City of Roxboro

Falls Lake and NPDES Phase II

Stormwater Program for

New Development

Roxboro Contact:
Andrew Oakley, P.E.
Public Services Director
779 Mountain Road
Roxboro, NC 27573
Phone: (336) 503-0489
Fax: (336) 503-0588
Email: aoakley@cityofroxboro.com

Prepared by:
alley, williams, carmen & king, inc.
enGINEERS AND ARCHITECTS
740 Chapel Hill Road - Post Office Box 1179
Burlington, North Carolina 27216-1179
Phone: (336) 226-5534
Fax: (336) 226-3034
Contact: Josh Johnson, P.E.
josh@awck.com
Falls Lake New Development Program Narrative

To: Jon Huisman, Division of Water Quality
From: Josh Johnson, P.E.
Date: October 19, 2011

Introduction and Proposed Changes

The Falls Lake New Development Rule sets out standards that named communities are to incorporate into local stormwater programs, and requires the Division of Water Quality to develop a model local stormwater program for those communities to use to create a New Development Program that complies with the rule. The Falls Lake New Development Ordinance is the legal mechanism that local governments will use to enforce these standards on new development projects greater than ½ acre in disturbed area (or 1 acre for single family residential).

Many communities within the Falls Lake watershed are NPDES MS4 Phase II communities that have, or will be required to have, Phase II Stormwater Post-Construction Ordinances. These Phase II Ordinances have specific standards that apply to development of properties greater than 1 acre in size within the corporate and extraterritorial jurisdictions of the community. These standards include High and Low Density designations, with projects that exceed 24% Built Upon Area being designated as High Density Projects. Projects that are designated as High Density are then required to treat the “first flush” (or 1” of rain) to remove 85% of the Total Suspended Solids (TSS).

The Falls Lake New Development Rule is centered on removal of Nitrogen and Phosphorous from stormwater. These two pollutants can be removed with many of the same processes as TSS but at differing removal rates and with a different calculation to determine the effectiveness of the treatment processes.

In order to simplify implementation of both the Phase II and Falls Lake New Development Programs we have combined the programs into one ordinance. This will prevent confusion on the part of developers, designers, reviewers, staff, and the public by creating one set of standards for review. The enclosed ordinance combines the standards and some of the processes from both programs and by doing so should allow the current Phase II Post Construction Ordinances (passed in 2007) to be removed from the code of ordinances. The changes to the Falls Lake Model Ordinance are included in the overall packet to the Division of Water Quality.
Program Adoption and Effective Date

This New Development Program and Ordinance have been reviewed at a staff level and many of the components of the program are similar (or the same as) NPDES Phase II practices. The program has been reviewed by the City of Roxboro City Council and after EMC approval the program will be reviewed submitted to the planning board and then to the City Council for approval. The Program will be effective July 1, 2012, dependent upon EMC approval in January 2012.

Other Stormwater Programs

The City is currently designated as a NPDES Phase II community and is awaiting its first permit. Portions of the City are within the water supply watershed.

Statement of Riparian Buffer Ordinance Compliance

The City intends to allow DWQ to continue to enforce Neuse Buffer Compliance. The City will check for Buffer Compliance on New Development as part of its review but the actual program will continue to be NC DWQ’s.

State and Federal Entities Implementation

The City intends to enforce this new development program on state and federal entities that do not have NPDES Phase II stormwater permits.

Area of Applicability

The City will enforce this ordinance within its corporate limits. The Ordinance details out different standards for the areas within the Falls Lake Watershed and those that are outside of the watershed.

Minimum Qualifications of the Stormwater Administrator

At a minimum the stormwater administrator will be a certified Stormwater Plan Reviewer by the NC Division of Water Quality and/or a graduate of the NC DWQ Surface Water Identification Course. It is preferred that this person is a Professional Engineer with a background in stormwater, but persons with the above qualifications would be considered adequately qualified. The current proposed Stormwater Administrator’s resume and qualifications are included with the program appendix.

Maintenance and Inspection Program

The City will require owners of BMP’s to provide annual inspection reports from a qualified inspector.

“The person responsible for maintenance of any engineered stormwater control installed pursuant to this ordinance shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance.”
The City will inspect all BMP’s at a minimum of every 5 years. Additionally, the City may inspect any bmp on an as-needed basis. This oversight is consistent with the expected NPDES Phase II permit requirements.

The City will require the original owners of bmp’s to comply with section 402 of the enclosed ordinance, which requires 40% of the construction costs of the bmp to be paid prior to certificate of occupancy being issued. The City also has the ability to assess additional costs on the bmp owner as needed in the future. The City’s Stormwater Administrator will maintain an excel spreadsheet showing all bmp’s within the City’s jurisdiction and the minimum following information about each one: type of bmp, completion date, latest inspection date, known issues, approximate size, location, owner, and designer.

**Forms in Administrative Manual**

This program’s appendix provides copies of the following administrative manuals: Stormwater Permit Application, Stormwater As-Built Submission Form, Wet Detention Pond Certification, Operation and Maintenance Agreement, and Stormwater Permit. Access Easements will be required on final plats and the City will create a conservation easement based on the NC EEP’s sample if the need ever exists.

**Ordinance**

The City’s Draft Ordinance is enclosed with this submittal.

**Nutrient Loading Accounting Tool**

The City will use the Falls Nutrient Load Accounting Tool to estimate nutrient loading and reductions for project sites.
Falls Lake New Development Supplemental Information

Program Approval Status

The Falls Lake New Development Program has not been approved at this time. After EMC Approval, the program will need to be approved by the Planning Board and by the City Council.

Land Use Planning, Appeals Process, Exceeding Minimum Requirements, and Permitting Process

Additional Land Use Planning has not been done in conjunction with this program. The appeals process is described in the ordinance and is based on the NPDES Phase II Ordinance appeals process. This ordinance exceeds the minimum requirements established by rule through requiring the post development 10-year storm to equal the pre-development 10-year storm runoff rates for the SCS 24 hour storm. This is in place of the minimum requirement of the 1-year storm runoff rates. Additionally, the stormwater administrator can ask for up to the 100-year runoff rates to be equal, depending on conditions. An overview, including an outline and a fact sheet, of the stormwater program will be provided to developers, engineers, and others prior to the effective date of the ordinance.
Falls Lake New Development Program Appendix

Stormwater Administrator

The City of Roxboro will appoint its Public Services Director Andrew Oakley as its Stormwater Administrator. Mr. Oakley is a professional engineer with substantial experience in both designing and reviewing stormwater plans. Mr. Oakley’s resume is attached and he is currently the City of Roxboro’s certified plan reviewer.

Andrew Oakley, P.E.
Public Services Director
779 Mountain Road
Roxboro, NC 27573
Phone: (336) 503-0489
Fax: (336) 503-0588
Email: aoakley@cityofroxboro.com

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<tr>
<th>Stormwater Standards  Summary Table</th>
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<tr>
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<tr>
<td><strong>Falls Lake Watershed</strong></td>
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<tr>
<td><strong>Roanoke River Watershed</strong></td>
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<tr>
<td>-------------------------------------</td>
</tr>
<tr>
<td>Residential Exemption</td>
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<tr>
<td>&lt; 1/2 ac</td>
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<tr>
<td>&lt;1 ac</td>
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<tr>
<td>Commercial Exemption</td>
</tr>
<tr>
<td>&lt;12,000 sq ft</td>
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<tr>
<td>&lt;1 ac</td>
</tr>
<tr>
<td>Low Density Option</td>
</tr>
<tr>
<td>N/A</td>
</tr>
<tr>
<td>Yes (&lt;24% impervious)</td>
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<tr>
<td>Total Suspended Solids (TSS)</td>
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<tr>
<td>85% reduction</td>
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<tr>
<td>85% reduction</td>
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<tr>
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</tr>
<tr>
<td>10-yr 24 hr</td>
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<tr>
<td>10-yr 24 hr</td>
</tr>
<tr>
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<tr>
<td>Drawdown Time</td>
</tr>
<tr>
<td>48 hour minimum</td>
</tr>
<tr>
<td>48 hour minimum</td>
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<tr>
<td>Stream Buffers</td>
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<tr>
<td>50’ (30’ undisturbed)*</td>
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<tr>
<td>30’ pervious</td>
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<td>Nitrogen Loading</td>
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<tr>
<td>2.2 lb/ac/yr (40% reduction)</td>
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<tr>
<td>No</td>
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<tr>
<td>Phosphorus Loading</td>
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<td>0.33 lb/ac/yr (77% reduction)</td>
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<tr>
<td>No</td>
</tr>
<tr>
<td>O&amp;M</td>
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<tr>
<td>Bond Required</td>
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<td>Bond Required</td>
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<td>Easements</td>
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<td>Required</td>
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</table>

* Projects that impact the 50’ riparian buffers on USGS Streams within the Falls Lake Watershed will be required to obtain approval from NC DWQ unless a separate buffer program is adopted by the City of Roxboro.
Roanoke River Watershed

Approximate Ridgeline Between Watersheds

Falls Lake Watershed

Legend

- 2010 Impaired Waters
- Critical Watershed
- NEUSE
- ROANOKE
- TAR-PAMLICO
- City of Roxboro
- Parcels

Phase II New Construction Standards Apply to All Projects within the City of Roxboro. Falls Lake Watershed Standards Apply to Projects within the Falls Lake Watershed.

Date: December 2011
Map to be updated regularly.
**Proposed Changes to Model Falls Lake New Development Ordinance**

Section xxx-102  Added Phase II Session Law to Authority for Ordinance.

Section xxx-103  Added Phase II background to Statement of Findings.

Section xxx-104  Added increased stormwater runoff to adverse effects to be controlled in the Purpose.

Section xxx-104  Some communities have their IDDE Ordinances within their Post-Construction Ordinances, Number 8 will be included for these communities, others will not have Number 8. Three optional sections were not included.

Section xxx-105  Added wording that the ordinance is effective within the corporate and extraterritorial jurisdictions of the community.

Section xxx-107  Changed Design Manual changes after the date of a plan submittal may control and may be utilized rather than shall control and shall be utilized. The design manual is updated by NC DENR and can be updated (and changed) on a periodic basis. If the manual is changed after a design is submitted, complying with the change has the potential to create an unfair and unforeseen cost on the part of the developer and designer.

Section xxx-107  Added section specifically noting that local Design Manual must be as stringent or more so than the NC DENR DWQ BMP Manual. This is a requirement of the Phase II program and each local manual has been certified to this effect.

Section xxx-304  Changed the requirement for pre vs. post development discharge rates to be for the ten year, 24 hour storm, rather than the 1-year, 24 hour storm. Several local communities have adopted this requirement and it serves to provide better protection for downstream property owners.

Section xxx-305  Added TSS removal for High Density Project must be done on site. This is a core tenet of the Phase II Post-Construction Ordinance.

Section xxx-305  Removed the requirement for TSS removal for all BMP’s. This requirement is not needed with the above notation, it is more restrictive than the TSS requirements for Phase II, and it prevents usage of passive BMP’s on low density sites that may be better served by using passive BMP’s.

Section xxx-306  Added Section allowing the Stormwater Administrator to require matching of the pre-development and post-development runoff rates for up to the 100-year...
storm, if the project has the potential to increase downstream flooding and erosion.

Section xxx-310  Revised the Variance procedures to incorporate the Phase II Post Construction Ordinance procedures. The original Falls Variance procedures cited the watershed review board and in general are cumbersome and more complicated than the Phase II variance procedure that is included.

Section xxx-313  The biggest concern on the part of many local governments with the Phase II ordinance was the section on Operation and Maintenance of BMP’s. This section has been completely rewritten to revise the Operation and Maintenance agreement and require a 40% payment of the construction cost of the BMP to be held by the local government at the time of plat recordation. This guarantee would provide the local government with a funding source in the future, should the owner not have funding to maintain the BMP. Additionally, the local government still has the ability to assess the owners of the BMP in order to cover full maintenance costs. This section does away with the escrow account that was financed from sinking funds, developer deposits, etc. This section converted from a revised Operation and Maintenance Agreement suggested by Mebane City Attorney, Charles Bateman.

Section xxx-402  Added the statement that the recorder of the final plat is to be the recorder of the Operation and Maintenance Agreement plainly states who is responsible for recording the O&M Agreement. This should prevent any confusion on local government’s parts as to the responsibility for recordation.
Falls Lake and NPDES Phase II

Stormwater Ordinance for New Development

By DWQ*

*(Based on model ordinance developed by Richard Whisnant, UNC School of Government, for the Falls Lake Watershed)

Revised: Josh Johnson, P.E.
Alley, Williams, Carmen, and King, Inc
October 11, 2011
Revised: December 1, 2011
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SECTION 1: GENERAL PROVISIONS

53-101 TITLE

This ordinance shall be officially known as “The Falls Watershed and NPDES Phase II Stormwater Ordinance for New Development.” It is referred to herein as “this ordinance.”

53-102 AUTHORITY

The City of Roxboro is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes Chapter 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Chapter 143-215.6A; Chapter 153A-454; Chapter 160A, §§ 174, 185, 459; as well as Chapter 113A, Article 21, Part 6, Floodway Regulation.

53-103 FINDINGS

It is hereby determined that:

Development and redevelopment alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Further, the Commission has identified Falls of Neuse reservoir, a water supply reservoir, as nutrient sensitive waters; has identified all or a portion of the reservoir as impaired waters under the federal Clean Water Act due to exceedances of the chlorophyll a standard; and has promulgated rules (the “Falls Rules”) to reduce the average annual loads of nitrogen and phosphorus delivered to Falls Reservoir from all point and nonpoint sources of these nutrients located within its watershed, including stormwater from new development in this jurisdiction;

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 North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt the minimum stormwater controls such as those included in this ordinance.

Therefore, the City of Roxboro City Council 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 for development.
The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff, nitrogen and phosphorus in stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment in the City of Roxboro corporate limits. 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.

This ordinance seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for development that protects the integrity of watersheds and preserve the health of water resources;

2. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

3. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of 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 minimum post-development stormwater management standards;

5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;

6. Establishing provisions for the 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 for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

8. Controlling illicit discharges into the municipal separate stormwater system.
53-105 APPLICABILITY AND JURISDICTION

(A) General

Beginning with and subsequent to its effective date, this ordinance shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, within the corporate and extra territorial jurisdictional limits unless exempt pursuant to this ordinance.

(B) Exemptions

Single family and duplex residential and recreational development and redevelopment that cumulatively disturbs less than one half acre in the Falls Lake Watershed or one (1) acre within the rest of the City’s jurisdiction or does not increase the built upon area of the site and is not part of a larger common plan of development or sale is exempt from the provisions of this ordinance.

Commercial, industrial, institutional, multifamily residential or local government development and redevelopment that cumulatively disturbs less than 12,000 square feet in the Falls Lake Watershed or one (1) acre within the rest of the City’s jurisdiction or does not increase the built upon area of the site and is not part of a larger common plan of development or sale is exempt from the provisions of this ordinance.

Development and redevelopment that disturbs less than the above thresholds are not exempt if such activities are part of a larger common plan of development or sale and the larger common plan exceeds the relevant threshold, even though multiple, separate or distinct activities take place at different times on different schedules.

Development that is 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) are exempt from the provisions of this ordinance.

(C) No Development or Redevelopment Until Compliance and Permit

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

(D) Map

The provisions of this ordinance shall apply within the areas designated on the map titled "Stormwater Map of City of Roxboro, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this ordinance. The Stormwater Map will contain two different designations, within Falls Lake watershed and outside of Falls Lake Watershed. Falls Lake standards will apply within the Falls Lake watershed and the Phase II standards will apply to all areas of the map.

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 ordinance and the geographic location of all engineered stormwater controls permitted...
under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

53-106 INTERPRETATION

(A) Meaning and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 104, Purpose. If a different or more specific meaning is given for a term defined elsewhere in the City of Roxboro Code of Ordinances, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.

(B) Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

(C) Authority for Interpretation

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 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this ordinance.

(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) Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City of Roxboro, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City of Roxboro. References to days are calendar days unless otherwise stated.

(F) Delegation of Authority

Any act authorized by this Ordinance to be carried out by the Stormwater Administrator of City of Roxboro may be carried out by his or her designee.
(G) **Usage**

1. **Mandatory and Discretionary Terms**

   The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

2. **Conjunctions**

   Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions and events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.

3. **Tense, Plurals, and Gender**

   Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(H) **Measurement and Computation**

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

53-107 DESIGN MANUAL

(A) **Reference to Design Manual**

The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of engineered stormwater controls and other practices for compliance with this ordinance.

The Design Manual 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 these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Falls Rules.

(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 Manual.
(C) Changes to Standards and Specifications

If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, the new information shall control and may be utilized in reviewing the application and in implementing this ordinance with regard to the application. This decision will be made by the Stormwater Administrator.

(D) Amendments to Design Manual

The Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.

Prior to amending or updating the Design Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

(E) Design Manual vs. NC DENR BMP Manual

The Design Manual shall be as stringent or more so than the North Carolina Department of Environment and Natural Resources-Division of Water Quality’s Manual of Stormwater Best Management Practices.

53-108 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS

(A) Conflict of Laws

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

(B) Private Agreements

This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall City of Roxboro be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.
53-109 SEVERABILITY

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

53-110 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

(A) Effective Date

This Ordinance shall take effect on July 1, 2012.

(B) Final Approvals, Complete Applications

All development and redevelopment projects for which complete and full applications were submitted and approved by the City of Roxboro prior to the effective date of this ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development shall be exempt from complying with all provisions of this ordinance dealing with the control and/or management of stormwater.

A phased development plan shall be deemed approved prior to the effective date of this ordinance if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

1. For the initial or first phase of development or redevelopment, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.

2. For any subsequent phase of development or redevelopment, sufficient detail so that implementation of the requirements of this ordinance 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 this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, development, construction, or other activity complies with the provisions of this ordinance.
SECTION 2: ADMINISTRATION AND PROCEDURES

53-201 REVIEW AND DECISION-MAKING ENTITIES

(A) Stormwater Administrator

(1) Designation

A Stormwater Administrator shall be designated by the City of Roxboro City Manager to administer and enforce this ordinance.

(2) Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the City of Roxboro Code of Ordinances and other laws, the Stormwater Administrator shall have the following powers and duties under this ordinance:

a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.

b. To make determinations and render interpretations of this ordinance.

c. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the City of Roxboro City Council on applications for development or redevelopment approvals.

d. To enforce the provisions of this ordinance in accordance with its enforcement provisions.

e. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this ordinance.

f. To provide expertise and technical assistance to the City of Roxboro City Council, upon request.

g. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

h. To take any other action necessary to administer the provisions of this ordinance.

53-202 REVIEW PROCEDURES

(A) Permit Required; Must Apply for Permit

A stormwater permit is required for all development and redevelopment unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.
Effect of Permit

A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including engineered stormwater controls and elements of site design for stormwater management other than engineered stormwater controls.

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this ordinance, whether the approach consists of engineered stormwater controls 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 of this ordinance.

Authority to File Applications

All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the land owner or the land owner’s duly authorized agent.

Establishment of Application Requirements, Schedule, and Fees

(1) 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. At a minimum, the stormwater permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.

(2) Submission Schedule

The Stormwater Administrator shall establish a submission schedule for 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 applications, and that the various stages in the review process are accommodated.

(3) Permit Review Fees

The City of Roxboro 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.

(4) Administrative Manual

For applications required under this Code, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this ordinance, and information on how and where to obtain the Design
Manual in an Administrative Manual, which shall be made available to the public.

(E) Submittal of Complete Application

Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance, along with the appropriate fee. If the Stormwater Administrator finds that an application 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) Review

Within 15 working days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this ordinance.

(1) Approval

If the Stormwater Administrator finds that the application complies with the standards of this ordinance, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.

(2) Fails to Comply

If the Stormwater Administrator finds that the application fails to comply with the standards of this ordinance, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(3) Revision and Subsequent Review

A complete revised application shall be reviewed by the Stormwater Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within thirty (30) 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.

One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal
shall be accompanied by a permit review fee additional fee, as established pursuant to this ordinance.

53-203 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 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 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 at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); stream and other buffers and features used in designing buffers and meeting any applicable buffer requirements; 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 engineered 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

The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including Section 3, Standards. All such plans shall be prepared by a qualified registered North Carolina 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 competence, 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 Manual, and that the designs and plans ensure compliance with this ordinance.

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 53-202(D).

(C) As-Built Plans and Final Approval

The plans shall show the final design specifications for Upon completion of a project, and before a certificate of occupancy 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 after final construction is completed.

all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans 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 ordinance. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

(D) Other Permits

No certificate of compliance or occupancy shall be issued by the City of Roxboro without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the City of Roxboro may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.
the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(B) Time Limit/Expiration

An approved plan shall become null and void if the applicant fails to make substantial progress on the site within one year 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.

In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

53-205 APPEALS

(A) Right of Appeal

Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this ordinance made by the Stormwater Administrator, may file an appeal to the Board of Adjustment within 30 days. Appeals of variance requests shall be made as provided in the section on Variances. In the case of requests for review of proposed civil penalties for violations of this ordinance, the Board of Adjustment shall make a final decision on the request for review within 90 days of receipt of the date the request for review is filed.

(B) Filing of Appeal and Procedures

 Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by City of Roxboro. The Stormwater Administrator shall transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken.

The hearing conducted by the 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 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 thirty (30) days after the latter of the following:

(1) The decision of the 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 Chairman of the Board of Adjustment at the time of its hearing of the case.
SECTION 3: STANDARDS

53-301  GENERAL STANDARDS

All development and redevelopment to which this ordinance applies shall comply with the standards of this section. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

Two types of standards exist in this ordinance: Phase II standards that apply to the entire City of Roxboro jurisdictions and Falls Lake Watershed standards that only apply to the areas within the Falls Lake Watershed. See the Stormwater Map to determine which standards apply to specific properties.

53-302  PHASE II STANDARDS

(A) Development Standards for Low-Density Projects

Low-density projects (no more than two dwelling units per acre or twenty-four percent built-upon area for all residential and non-residential development) shall comply with each of the following standards:

(1) Stormwater Conveyance
   Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.

(2) Stream Buffers
   All built-upon area shall be at a minimum of 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.

(3) Density Provision
   A project with an overall density at or below the low-density thresholds, 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.

(4) Restrictions on Property Use
   The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or
protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

(B) Development Standards for High-Density Projects

High-density projects (any project that exceeds the low density thresholds for dwelling units per acre or built-upon area) shall implement structural stormwater management systems that comply with each of the following standards:

(1) Treatment Volume
The measures shall be designed to control and treat the stormwater run-off generated by the 1” (one inch) of rain;

(2) Drawdown Time
Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours;

(3) Post-Development Flows
Stormwater shall not leave the project site at a rate greater than the predevelopment discharge rate for the ten-year, 24-hour storm;

(4) Total Suspended Solids Removal
All structural stormwater treatment systems used to meet the requirements of the program shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS);

(5) General Design Criteria
General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H.1008(c), as explained in the Design Manual;

(6) Stream Buffers
All built-upon area shall be at a minimum of 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.

(7) Restrictions on Property Use
The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.
(A) Nitrogen and Phosphorus loading

(a) Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: 2.2 and 0.33 pounds per acre per year for nitrogen and phosphorus, respectively.

(b) Notwithstanding 15A NCAC 2B.104(q), redevelopment subject to this ordinance that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option of either meeting the loading standards identified in subsection (a) or meeting a loading rate that achieves the following nutrient loads compared to the existing development: 40 percent and 77 percent reduction for nitrogen and phosphorus, respectively.

(c) The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the approved accounting tool.

(B) Nitrogen and Phosphorus standard is supplemental

The nitrogen and phosphorus loading standards in this ordinance are supplemental to, not replacements for, stormwater standards otherwise required by federal, state or local law, including without limitation any riparian buffer requirements applicable to the location of the development. This includes, without limitation, the riparian buffer protection requirements of 15A NCAC 2B.0233 and .0242.

(C) TSS Removal for High Density Projects

Projects that exceed two dwelling units per acre or twenty four percent built upon area for all residential and non-residential development are considered high density projects and all structural stormwater treatment systems used to meet the requirement of the program shall comply with each of the following additional standards:

(1) Total Suspended Solids Removal
   All structural stormwater systems shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS) on site;

(2) Drawdown Time
   Runoff Volume drawdown time shall be a minimum of 48 hours, but not more than 120 hour;

(D) Partial Offset of Nutrient Control Requirements

Development subject to this ordinance shall attain nitrogen and phosphorus loading rate reductions on-site that meet the following criteria prior to using an offsite offset measure:

- 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing one half acre but less than one acre.

- 50 percent or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing more than one acre.
• 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing 12,000 square feet but less than one acre.

• 50 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing more than one acre.

• 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for proposed redevelopment activities in a designated downtown area that would replace or expand structures or improvements that existed as of December 2006.

A developer subject to this ordinance may achieve the additional reductions in nitrogen and phosphorus loading required by this ordinance by making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use an offset option provided by the City of Roxboro. A developer may propose other offset measures to the City of Roxboro, including providing his or her own offsite offset or utilizing a private seller. All offset measures permitted by this ordinance shall meet the requirements of 15A NCAC 02B .0282 and 15A NCAC 02B .0240.

53-304 CONTROL AND TREATMENT OF RUNOFF VOLUME

Stormwater systems shall be designed to control and treat the runoff generated from all surfaces by one inch of rainfall. The treatment volume shall be drawn down pursuant to standards specific to each practice as provided in the Design Manual. To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, stormwater flows from the development shall not contribute to degradation of waters of the State. At a minimum, the development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one ten-year, 24-hour storm event.

53-305 WATER QUANTITY REDUCTION

In the event that development has, in the opinion of the Stormwater Administrator or his designee, the potential to cause increased downstream flooding and erosion, a structural stormwater management system may be required that does not allow stormwater to leave the project site at a rate greater than the predvelopment discharge rate for up to the 100-year, 24 hour storm.

53-306 EVALUATION OF STANDARDS FOR STORMWATER CONTROL MEASURES

(A) Evaluation According to Contents of Design Manual

All stormwater control measures, stormwater systems and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Design Manual. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this ordinance.
(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 and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant 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(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

53-307 DEDICATION OF BMPS, FACILITIES & IMPROVEMENTS

The City of Roxboro may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

53-308 VARIANCES

(A) Any person may petition the City of Roxboro for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. For all proposed major and minor variances from the requirements of this ordinance, the local Watershed Review Board shall make findings of fact showing that:

1. There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the ordinance;
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.
4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit; and
5. In granting the variance, the public safety and welfare have been assured and substantial justice has been done.

(B) In the case of a request for a minor variance (or a major variance of the Phase II standards), the City of Roxboro may vary or modify any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(C) The City of Roxboro may attach conditions to the major or minor variance approval that support the purpose of this ordinance. If the variance request qualifies as a major variance (only for Falls Lake Watershed standards), and the City of Roxboro decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the Commission for review and approval. If the Commission approves the major variance or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision which authorizes City of Roxboro to issue a final decision which would include any conditions or stipulations added by the Commission. If the Commission denies the
major variance, then the Commission shall prepare a decision to be sent to City of Roxboro. City of Roxboro shall prepare a final decision denying the major variance.

(D) Appeals from the local government decision on a major or minor variance request are made on certiorari to the local Superior Court. Appeals from the Commission decision on a major variance request are made on judicial review to Superior Court.
SECTION 4: MAINTENANCE

53-401 GENERAL STANDARDS FOR MAINTENANCE

(A) Function of BMPs As Intended

The owner of each engineered stormwater control installed pursuant to this ordinance 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 engineered stormwater control was designed.

(B) Annual Maintenance Inspection and Report

The person responsible for maintenance of any engineered stormwater control installed pursuant to this ordinance shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

(1) The name and address of the land owner;

(2) The recorded book and page number of the lot of each engineered stormwater control;

(3) A statement that an inspection was made of all engineered stormwater controls;

(4) The date the inspection was made;

(5) A statement that all inspected engineered stormwater controls are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and

(6) The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

53-402 OPERATION AND MAINTENANCE AGREEMENT

(A) In General

Prior to the conveyance or transfer of any lot or building site to be served by a engineered stormwater control pursuant to this ordinance, and prior to issuance of any permit for development requiring a engineered stormwater control pursuant to this ordinance, 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,

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portions of the site, and lots or parcels served by the *engineered stormwater control*. Until the transference of all property, sites, or lots served by the *engineered stormwater control*, 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 *engineered stormwater control*, and shall state the terms, conditions, and schedule of maintenance for the *engineered stormwater control*. In addition, it shall grant to the City of Roxboro 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 *engineered stormwater control*; however, in no case shall the right of entry, of itself, confer an obligation on City of Roxboro to assume responsibility for the *engineered stormwater control*.

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 by the recorder of the final plat. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within fourteen (14) days following its recordation.

**Special Requirement for Homeowners’ and Other Associations**

For all *engineered stormwater control* required pursuant to this ordinance 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, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the *engineered stormwater control*. If *engineered stormwater control* are not performing adequately or as intended or are not properly maintained, the *name of local government*, in its sole discretion, may remedy the situation, and in such instances the *name of local government* shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the *engineered stormwater control*, provided that the *name of local government* shall first consent to the expenditure.*

3. *Both developer contribution and annual sinking 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 fifteen (15) per cent of the initial construction cost of the *engineered stormwater control*. Two thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the *engineered stormwater control*. 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 sinking fund budget.

(4)——The percent of developer contribution and length of time to fund the escrow account may be varied by the (name of local government) depending on the design and materials of the stormwater control and management facility.

(5)——Granting to the (name of local government) a right of entry to inspect, monitor, maintain, repair, and reconstruct engineered stormwater controls.

(6)——Allowing the (name of local government) to recover from the association and its members any and all costs the (name of local government) expends to maintain or repair the engineered stormwater controls or to correct any operational deficiencies. Failure to pay the (name of local government) all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, the (name of local government) 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)——A statement that this agreement shall not obligate the (name of local government) to maintain or repair any engineered stormwater controls, and the (name of local government) shall not be liable to any person for the condition or operation of engineered stormwater controls.

(8)——A statement that this agreement shall not in any way diminish, limit, or restrict the right of the (name of local government) to enforce any of its ordinances as authorized by law.

(9)——A provision indemnifying and holding harmless the (name of local government) for any costs and injuries arising from or related to the engineered stormwater control, unless the (name of local government) 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.

(B) Operation and Maintenance Agreement

For all engineered stormwater controls required pursuant to this ordinance, the required operation and maintenance agreement shall include all of the following provisions:

1. Acknowledgment that the owner or association shall continuously operate and maintain the stormwater control and management facilities.

2. The OWNER, its successors and assigns, including any homeowners association, shall adequately maintain the structural stormwater BMP facilities in accordance with the approved Operation and Maintenance Plan or Manual(s). This includes all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions.
3. The OWNER, its successors and assigns, shall ensure the structural stormwater BMP facility is inspected by a qualified professional and shall submit an annual inspection report to the City of Roxboro. The inspection report shall be due annually 30 days from the date of the final structural stormwater Management facilities construction inspection. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.

4. The OWNER, its successors and assigns, hereby grant permission to the City of Roxboro its authorized agents and employees, to enter upon the Property and to inspect the structural stormwater Management facilities whenever the City of Roxboro deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The City of Roxboro shall provide the OWNER, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.

5. Before the City of Roxboro shall approve the completed facility and issue final certificates of occupancy, the Owner and/or maintaining entity shall furnish the City of Roxboro with a financial guarantee insuring future maintenance, operation, and repair of the facility. The financial guarantee shall be in the form of cash or an irrevocable letter of credit and made payable to the City of Roxboro. The amount of guarantee shall be 40% of the total cost of constructing the facility based on actual contract prices for said facility. The initial duration of the financial guarantee shall be for 20 years. At the end of that period, the City of Roxboro may extend such periods of guarantee as the City of Roxboro deems appropriate. The financial guarantee may be dissolved at any time by mutual agreement when the need for such guarantee no longer exists. Any funds remaining from such guarantee will be returned to the appropriate entity.

6. In the event the OWNER, its successors and assigns, fails to maintain the structural stormwater Management facilities in good working condition acceptable to the City of Roxboro or that maintenance and repairs are not being made as required or that any action is not being done in accordance with this agreement, the City of Roxboro shall notify the responsible entity who shall be given a reasonable time to correct such deficiencies. Should the responsible entity fail to act in a timely manner, or otherwise fail to correct the deficiencies, the City of Roxboro will institute appropriate action to obtain compliance including criminal or civil penalties, or both. In addition, the City of Roxboro may declare the responsible entity in default of this agreement and financial guarantee and use part or all of such guarantee funds to correct the deficiencies and may assume actual operation and maintenance. Default of this agreement does not release the responsible entity from liability/responsibility for the deficiencies, nor release the entity from this agreement. Likewise, default of this agreement does not prevent the City of Roxboro from taking action against the responsible entity to recover the cost of such actions to correct the deficiencies.

7. For all structural stormwater Management facilities which are to be or are owned and maintained by a property owner’s association or similar entity, the OWNER also agrees to the following provisions:
a. Acknowledgment that the association shall continuously operate and maintain the structural stormwater Management facilities.

b. Establish adequate owner/property association dues which are to be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater control measures and devices of the particular site plan or subdivision.

c. Granting to the City of Roxboro a right of entry to inspect, monitor, maintain, repair, and reconstruct structural stormwater Management facilities.

d. Allow the City of Roxboro to recover from the association and its members any and all costs the City of Roxboro may expend to maintain or repair the stormwater control and management facility or to correct any operational deficiencies as a result of default by the Owner/association/responsible entity. Failure to pay to the City of Roxboro all of its expended costs, after thirty (30) days written notice, shall constitute a breach of the agreement. The City of Roxboro shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien herein authorized by the agreement against the property, or both in the case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.

8. The OWNER, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the structural stormwater Management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.

9. In the event the City of Roxboro, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the OWNER, its successors and assigns, shall reimburse the City of Roxboro upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City of Roxboro hereunder.

10. This Agreement imposes no liability of any kind whatsoever on the City of Roxboro and the OWNER agrees to hold the City of Roxboro harmless from any liability in the event the structural stormwater Management facilities fail to operate properly.

53-403 INSPECTION PROGRAM

Inspections and inspection programs by City of Roxboro may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.
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 or her official duties.

53-404 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

(A) May Be Required

The City of Roxboro may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the engineered stormwater controls are

(1) installed by the permit holder as required by the approved stormwater management plan, and/or

(2) maintained by the owner as required by the operation and maintenance agreement.

(B) Amount

(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%.

(2) 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.

(C) Uses of Performance Security

(1) Forfeiture Provisions

The performance security shall contain forfeiture provisions for failure, after proper notice, 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 ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

(2) Default

Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any engineered stormwater control 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 make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the City of Roxboro shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(3) Costs in Excess of Performance Security

If City of Roxboro takes action upon such failure by the applicant or owner, the City of Roxboro 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 sixty 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%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

53-405 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 engineered stormwater control 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

Where appropriate in the determination of the Stormwater Administrator to assure compliance with this ordinance, engineered stormwater controls 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.

53-406 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The owner of each engineered stormwater control shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.
53-407 NUISANCE

The owner of each stormwater BMP, whether engineered stormwater control or non-engineered stormwater control, shall maintain it so as not to create or result in a nuisance condition.

53-408 MAINTENANCE EASEMENT

Every engineered stormwater control installed pursuant to this ordinance shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.
SECTION 5: ENFORCEMENT AND VIOLATIONS

53-501 GENERAL

(A) Authority to Enforce

The provisions of this ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of City of Roxboro. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of City of Roxboro.

(B) Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

(C) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) Responsible Persons/Entities

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, engineered stormwater control, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. 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 ordinance, or fails to take appropriate action, so that a violation of this ordinance 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.

For the purposes of this article, responsible person(s) shall include but not be limited to:

(1) 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 ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

(2) 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 or development of the property.

53-502 REMEDIES AND PENALTIES

The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(A) Remedies

(1) 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.

(2) Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the City of Roxboro may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

(3) Injunction, Abatements, etc.

The Stormwater Administrator, with the written authorization of the City of Roxboro City 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 ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) Correction as Public Health Nuisance, Costs as Lien, etc.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Stormwater Administrator, with the written authorization of the City of Roxboro City Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) Stop Work Order

The Stormwater Administrator may issue a stop work order to the person(s) violating this ordinance. 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.

(B) Civil Penalties

The Stormwater Administrator may assess a civil penalty against any person who violates any provision of this ordinance or of a permit or other requirement pursuant to this ordinance. Civil penalties may be assessed up to the full amount of penalty authorized by G.S. 143-215.6A.

(C) Criminal Penalties

Violation of this ordinance may be enforced as a criminal matter under North Carolina law.

53-503 PROCEDURES

(A) Initiation/Complaint

Whenever a violation of this ordinance 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 ordinance.

(C) Notice of Violation and Order to Correct

When the Stormwater Administrator finds that any building, structure, or land is in violation of this ordinance, the Stormwater Administrator shall notify, in writing, the property owner or other person violating this ordinance. 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.

The Stormwater Administrator may deliver the notice of violation and correction order by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.
(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, up to, but not exceeding 60 days. The Stormwater Administrator may grant 120-day 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 ordinance. 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 will 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(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. The Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this ordinance whether or not the violation has been corrected.

(F) **Emergency Enforcement**

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance 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.
SECTION 6: DEFINITIONS

53-601 TERMS DEFINED

When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

Approved accounting tool
The accounting tool for nutrient loading approved by the EMC for the relevant geography and development type under review.

Built-upon area (BUA)
That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. “Built-upon area” does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. The project site or area must exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, state or local stormwater regulation.

Commission
The North Carolina Environmental Management Commission, in the Department.

Department
The North Carolina Department of Environment and Natural Resources.

Design Manual
The stormwater design manual approved for use in this part of the Falls Watershed by the Department for the proper implementation of the requirements of the Falls Watershed stormwater program. All references herein to the Design Manual are to the latest published edition or revision.

Development
Any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

Division
The Division of Water Quality in the Department.

Existing development
Development not otherwise exempted by this ordinance that meets one of the following criteria:

(a) It either is built or has established a statutory or common-law vested right as of the effective date of this ordinance; or

(b) It occurs after the effective date of this ordinance, but does not result in a net increase in built-upon area and does not decrease the infiltration of precipitation into the soil.
**Engineered stormwater control**
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. *Engineered stormwater control* includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. “Engineered stormwater control” is synonymous with “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 ordinance. It is a broad term that may include practices that do not require design by a professionally licensed engineer.

**Land disturbing activity**
Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.

**Larger common plan of development or sale**
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 (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

**Major variance**
A variance from the minimum statewide watershed protection or Falls rules that results in the relaxation, by a factor greater than five percent of any buffer, density or built-upon area requirement under the high density option; any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system; or relaxation by a factor greater than 10 percent, of any management requirement under the low density option. For provisions in this ordinance that are more stringent than the state’s minimum water supply protection rules and Falls rules, a variance to this ordinance is not considered a *major variance* as long as the result of the variance is not less stringent than the state’s minimum requirements.

**Minor variance**
A variance from the minimum standards or Falls rules that results in a relaxation, by a factor of up to five percent of any buffer, density or built-upon area requirement under the high density option (or the Falls Lake standards); or that results in a relaxation by a factor up to 10 percent, of any management requirement under the low density option.

**1-year, 24-hour storm**
The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

**Outfall**
A point at which stormwater (1) enters surface water or (2) exits the property of a particular owner.
**Owner**
The legal or beneficial owner of land, including but not limited to 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. “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 “owner” under another description in this definition, such as a management entity.

**Person**
Includes, without limitation, individuals, firms, partnerships, associations, institutions, corporations, municipalities and other political subdivisions, and governmental agencies.

**Redevelopment**
Any development on previously-developed land. Redevelopment of structures or improvements that (i) existed prior to December 2006 and (ii) would not result in an increase in built-upon area and (iii) provides stormwater control at least equal to the previous development is not required to meet the nutrient loading targets of this ordinance.

**Stormwater system**
All engineered stormwater controls owned or controlled by a person that drain to the same outfall, along with the conveyances between those controls. A system may be made up of one or more stormwater controls.

**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: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or 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.
SECTION 7: ILLICIT DISCHARGE DETECTION AND ELIMINATION

53-701 ILLICIT DISCHARGES AND CONNECTIONS

(A) Illicit Discharges

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

1) Water line flushing;
2) Landscape irrigation;
3) Diverted stream flows;
4) Rising ground waters;
5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
6) Uncontaminated pumped ground water;
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 of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the City of Roxboro.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(B) 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 section (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water 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 this ordinance. 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:
   (a) 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
   (b) Was made in violation of any applicable regulation or ordinance, other than this section;

(4) 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 consequences 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.

(C) Spills

Spills or leaks of polluting 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 pre-existing condition.

Persons in control of the polluting 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 Roxboro Fire Department 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.

(D) Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Roxboro prior to the allowing of discharges to the MS4.

53-702 RIGHT OF ENTRY

(A) Authority to Inspect.

Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the Stormwater Administrator has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Ordinance, the Stormwater Administrator may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance. In the event the owner or occupant
refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(B) Authority to Sample, Establish Sampling Devices, and Test.

During any inspection as provided herein, the Stormwater Administrator may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

53-703 ENFORCEMENT.

(A) Notice of Violation.

Whenever the Stormwater Administrator finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Stormwater Administrator may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(1) The performance of monitoring, analyses, and reporting;
(2) The elimination of illicit connections or discharges;
(3) That violating discharges, practices, or operations shall cease and desist;
(4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
(5) Payment of a fine to cover administrative and remediation costs; and
(6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City or a contractor designated by the Stormwater Administrator and the expense thereof shall be charged to the violator.

(B) Violations Deemed a Public Nuisance

Illicit discharges and illicit connections which exist within the corporate 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 and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

53-704 DEFINITIONS

For the purposes of this ordinance, the following shall mean:

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

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

Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 10-419 of this ordinance.

Illicit Connections: An illicit connection is defined as either of the following:
Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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

Municipal Separate Storm Sewer System (MS4): Pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures or storm drains):
(i) Owned or operated by a City, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, that discharges to waters of the United States or waters of the State.
(ii) Designed or used for collecting or conveying stormwater;
(iii) Which is not a combined sewer; and
(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by the North Carolina Department of Environment and Natural Resources, Division of Water Quality that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.
**Person:** means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**Pollutant:** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Premises:** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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

**Stormwater Pollution Prevention Plan:** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

**Wastewater:** means any water or other liquid, other than uncontaminated storm water, discharged from a facility.
City of Roxboro
Stormwater Permit Application

Section A. SUMMARY INFORMATION

DEVELOPMENT NAME: ________________________________________________________

LOCATION: __________________________________________________________________

PARCEL ID NO.: ____________________________________________________________

TOTAL ACRES: _______ TOTAL DWELLING UNITS (if applicable): _________________

TOTAL DU/Acre: __________ % Built Upon Area: _____ TOTAL Built Upon Area: ______

☐ LOW DENSITY (no more than two dwelling units per acre or twenty-four percent built-upon area).

☐ HIGH DENSITY (exceeds the low density thresholds for dwelling units per acre or built-upon area).

Section B. APPLICANT INFORMATION

Owner (Owner or Developer)

Owner: ___________________________ Phone No.: ____________________________

Company: _________________________ Fax No.: _____________________________

Address: ___________________________________________ Zip: ________________

Fax No: _______________ Email Address: _________________________________

Consultant (Person to contact regarding questions or revisions to the plan)

Contact Name: ______________________ Phone No.: _______________________

Company: _________________________ Fax No.: ____________________________

Address: ___________________________________________ Zip: ________________

Fax No: _______________ Email Address: _________________________________
ALL ITEMS ON THIS APPLICATION MUST BE ADDRESSED PRIOR TO SUBMITTAL.
ALL INCOMPLETE SUBMITTALS WILL BE RETURNED.

Section C. REQUIRED ITEMS CHECKLIST

The following checklists outline submittal requirements. Initial in the space provided to indicate the following submittal requirements have been met and supporting documentation is attached.

General Requirements:

Applicant’s initials

1. Sheets shall be no larger than 36” x 24” plan and profile paper.
2. Minimum text size shall be 1/8”.
3. Scale on plan view shall be no smaller than 1” = 50’; scale on profile view shall be no smaller than 1” = 50’ horizontally and 1” = 5’ vertically using a grid showing 1’ intervals.
4. All drawings to be in North Carolina State Plane coordinate system.
5. Cover sheet shall have a vicinity map at a scale no smaller than 1” = 200’.
6. Provide a legend indicating existing and proposed lines, features and symbols.
7. Cover sheet shall include all general notes, owner’s name, telephone number, and mailing address.
8. All elevations shall be given in relation to mean sea level; elevations in profile view shall be labeled in 10’ intervals on the heavy lines (Ex. 350, 360).
9. Benchmark elevations and locations shall be shown on plan view.
10. Plan views shall have a north arrow on each drawing.
11. Each drawing shall have the following information in the title block: Street or project title, limits, horizontal and vertical scales, original date, revisions date, drawing number, checked by and drawn by. Recommended placement is lower right-hand corner.
12. All drawings sealed, signed and dated by a NC Professional Engineer or Landscape Architect.
13. A signed and sealed statement on the plans (if a high density project) certifying that the design of all stormwater management facilities and practices will control and treat the runoff from the from the first one inch of rain over the total drainage area, that the designs and plans are sufficient to comply with applicable standards and policies found in the Stormwater BMP Design Manual, and that the designs and plans ensure compliance with the City’s Stormwater Ordinance.
14. Plan view shall show all actual street names. State road numbers shall be shown if applicable. Plan view should also indicate whether street is asphalt, concrete, gravel or dirt. Proposed street & Right-of-way widths will be dimensioned back-to-back and labeled in plan view.

15. Plan view shall show proposed and existing curb and gutter, pavement, storm sewers, drainage structures, driveway pipes, water mains, sanitary sewer mains, etc. All available elevations shall be shown on the profile view. Direction of flow shall be shown on plan view for all sanitary sewers and storm drains. Materials and pipe sizes shall be labeled.

16. Existing utility lines shall be shown and labeled on plan view and indicated in the legend.

17. Plans shall show final proposed locations and dimensions of all water, storm drain, and sanitary sewer lines, devices to be installed on the system, catch basins, culverts, ditches, including grades, pipes sizes, elevations, assumptions, calculations, invert elevations for all inlets and manholes and profiles of sanitary sewer lines.

18. All existing and proposed water, storm drainage and sanitary sewer easements shall be shown on all applicable sheets.

19. Number of dwelling units.

20. Existing and proposed topographic lines (minimum 2-foot intervals).

21. City limits, county lines, and other jurisdiction lines, if any.

22. Streams, ponds, wetlands, etc. on the project site and within 50 feet of the property lines.

23. Location of floodplain and floodway (if applicable).

24. Location of drainage ways and easements.

**Site Drainage Features:**

25. Existing and planned drainage patterns (include off-site areas that drain through project).

26. Any existing stormwater control systems.

27. Sub-watershed delineation showing drainage areas.

28. Show extent and number of disturbed acres.

29. Proposed impervious areas.

30. Soil information: type, special characteristics.

31. Name and classification of receiving water course.
Permanent Stormwater Control Measures (High Density only):

32. Type of BMP (wet pond, rain-garden, etc).

33. Designer’s certification.

34. Narrative description of proposed stormwater system (where runoff originates (e.g. roofs, roads, parking lots etc.), its conveyance within the project, its treatment, and its conveyance from the project to the receiving water body).

35. Profile along the centerline of the principal spillway/outfall pipe extending below the protected outfall or to the downstream structure.

36. Elevations of the “water quality” surface, temporary storage water surface, and the 10 and 100 year storms.

37. Stage-storage table for each BMP.

38. If BMP is to be used to treat construction site runoff, provide steps necessary to restore BMP to original design condition.

39. All necessary construction specifications.

40. Sequence of construction.

41. Individual drainage areas for each stormwater BMP.

42. Construction drawings and details for permanent measures.

43. Size and location of culverts.

44. Size and location of subsurface drainage conveyances.

45. Disclosure of party ultimately responsible for operation and maintenance of the stormwater system.

Stormwater Calculations:

46. Narrative description of calculations (methods, variables, assumptions, etc.) and results.

47. Stormwater BMPs designed in accordance with North Carolina Department of the Environment and Natural Resources-Division of Water Quality’s Manual of Stormwater Best Management Practices.

48. Time of concentration for pre/post development conditions

49. Pre-construction and post-construction runoff calculations for each outlet from the site (at peak discharge points).

50. Pre-construction and post-construction design calculations and hydrographs.

51. Design calculations of culverts and storm sewers.
52. Discharge and velocity calculations for open channel and ditch flows (easement & right-of-ways).

53. Design calcs of cross sections and method of stabilization of existing and planned channels (include temporary linings).

54. Design calcs and construction details of energy dissipators below culvert and storm sewer outlets (diameters & apron dimensions).

55. Amount and type of existing and proposed land use.

**Operation and Maintenance Manual (for each BMP, High Density only):**

56. Narrative description of the purpose and operation of the BMP.

57. Detailed list, description, and procedure of routine maintenance items.

58. Detailed list, description, and procedure of non-routine maintenance items.

59. Maintenance schedule.

60. Steps needed to restore BMP in the event of a failure.

61. Maintenance checklist and inspection form.

62. BMP construction drawings. Replace with record drawings when BMP is complete.

63. Latitude and longitude of each stormwater BMP.

**Section D. ATTACHMENTS**

- 3 sets of plans
- 1 set of calculations
- Operation and Maintenance Manual
- Application Fee
Section E.  APPLICANT’S CERTIFICATION

**Designer Certification:**

I hereby certify that the design-related information submitted with this application for permit coverage was prepared under my direction or supervision and that the information is, in the exercise of my reasonable professional judgment, true, accurate and complete. I also hereby certify that the stormwater collection, treatment and control system design submitted with this application complies with all requirements of the City’s Stormwater Ordinance.

______________________________  ________________________________
Original Signature of Stormwater Designer  Title

________________________________________
Type or Print Name

**Owner Certification:**

I hereby certify that I have read this application and agree to abide by the terms of any Stormwater Permit issued by the City of Roxboro.

______________________________  ________________________________
Original Signature of Owner or Authorized Agent  Title

________________________________________
Type or Print Name
STORMWATER OPERATION AND MAINTENANCE AGREEMENT

For
Structural Stormwater Management Facilities

City of Roxboro

October 2011

DRAFT
Structural Stormwater BMP Maintenance Agreement

THIS AGREEMENT, made this ____ day of ________, 20____, by and between
_________________________________________, hereinafter referred to as the “OWNER(S)”
and the City of Roxboro, North Carolina, hereinafter referred to as the “CITY”,

WITNESSETH, that

WHEREAS, the OWNER is the owner of certain real property described as
______________________________________________ as recorded by deed in the land records
of Person County, Deed Book __________ Page ___________, Parcel Identification Number
_________________
hereinafter called the "Property".

WHEREAS, the OWNER is proceeding to build on and develop the property; and

WHEREAS, the Site Plan/Subdivision Plan known as _____________________________,
(Name of Plan/Development)
hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be
approved by the CITY, provides for treatment of stormwater within the confines of the
property; and

WHEREAS, the CITY and the OWNER, its successors and assigns, including any
homeowners association, agree that the health, safety, and welfare of the residents of
Roxboro, North Carolina, require that on-site structural stormwater BMP facilities be
constructed and maintained on the Property; and

WHEREAS, the CITY requires that on-site structural stormwater Management facilities as
shown on the Plan be constructed and adequately maintained by the OWNER, its successors
and assigns, including any homeowners association.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants
contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The on-site structural stormwater Management facilities shall be constructed by the
OWNER, its successors and assigns, in accordance with the plans and specifications
identified in the Plan. This agreement specifically relates to BMP No.(s) ________ as
identified on said plans.

2. The OWNER, its successors and assigns, including any homeowners association, shall
adequately maintain the structural stormwater BMP facilities in accordance with the
approved Operation and Maintenance Plan or Manual(s). This includes all pipes and
channels built to convey stormwater to the facility, as well as all structures,
improvements, and vegetation provided to control the quantity and quality of the
stormwater. Adequate maintenance is herein defined as good working condition so that
these facilities are performing their design functions.
3. The OWNER, its successors and assigns, shall ensure the structural stormwater BMP facility is inspected by a qualified professional and shall submit an annual inspection report to the City. The inspection report shall be due annually 30 days from the date of the final structural stormwater Management facilities construction inspection. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report. In the case of BMP’s located in the Public Water Supply Watershed, annual inspections will be made by the City and paid for by the Owner from the fees collected at the time of BMP plan approval.

4. The OWNER, its successors and assigns, hereby grant permission to the CITY, its authorized agents and employees, to enter upon the Property and to inspect the structural stormwater Management facilities whenever the CITY deems necessary. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints. The CITY shall provide the OWNER, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.

5. Before the CITY shall approve the completed facility and issue final certificates of occupancy, the Owner and/or maintaining entity shall furnish the CITY with a financial guarantee insuring future maintenance, operation, and repair of the facility. The financial guarantee shall be in the form of cash or an irrevocable letter of credit and made payable to the CITY. The amount of guarantee shall be 40% of the total cost of constructing the facility based on actual contract prices for said facility. The Owner and/or maintaining entity shall also pay to the CITY as this time a fee for annual inspections for facilities located in the Public Water Supply Watershed, currently set at $10,000.00 per BMP.

The initial duration of the financial guarantee shall be for 20 years. At the end of that period, the CITY may extend such periods of guarantee as the CITY deems appropriate. The financial guarantee may be dissolved at any time by mutual agreement when the need for such guarantee no longer exists. Any funds remaining from such guarantee will be returned to the appropriate entity.

6. In the event the OWNER, its successors and assigns, fails to maintain the structural stormwater Management facilities in good working condition acceptable to the CITY or that maintenance and repairs are not being made as required or that any action is not being done in accordance with this agreement, the CITY shall notify the responsible entity who shall be given a reasonable time to correct such deficiencies. Should the responsible entity fail to act in a timely manner, or otherwise fail to correct the deficiencies, the CITY will institute appropriate action to obtain compliance including criminal or civil penalties, or both. In addition, the CITY may declare the responsible entity in default of this agreement and financial guarantee and use part or all of such guarantee funds to correct the deficiencies and may assume actual operation and maintenance. Default of this agreement does not release the responsible entity from liability/responsibility for the deficiencies, nor release the entity from this agreement. Likewise, default of this agreement does not prevent the CITY from taking action against the responsible entity to recover the cost of such actions to correct the deficiencies.
Structural Stormwater BMP Maintenance Agreement

7. For all structural stormwater Management facilities which are to be or are owned and maintained by a property owner’s association or similar entity, the OWNER also agrees to the following provisions:

   a. Acknowledgment that the association shall continuously operate and maintain the structural stormwater Management facilities.

   b. Establish adequate owner/property association dues which are to be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater control measures and devices of the particular site plan or subdivision.

   c. Granting to the CITY a right of entry to inspect, monitor, maintain, repair, and reconstruct structural stormwater Management facilities.

   d. Allow the CITY to recover from the association and its members any and all costs the CITY may expend to maintain or repair the stormwater control and management facility or to correct any operational deficiencies as a result of default by the Owner/association/responsible entity. Failure to pay to the CITY all of its expended costs, after thirty (30) days written notice, shall constitute a breach of the agreement. The CITY shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien herein authorized by the agreement against the property, or both in the case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.

8. The OWNER, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the structural stormwater Management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.

9. In the event the CITY, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the OWNER, its successors and assigns, shall reimburse the CITY upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the CITY hereunder.

10. This Agreement imposes no liability of any kind whatsoever on the CITY and the OWNER agrees to hold the CITY harmless from any liability in the event the structural stormwater Management facilities fail to operate properly.

11. This Agreement shall be recorded among the land records of Person County as appropriate, North Carolina, and shall constitute a covenant running with the land, and shall be binding on the OWNER, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowners association.
IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written:

Name of Company/Corporation/Partnership/Individuals (Seal if corporation)

By: ________________________________

______________________________
(Type Name)

______________________________
(Type Title)

STATE OF NORTH CAROLINA

CITY OF ________________________

The foregoing Agreement was acknowledged before me this __________ day of _____
______, 20__, by

________________________________________

______________________________
NOTARY PUBLIC

My Commission Expires: ____________________
CITY OF ROXBORO, NORTH CAROLINA

________________________________________
City of Roxboro (Seal)

By: ______________________________________

________________________________________
(Type Name)

________________________________________
(Type Title)

STATE OF NORTH CAROLINA

CITY OF ____________________________

The foregoing Agreement was acknowledged before me this _________ day of ______
______, 20____, by _________________________________.

________________________________________
NOTARY PUBLIC

My Commission Expires: _________________

Approved as to Form:

________________________________________
City Attorney Date
Prior to obtaining a Certificate of Occupancy, the following items must be provided to the City of Roxboro Stormwater Administrator for approval. These will be compared to the approved stormwater permit application for any irregularities or non-conformance with the approved plans.

☐ As-built Drawings (2 paper copies)

☐ Electronic As-built Drawings (.dwg, or pdf format.)

☐ Designer’s Stormwater BMP Certification

The as-built drawings shall reflect the “as-constructed” condition of the development, and shall include sufficient information to demonstrate conformance with the approved stormwater permit application. Significant deviations from the approved plan shall be considered violations of the City of Roxboro Stormwater Ordinance and are grounds for the invocation of the injunctions and penalties defined therein, and/or withholding the release of any bond pending the completion of corrective action(s), and/or requiring a submittal of a revised stormwater permit application.

In the event that the Stormwater Administrator requires submittal of a revised plan, the revision shall include a description of the discrepancies between the site conditions and the prior approved stormwater permit application, along with design calculations that demonstrate that the as-built conditions comply with the City of Roxboro Stormwater Ordinance. Should the as-built conditions be shown to have a negative impact with regards to flooding, maintenance, erosion or water quality, the Stormwater Administrator has the authority to require other mitigation measures and proposed design plans to mitigate any potential impacts from the development.

Submitted By: ____________________________    Date: ___________________

(Signature Required)

____________________________________ Seal
(Print Name)                                         (N.C.P.E. or A.S.L.A.)
## City of Roxboro
### Wet Detention Pond
#### Statement of Certification

**Description** | **Design** | **As-built**
--- | --- | ---
Slope of embankments (3:1) | | |
Elevations on the following: | | |
Bottom of pond | | |
Bottom of riser | | |
Top of riser | | |
Water quality hole | | |
Invert of inflow and outflow pipes | | |
Top of dam: Elevation and width | | |
Width of maintenance benches | | |
Anti-seep collars – size | | |
Size and material of riser/barrel | | |
Verification of volume: | | |
Permanent Sediment Storage (CF) | | |
Permanent Water Quality (SF) | | |
Temporary Water Quality (CF) | | |
Baffle location and top elevation | | |
Emergency Spillway - Width | | |
Emergency Spillway - Elevation | | |

I state to the best of my knowledge and belief that the permanent structural stormwater Best Management Practice(s) for ________________ will control and treat the runoff from the first one inch of rain over the total drainage area, is duly recorded in the Office of the Person County Register of Deeds, and has been completed in conformance with the approved plans and specifications dated ________________

(name of plat)

(approval date)

SIGNATURE ______________________________   (Seal)
DATE               _____________________________  (N.C.P.E. or A.S.L.A.)
CITY OF ROXBORO, NORTH CAROLINA

STORMWATER PERMIT

On the date listed below, the City of Roxboro Stormwater Administrator received a request to consider the following application:

Application Date: ______________________________ Approval Date: ______________________________

Record Owner(s): __________________________________________________________________________

Property Location: __________________________________________________________________________

Parcel Identification Number, and Lot #: ______________________________ Acreage: __________

Impervious Coverage (acres): ______________________________

☐ High Density  ☐ Low Density

Type and number of BMPs proposed: __________________________________________________________________________

________________________________________________________________________________________

SECTION 1. APPROVAL: Having reviewed the application and all supporting materials the Stormwater Administrator has determined that the application is complete, and subject to the conditions imposed below, and the proposed development meets the requirements of the City of Roxboro Stormwater Ordinance.

SECTION 2. CONDITIONS: Therefore, the above referenced site and land used is hereby approved and subject to all applicable provisions of the City of Roxboro Stormwater Ordinance, Sections 3 and 4 of this permit, and the following condition(s) which the Stormwater Administrator finds necessary for the proposed development to meet the intent of the ordinance:

1. This permit shall be valid for a period of two years from the date of issuance unless a valid building permit has been issued and maintained for the site or the permit has been revoked by the City of Roxboro. If, after two years the permitted activity has not begun nor a valid building permit secured, this permit shall expire.

2. All land purchases and transfers necessary to secure the property for development shall be completed prior to recordation of this permit.

3. The development of the tract shall proceed in conformity to all plans, design features, and restrictions submitted as part of the stormwater permit application and kept on file by the City of Roxboro except that the City of Roxboro Stormwater Administrator may approve minor changes to such plans as required by field conditions.

4. The petitioner shall complete all required off-site stormwater improvements and receive approval from the City for such improvements prior to the release of any certificates of occupancy.

5. The petitioner shall submit a Floodplain Development Permit Application and receive approval from the City of Roxboro prior to any land disturbance or filling of land located within Special Flood Hazard Areas.
6. The petitioner shall submit a Sedimentation and Erosion Control Plan Application and receive approval from the North Carolina Department of Environment and Natural Resources, Land Quality Section prior to any land disturbance or filling of land.

SECTION 3. VESTED RIGHTS. Approval of this permit confers upon the property the right to develop with the type and intensity of use only as such relates to the requirements of the stormwater ordinance and in the manner as herein described and as shown on the approved site plan. Development of the property, however, shall be subject to any and all future amendments to this ordinance which do not affect such type and intensity of use and shall proceed in full compliance with all other applicable local, state and federal regulations.

SECTION 4. DEED RESTRICTION-PROTECTIVE COVENANT. The following italicized deed restrictions and protective covenants shall be recorded for all subdivisions, outparcels, and future development prior to the sale of any lot.

Development of subject property is required to be in accordance with the City of Roxboro’s Stormwater Ordinance. The recording of this document establishes an enforceable restriction of property usage that runs with the land to ensure that future development and/or redevelopment shall maintain the site in a manner consistent with applicable law and the approved project plans. Any alterations to the site shall not be permitted without review and approval by the City of Roxboro.

SECTION 5. SEVERABILITY. Invalidation of any one or more of the conditions set forth herein shall not adversely affect the balance of said conditions, which shall remain in full force and effect.

____________________________  
[Stormwater Administrator]  
[date]

NORTH CAROLINA  
PERSON COUNTY

I, _______________________, a Notary Public of the aforesaid County and State, certify that ______________________ personally appeared before me and acknowledged that he is Stormwater Administrator of the City of Roxboro, North Carolina and pursuant to authority duly given, and as an act of the County, he executed this Agreement for the purpose herein expressed.

WITNESS my hand and Notarial Seal this the ___ day of ________, 20____.

My Commission Expires: _____________________________ (Seal)

NOTARY PUBLIC

I, _______________________, owner(s) of the subject property, do hereby acknowledge receipt of this Stormwater Permit and agree to the conditions stated within. I further acknowledge that no work may be done pursuant to this permit except in accordance with all of the conditions and requirements listed and that these conditions and requirements shall be binding upon me and my successors in interest and shall run with the land in perpetuity.

ATTEST:

Form SWP-I 2 of 3 October 2011
[NAME], Owner

[name], Owner

NORTH CAROLINA
PERSON COUNTY

I, _________________________________, a Notary Public, do hereby certify that [owner name(s)] personally appeared before me this day and acknowledged that [he/she/they] [is/are] the owner(s) of [address].

WITNESS my Hand and Official Seal, this the _____ day of __________, 20____.

My Commission Expires: ___________________________ (Seal)

____________________    NOTARY PUBLIC

--------------------------------------------------------------------------