		
Flow bypassing filter strip		
Other (describe)		



## BMP109: Annual Hydrodynamic Separator BMP Inspection Report Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently:

acting as a temporary sediment collection device      OR       a permanent structural BMP

**Code Key:**

N/A = Not Applicable      M = Monitor (potential for future problem)  
NP = Not a Problem      WN= Work Needed

**INFLOW POINTS**

Assessment	Code	Explanation
Obstruction: Vegetation/debris/sediment		
Structural condition		
Filter condition		
Other (describe)		

**SEPARATOR BODY**

Assessment	Code	Explanation
Accumulation: vegetation/debris/sediment		
Separator structural condition		
Central shaft condition		
Oil accumulation		
Standing water		
Other (describe)		

**OUTLET DEVICE**

Assessment	Code	Explanation
Obstruction: vegetation/debris/sediment		
Erosion/undercutting		
Joint failure/loss of joint material		
Leaking Device		
Emergency bypass condition		
Other (describe)		





## BMP110: Annual Underground Detention BMP Inspection Report Town of Leland, North Carolina

Project Name: \_\_\_\_\_

Inspection Date: \_\_\_\_\_

Site ID: \_\_\_\_\_  
(Provided by Town)

BMP Location: \_\_\_\_\_

BMP ID #: \_\_\_\_\_  
(As labeled on Town-approved Plans)

This BMP is currently:

acting as a temporary sediment collection device      OR       a permanent structural BMP

**Code Key:**

N/A = Not Applicable      M = Monitor (potential for future problem)  
NP = Not a Problem      WN= Work Needed

**INFLOW POINTS**

Assessment	Code	Explanation
Obstruction: Vegetation/debris/sediment		
Structural condition		
Filter condition		
Other (describe)		

**UNDERGROUND VAULT**

Assessment	Code	Explanation
Accumulation: vegetation/debris/sediment		
Access hatch condition		
Vault structural condition		
Baffles and/or weir condition		
Access ladder condition		
Oil accumulation		
Blocked, damaged, or plugged air vents		
Other (describe)		



# STORMWATER PERMIT NAME/ OWNERSHIP CHANGE FORM (LSW103)



Town of Leland, North Carolina

102 Town Hall Dr., Leland, NC 28451  
www.townofleland.com

*Economic & Community Development*  
Phone 910-371-3390 Fax 910-371-1158

## I. CURRENT PERMIT INFORMATION:

1. Stormwater Management Permit Number: \_\_\_\_\_
2. Permit Holder's Name: \_\_\_\_\_
3. Signing Official's Name: \_\_\_\_\_ Title: \_\_\_\_\_
4. Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

## II. NEW OWNER / PROJECT / ADDRESS INFORMATION:

1. This request is for: (please check all that apply)
  - Change in ownership of the property/company (Please complete Items #2, #3, and #4 below)
  - Name change of project (Please complete Item #5 below)
  - Mailing address change. (Please complete Item #4 below)
  - Other (please explain): \_\_\_\_\_
2. New owner's name to be put on permit: \_\_\_\_\_
3. New owner's signing official's name: \_\_\_\_\_ Title: \_\_\_\_\_
4. New Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_
5. New Project Name to be placed on permit: \_\_\_\_\_

