Town of Butner

Falls Lake Stormwater Management Program Report for New Development

Submitted: August 9, 2011
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1 Adoption Timeline and Effective Date

1.1 Timeline
March 10, 2011 EMC Approves the Model Stormwater Program and Model Stormwater Ordinance for Falls Lake New Development developed by DWQ.

July 14, 2011 Butner Planning Board considers proposed Stormwater Program.

August 4, 2011 Butner Town Council considers proposed Stormwater Program.

August 10, 2011 Town of Butner submits proposed Stormwater Program for compliance with Falls Lake New Development Rules to DWQ for review.

January 12, 2012 DWQ will make a recommendation on Butner’s proposed Stormwater Program.

May 10, 2012 Butner Planning considers Stormwater Program and Ordinance Amendments and makes recommendation to the Butner Town Council.

June 7, 2012 Butner Town Council adopts Stormwater Program and Ordinance Amendments.

1.2 Effective Date
July 1, 2012 Falls Lake New Development Rule goes into effect.

2 Existing Water Quality Programs

2.1 Local Programs
Butner has implemented the Universal Stormwater Management Program, which encompasses compliance with NPDES Phase II rules and with the Neuse Nutrient Sensitive Waters requirements. Neuse buffers are also required and enforced by DENR. Butner submitted application for NPDES Phase II Permit on February 2011 and is currently waiting for approval/permit issuance.

2.2 State Programs
In Butner, the State erosion and sediment control program is in effect and, for local or state construction, the State stormwater program is implemented.
3 Riparian Buffer Ordinance Compliance

Neuse buffers are required and enforced by DENR. Permit from DENR for soil and sediment control that shows riparian buffers is required prior to any stormwater or zoning permit of any kind being issued.

4 State and Federal Entities Implementation

The Town of Butner will be implementing and enforcing the Falls New Development Rule on state and federal entities that do not have a Phase II NPDES stormwater permit.

5 Area of Applicability

5.1 Butner Town Limits

Butner’s entire jurisdiction is within the Falls watershed. Falls Reservoir Water Supply Nutrient Strategy: Stormwater Management for New Development Rule will be applied to the entire town.

5.2 Extra-territorial Jurisdiction

The ETJ for the Town of Butner is in the Falls Watershed. The Falls Rules will apply to the entire ETJ area to be enforced by the Town of Butner like all other regulations of the Land Development Ordinance including zoning and subdivision regulations.

6 Stormwater Administrator Minimum Qualifications

6.1 Stormwater Administrator

The Stormwater Administrator must, at a minimum, be a professional engineer, registered North Carolina professional surveyor, landscape architect, soil scientist, aquatic biologist, or a person certified by the North Carolina Cooperative Extension Service to approve stormwater management plans or to inspect BMP’s. In areas outside of the Stormwater Administrator’s expertise he or she shall consult with a professional with experience in that area such as a professional engineer with stormwater experience. The current Ordinance Administrator, Planning Director Melissa Hodges will be the stormwater administrator. She is certified by the North Carolina Cooperative Extension Service to inspect BMP’s, certificate number 1250. Currently, and going forward, it is the intent of the Town of Butner to consult with a Professional Engineer to conduct plans review for stormwater permits.
7  Maintenance and Inspection Program

The Town’s Land Development Ordinance requires that each structural BMP be maintained and operated so as “to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed” (see 15.7.1, Standards for Maintenance, of the Land Development Ordinance, included as an appendix to this report). The person responsible for maintenance of the BMP must submit an annual inspection report to the Town (see the sample form included in the forms in the appendices). This inspection report must be completed by a 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. Prior to issuing a permit for development or redevelopment that requires a structural BMP, the applicant or owner must execute an operation and maintenance agreement that is binding on all subsequent owners of the site. This requires the owner to maintain, repair and, if necessary, reconstruct the BMP and states maintenance terms and a schedule. At a minimum, all structural BMP’s must be inspected monthly and submit an inspection report to the town annually. Additionally, the town will conduct a routine review of all BMP’s within its planning jurisdiction once every five years.

The Town’s Land Development Ordinance allows the Ordinance Administrator to require, at his discretion, 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 structural MNP’s are installed by the permit holder as required by the approved Stormwater Management Permit, and/or maintained by the owner as required by the operation and maintenance agreement (see 15.7.4, Performance Security, of the Land Development Ordinance, included as an appendix to this report).

Development of structural BMPs will be tracked using a database, which will also track annual reporting and any other activities associated with the site including complaints and code enforcement as well as the town’s routine inspection every five years.

Example stormwater maintenance agreements and forms are provided in Appendix C of this document.

8  Forms

The forms to be used for the permitting and compliance process are attached in Appendix C of this document. Those forms are:

- Stormwater Permit Application
- Sample Stormwater Permit
- As-Built Submittal Form
- BMP Certification Statement
- Operation and Maintenance Agreement for BMP’s
- Sample Stormwater Annual Maintenance Inspection Notification letter
- Maintenance Inspection Report
- Example Access Easement from Catawba County
- Example Conservation Easements from Cherokee County and Halifax County
9 Proposed Ordinance

The Falls Lake New Development Rule will be included in the Town of Butner Land Development Ordinance. Below are the applicable Sections of the Land Development Ordinance relevant to the rule and including all areas covered by the model ordinance. Please see the supplemental information to see how the existing LDO was changed to meet the requirements of the Falls Lake New Development Rule and the model ordinance created for meeting the Rule requirements. To make the review of the proposed ordinance a little simpler, I have also highlighted any new text. All other text is existing in the LDO.

1.1 Title

This document shall officially be known as the “Land Development Ordinance of the Town of Butner, North Carolina” and may be referred to throughout the document as the “LDO” or the “Ordinance”.

1.3 Effective Date

This Ordinance shall become effective on October 1, 2008

1.5 Purpose and Intent

The purpose of this Ordinance is to protect the health, safety, and general welfare of the citizens of the Town of Butner.

1.6.2 Authority of Interpretation

The Ordinance Administrator has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Ordinance Administrator, who shall respond in writing. The Ordinance Administrator shall keep on file a record of all written interpretations of this ordinance.

1.6.3 Rules of Language and Construction

For the purposes of interpreting the general language and sentence construction of this Ordinance, the following rules of construction apply unless the context clearly indicates otherwise:

(B) Tense

Words used in the present tense include the future tense. The reverse is also true.

(C) Singular and Plural

Words used in the singular include the plural. The reverse is also true.

(D) Mandatory Terms
The words “shall”, “will”, “must” and “may not” are mandatory or compulsory in nature, implying an obligation or duty to comply with the particular provision.

(E) Gender

Words used in the male gender include the female gender. The reverse is also true.

(F) Days

Any reference to “days” means calendar days unless otherwise specified. 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 Town of Butner, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Butner.

(H) Tables, Figures and Illustrations

Tables, figures and illustrations are provided for reference only and do not define or limit the scope of any provision of this Ordinance. In case of any difference of meaning or implication between the text of this Ordinance and any table, figure or illustration, the text shall govern.

(I) Current Versions and Citations

All references to other Town, County, State or Federal regulations in this Ordinance are intended to be references to the most current versions and citations, unless otherwise expressly indicated. When referenced regulations have been repealed and not replaced by other regulations, requirements for compliance are no longer in effect.

1.7.1 Conflict with State or Federal Regulations

If any provisions of this Ordinance are inconsistent with those of the State or Federal government, the more restrictive provisions shall govern unless the State or Federal regulation is intended to preempt the local regulation. The more restrictive provision is the one that imposes greater restrictions or more stringent controls. Regardless of any other provision of this Ordinance, no land may be developed or used, and no structure may be erected or maintained in violation of any State or Federal regulation.

1.7.2 Conflict with Local Regulations

If the provisions of this Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the Town, the more restrictive provision governs. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

1.7.3 Conflict with Private Agreements and Contracts

This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law. The Town has no responsibility for monitoring or enforcing private agreements or contracts.
1.9  Transitional Provisions

1.9.4  Violations Continue

Violations of the previous Ordinance which are in violation of this Ordinance will continue to be a
violation and will be subject to penalties and enforcement action under Article 4, Enforcement. The
adoption of this Ordinance does not affect nor prevent any pending or future action to abate violations
of previous Ordinances.

1.10  Severability

Should any Article, Section, clause, phrase or word of this Ordinance be held invalid or unconstitutional
by a court of competent jurisdiction of either the State of North Carolina or the United States, such
decision does not affect, impair or invalidate the validity of the remaining parts of this Ordinance which
can be given effect without the invalid provision.

2.5.1  Appointment

The Town Council shall appoint an Ordinance Administrator who shall be charged with administering
and enforcing the provisions of this Ordinance. The Ordinance Administrator may delegate any authority
or duties prescribed to him in order to ensure the efficient administration of the Ordinance.

2.5.2  Powers and Duties

In the application and enforcement of this Ordinance, the Ordinance Administrator has the following
powers and duties

3.1.1  Authority to File Applications

(A)  General

Applications submitted under this Ordinance in accordance with Section 3.1.5, Application Submission,
shall be submitted by the landowner or a person acting on the behalf of the landowner with their
authorization and consent.

(B)  Applicant not the Owner

If the applicant is not the owner (or sole owner) of the land, or is a contract purchaser of the land, a
notarized form supplied by the Town and signed by the owner(s) consenting to the submission of the
application shall be submitted along with all the required application information. With the exception of
applications to amend the official zoning map initiated by the Town Council, Planning Board or
Ordinance Administrator subject to Section 3.2.(C) of this ordinance

3.1.2  Application Content
The Ordinance Administrator shall establish the requirements for the general form and content of applications required by this Ordinance. These shall be in addition to any specific application content requirements established by the Ordinance.

3.1.3 Fees

The Town Council shall establish, and may modify from time to time, a schedule of fees that must be paid in full prior to the review of any submitted application.

3.1.4 Submission and Review Schedule

The Ordinance Administrator shall establish a submission and review schedule (including time frames for review) for development applications. This schedule may be amended and updated as determined necessary.

3.1.6 Determination of Completeness

(A) Review for Completeness

Upon the receipt of an application, the Ordinance Administrator shall review the application for completeness. A complete application is one that:

(1) Contains all information and materials established by the Ordinance Administrator, or set forth elsewhere in the Ordinance, for the particular type of development application;

(2) Is in the form established by the Ordinance Administrator for the particular type of development application;

(3) Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate standards of this Ordinance; and

(4) Is accompanied by the fee established for the particular type of application.

(B) Incomplete Applications

If the application is determined to be incomplete, the Ordinance Administrator shall notify the applicant of the deficiencies within ten business days following submittal. Following notification, the applicant may correct the deficiencies and resubmit the application for review.

3.1.7 Final Approval by the Ordinance Administrator

When an application that is subject to final approval by the Ordinance Administrator is submitted and determined to be complete, he shall review the application and approve or deny it based on the standards set forth in the Ordinance. Following his approval or denial of the application, the Ordinance Administrator shall notify the applicant of his decision within the time period set forth in the submission and review schedule.
3.2.5 Variance

(A) Purpose

The purpose of a Variance is to allow certain deviations from the standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards), when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner’s control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. Variances to the standards established in Article 15, Water Supply Watershed Protection or Article 16, Flood Damage Prevention shall be subject to additional requirements as set forth in Sections 3.2.5(L) and 3.2.5.(M) respectively.

(B) Authority

The Board of Adjustment shall review and decide any applications for variances from the requirements of this Ordinance in accordance with this Section.

(C) Initiation

Application for a Variance may only be initiated by the owner(s) or contract purchaser(s), of the property for which the Special Use Permit is designated in accordance with Section 3.1.1.

(D) Procedures

(1) Preliminary Procedures

The preliminary procedures and requirements for submission and review of an application are established in Section 3.1, Common Review Procedures.

(2) Action by Board of Adjustment

After public notification and the scheduling of a public hearing, the Board of Adjustment shall conduct a quasi-judicial public hearing on the application. At the public hearing, the Board of Adjustment shall consider the application, the relevant support materials and the sworn testimony given at the public hearing. Within thirty-one (31) days following the close of the public hearing, the Board of Adjustment shall approve, approve with conditions, or deny the application based on the standards in Section 3.2.5(E), Required Findings of Fact. In accordance with the standards set forth in NCGS 160A-388(e), granting approval or conditional approval of a Variance shall require an affirmative vote of at least four-fifths (4/5) of the members of the Board of Adjustment who are eligible to vote. All decisions by the Board of Adjustment shall be in writing.

(E) Required Findings of Fact

The Board of Adjustment shall only grant a Variance after having first held a quasi-judicial public hearing on the matter and having made the following findings of fact in accordance with NCGS 160A-388(d):
(1) There are practical difficulties or unnecessary hardships caused by the strict application of the Ordinance requirements; and

(2) Any practical difficulties or unnecessary hardships are not the result of the actions of the applicant; and

(3) The reasons set forth in the application justify the granting of a Variance, and that the Variance is the minimum action that will make possible the reasonable use of the land or structures; and

(4) The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and

(5) In the granting of the Variance, the public health, safety and general welfare have been assured and substantial justice has been done.

(F) Insufficient Justification for Variance

The following circumstances do not constitute grounds for a Variance:

(1) The existence of other nonconforming or conforming uses of land or structures in the same or other districts;

(2) The request for a particular use expressly, or by inference, prohibited in the district; or

(3) Economic hardship or the fact that property may be utilized more profitably with a Variance.

(G) Conditions of Approval

In approving a Variance, the Board of Adjustment may impose additional conditions on the permit approval in accordance with NCGS 160A-381. All additional conditions imposed must be accepted by the applicant.

(H) Recordation

When the Board of Adjustment grants a Variance, the Town shall, at the applicant’s expense, record the written decision on the Variance in the office of the Register of Deeds of Granville County within 30 days of its issuance.

(I) Subsequent Development

Development authorized by the Variance shall not be carried out until the applicant has secured all other permits required by this Ordinance. A Variance does not ensure that the use shall receive subsequent approval for other applications for permit approval unless the relevant and applicable portions of this Ordinance are met.

(J) Variance Runs with the Land
A Variance is not a personal right, but runs perpetually with the land for which the Variance has been
granted. As such, the provisions of an approved Variance shall continue with the transfer of ownership
of the land.

(K) Appeals

Any appeal from the decision of the Board of Adjustment shall be to the Superior Court for Granville
County by petition for a writ of certiorari. Any petition to the Superior Court shall be filed with the Clerk
of Court within 30 days after the date the decision of the Board of Adjustment is filed with the Town
Clerk, or after the date a written copy of the decision is delivered (via personal delivery or by registered
or certified mail, return receipt requested) to every aggrieved party who has filed a written request for
such copy with the Board of Adjustment at the public hearing, whichever is later.

(L) Additional Standards for Watershed Variances

(1) Statutory Exceptions

Notwithstanding the requirements of Section 3.2.5(E), Variances from the 30 foot landward location of
built upon area requirement, as well as the deed restrictions and protective covenant requirements shall
be granted in the following instances:

(i) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge,
airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to
minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation,
have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum
extent practicable through the use of BMPs.

(ii) When there is a lack of practical alternatives for a stormwater management facility; a
stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas
construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and
intermittent surface waters and as long as it is located, designed, constructed, and maintained to
minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation,
have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum
extent practicable through the use of BMPs.

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

(2) Additional Notification and Approval Requirements

Upon the approval of a Watershed Variance, the Ordinance Administrator shall transmit a notice of such
variance to the NC Environmental Management Commission. If the Board decides in favor of granting a
variance from the statewide watershed protection of 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, then the Board shall prepare a preliminary record of the hearing and submit it to the Commission for review and approval. If the Commission approves the variance, or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision which authorizes the Town of Butner to issue a final decision which would include any conditions or stipulations added by the Commission. If the Commission denies the variance, then the Commission shall prepare a decision to be sent the Town of Butner. The Town of Butner shall prepare a final decision denying the variance. Appeals from the Commission decision are made on judicial review to Superior Court.

3.2.8 Stormwater Management Permit

(A) Purpose

The purpose of this Section is to set forth the procedures and requirements for the review and approval of a Stormwater Management Permit that establishes compliance with the standards of Article 15, Water Supply Watershed Protection.

(B) Applicability

All land development activities within the WPO-CA and WPO-GA districts must have an approved Stormwater Management Permit unless specifically exempted by the development thresholds or general exemption established in Section 15.4.2.

(C) Procedures

(2) Review and Decision by Ordinance Administrator

Following the submission of a complete Stormwater Management Permit Application, the Ordinance Administrator shall review and approve, approve with modifications, or deny approval of the Stormwater Management Permit based on the standards in Section 3.2.8(D) Standards for Approval.

(D) Standards for Approval

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 Section 15.6, Stormwater Management Standards. All such plans shall be prepared by a qualified registered North Carolina professional engineer and/or surveyor, soil scientist or landscape architect. 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 Stormwater BMP Design Manual, and that the designs and plans ensure compliance with this Ordinance.
(E) Effect of Approval

Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(F) Certification and “As Built” Plans

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 Permit and designs established therewith, and shall submit actual “as built” plans for all stormwater management facilities or practices after final construction is completed.

The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. 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.

(G) Other Permits

No certificate of compliance or occupancy shall be issued by the Town of Butner or any agency acting on behalf of the Town of Butner 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 Town of Butner 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.

(H) 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 Ordinance 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 permit.

In granting an extension, the Ordinance 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.

3.2.13 Appeals of Administrative Decisions

(A) Right of Appeal

Any aggrieved party affected by a decision or interpretation of the Ordinance Administrator or other administrative official may appeal such decision or interpretation to the Board of Adjustment in accordance with the provisions of this Section.
(D) Appeal of Decision

Any appeal from the decision of the Board of Adjustment shall be to the Superior Court for Granville County by petition for a writ of certiorari. Any such petition to the Superior Court shall be filed with the Clerk of Court no later than 30 days after the date the decision of the Board of Adjustment is filed with the Town Clerk, or after the date a written copy of the decision is delivered (via personal delivery or by registered or certified mail, return receipt requested) to every aggrieved party who has filed a written request for such copy with the Board of Adjustment at the public hearing, whichever is later.

4.3.1 Violations Generally

(A) Failure to Comply with Ordinance Provision or Term or Condition of Approval Constitutes Ordinance Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this Ordinance shall constitute a violation of this Ordinance punishable as provided in this Article.

4.4 Responsible Persons

Any person who violates this Ordinance shall be subject to the remedies and penalties set forth in this Article.

4.5.1 Responsibility for Enforcement

The Ordinance Administrator shall be responsible for enforcing the provisions of this Ordinance in accordance with NCGS 160A-174, 160A-175 and 160A-193

4.5.2 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint. The complaint, stating fully the cause and basis therefore, shall be filed with the Ordinance Administrator, who shall properly record such complaint, investigate, and take appropriate action as provided by this Ordinance.

4.5.3 Enforcement Procedures

(A) Notice of Violation

When the Ordinance Administrator finds that a violation of this Ordinance has occurred, he shall take appropriate action to remedy the violation consistent with Section 4.6, Remedies and Penalties. The Ordinance Administrator shall notify, in writing, the person violating this Ordinance. Such notification shall indicate:

(1) The nature of the violation(s);
(2) The necessary action to correct or abate the violation; and

(3) The deadline for correcting the violation

The Notice of Violation shall state what course of action is intended as well as what actions may be taken if the violation is not corrected within the time frame specified by the Ordinance Administrator. The Notice of Violation shall also advise the violator of their right to appeal the Notice of Violation to the Board of Adjustment within 30 days of the date the Notice of Violation was issued.

(B) Application of Remedies and Penalties

If the owner, occupant, or person responsible for the violation fails to comply with the Notice of Violation, from which no appeal has been taken within 30 days, as provided in the notification, the Ordinance Administrator shall take appropriate action, as provided in Section 4.6, Remedies and Penalties, to correct and abate the violation and to ensure compliance with this Ordinance.

4.6 Remedies and Penalties

Any of the following remedies and enforcement powers may be used to administer and enforce this Ordinance following a Notice of Violation as described in Section 4.5.3, Enforcement Procedures. While the Town may exercise any of the following remedies or penalties at any point following issuance of a Notice of Violation and the required correction period, the following remedies and penalties are listed in their general order or sequence of application.

4.6.1 Civil Penalty

(A) In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to North Carolina General Statutes Section 160A-175, the standards in this Ordinance may be enforced through the issuance of civil penalties by the Ordinance Administrator.

(B) Subsequent citations for the same violation may be issued each day by the Ordinance Administrator if the offender does not pay the citation after it has been issued unless the offender has sought an appeal to the actions of the Ordinance Administrator through an Appeal of Administrative Decision.

(C) Civil penalties shall be issued in the following amounts:

(1) First citation - $50.00

(2) Second citation - $100.00

(3) Third and subsequent citations - $150.00

(D) If the offender fails to pay the civil penalty within 15 days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.
4.6.2 Stop Work Order

Whenever a building or structure is being constructed, demolished, renovated, altered, or repaired in violation of any applicable provision of this Ordinance, the Ordinance Administrator may order the revocation of the Zoning Permit for such work and request a Stop Work Order be issued by the Granville County Building Inspections Department. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.

4.6.4 Injunction

When a violation occurs, the Ordinance Administrator may, either before or after the initiation of other authorized actions, apply to the appropriate court for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful use of the land in question.

4.6.5 Order of Abatement

In addition to an injunction, the Town may apply for, and the court may enter into, an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

4.6.7 Criminal Penalties

Pursuant to North Carolina General Statutes Section 14-4, any person, firm, or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a Class 3 misdemeanor and shall be fined an amount not to exceed five hundred dollars ($500).

4.6.9 Deny or Withhold Permits

The Ordinance Administrator may deny or withhold authorization to use or develop any land, structure, or improvements until an alleged violation and associated civil penalty related to such land, use, or development is corrected.

4.8 Continuing Violations

Each day that a violation continues shall be considered as a separate and distinct offense, and may be enforced as such at the discretion of the Ordinance Administrator.

ARTICLE 15 – WATER SUPPLY WATERSHED PROTECTION

15.1 Authority

This Article is adopted pursuant to NCGS 143-214.7, Session Law 2006-246 and the rules promulgated by the North Carolina Environmental Management Commission thereunder. Specifically, this Article is adopted to comply with the standards of the Universal Stormwater Management Program and the Falls Nutrient Strategy New Development Rule as set forth in the North Carolina Administrative Code (15A NCAC 2H.1020(b) and 15A NCAC 02B .0277).
15.2 Findings

It is hereby determined that:

15.2.1 Development and redevelopment alter the hydrologic response of local watersheds and increase 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;

15.2.2 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

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

15.2.4 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;

15.2.5 Therefore, the Town of Butner 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.

15.3 Purpose

15.3.1 General

The purpose of this Article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, nitrogen and phosphorus in stormwater runoff, and nonpoint and point source pollution associated with new development and redevelopment.

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.

15.3.2 Specific

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

(A) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;
(B) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, stream bank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

(C) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(D) Establishing design criteria for the construction, function, and use of structural stormwater best management practices (BMPs) that may be used to meet the minimum post-development stormwater management standards;

(E) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of open space, riparian buffers and other conservation areas to the maximum extent practicable;

(F) 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;

(G) Establishing administrative procedures for the inspection of approved projects and to assure adequate and appropriate long-term maintenance.

15.4 Applicability

15.4.1 General

This Article shall be applicable to all development and redevelopment activities within the Watershed Protection Overlay Districts (WPO-GA and WPO-CA) as established in Article 6, unless exempt pursuant to Section 15.4.2, Exemptions.

15.4.2 Exemptions

(A) Thresholds

(1) Single-family and duplex residential and recreational development that cumulatively disturbs less than 1 half acre of land, and is not part of a larger common plan of development or sale, and non-residential and multi-family development that cumulatively disturbs less than 12,000 square feet, and is not part of a larger common plan of development or sale, is exempt from the provisions of this Article.

(2) Redevelopment outside of the floodplain that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Article.
(3) Redevelopment of residential structures that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Article whether or not within the floodplain.

(4) Redevelopment of non-residential structures that disturbs less than 12,000 square feet, that is not part of a larger common plan of development or sale, that is within the floodplain, and that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Article.

(5) Development and redevelopment that disturb less than a stated area threshold are not exempt if such activities are part of a larger common plan of development or sale that exceeds the area threshold, even though multiple, separate or distinct activities take place at different times on different schedules.

(B) General Exemption

Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this Article.

15.4.3 No Development or Redevelopment Until Compliance and Permit

No development or redevelopment shall occur except in compliance with the provisions of this Article as evidenced by the issuance of a Stormwater Management Permit, unless exempted herein.

15.4.4 Map

(A) The provisions of this Article shall apply within the areas designated on the map titled "USMP Map of the Town of Butner, North Carolina", which is adopted simultaneously herewith. The USMP Map and all explanatory matter contained thereon accompanies, and is hereby made a part of, this Ordinance and is integrated with the Official Zoning Map.

(B) The USMP Map shall be kept on file by the Ordinance Administrator and shall be updated to take into account changes in the land area covered by this Article and the geographic location of all structural BMPs permitted under this Ordinance. In the event of a dispute, the applicability of this Article to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and the standards for determining zoning district boundaries as set forth in Article 1.8.3.

15.5 Design Manual

15.5.1 Reference to Design Manual

The Ordinance 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 structural and non-structural stormwater BMPs.

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 Phase II, Falls Rules and other applicable stormwater laws.

15.5.2 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.

15.5.3 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 shall be utilized in reviewing the application and in implementing this Ordinance with regard to the application.

15.6 Stormwater Management Standards

All development and redevelopment to which this Article applies shall comply with the standards of this Section.

15.6.1 Impervious Surface Requirements

(A) Setback Requirement

All impervious surfaces, except for roads, paths, and water dependent structures, shall be located at least 30 feet landward of all perennial and intermittent surface waters. Public Roadway crossings, bridges and greenways may be allowed in the setback where no practicable alternative exists.

A perennial or intermittent surface water shall be deemed present if the feature is 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 complete 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.

(B) No New Impervious or Partially Pervious Surface in Floodplain
No new impervious or partially pervious surfaces, except for roads, paths, and water dependent structures, shall be allowed within the floodplain.

(C) Development in Critical Area of Water Supply Watersheds

All development activities that are located within the area designated by the Environmental Management Commission as a Critical Area of a Water Supply Watershed shall be limited to a maximum impervious surface density of 36 percent.

15.6.2 Structural Stormwater Control Requirements

Owners of property subject to this Article and required to install structural stormwater control measures shall implement those measures in compliance with each of the following standards:

(A) The measures shall control and treat runoff from the first inch of rain. Runoff volume drawdown time for wet detention ponds shall be a minimum of 48 hours, but not more than 120 hours.

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

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

(D) The measure shall discharge the storage volume at a rate equal or less than the pre-development discharge rate for the 1-year, 24-hour storm.

(E) 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.

(F) The approval of the Stormwater Management Permit shall require enforceable restrictions on property usage that runs with the land, including recorded deed restrictions and protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

15.6.3 Nitrogen and Phosphorus Standards

(A) Nitrogen and Phosphorus Loading

(1) Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: [2.2 and .33 pounds per acre per year for nitrogen and phosphorus, respectively.]

(2) 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.

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

(B) 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:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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 Town of Butner. A developer may propose other offset measures to the Town of Butner, 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.

(C) 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.
15.6.4 Standards for Stormwater Control Measures

(A) Evaluation According to Contents of Design Manual

All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this Article shall be evaluated by the Ordinance 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 Ordinance Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this Article.

(B) Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, and constructed, and maintained in accordance with the criteria and specifications in the Design Manual will be presumed to meet the minimum water quality and quantity performance standards of this Article. 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 Article. The Ordinance Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Ordinance Administrator to determine whether such an affirmative showing is made.

(C) Separation from Seasonal High Water Table

For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

(D) Dedication of BMPs, Facilities & Improvements

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

15.7 Maintenance

15.7.1 Standards for Maintenance

(A) Function of BMPs As Intended

The owner of each structural BMP installed pursuant to this Article shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(B) Annual Maintenance Inspection and Report
The person responsible for maintenance of any structural BMP installed pursuant to this Article shall submit to the Ordinance 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 structural BMP;
3. A statement that an inspection was made of all structural BMPs;
4. The date the inspection was made;
5. A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this Article; and
6. The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms supplied by the Ordinance Administrator. An original inspection report shall be provided to the Ordinance 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.

15.7.2 Operation and Maintenance Agreement

(A) In General

1. Prior to the conveyance or transfer of any lot or building site to be served by a structural BMP pursuant to this Article, and prior to issuance of any permit for development or redevelopment requiring a structural BMP pursuant to this Article, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

2. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to Town of Butner a right of entry in the event that the Ordinance Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the Town of Butner to assume responsibility for the structural BMP.

3. The operation and maintenance agreement must be approved by the Ordinance Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the
Granville Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Ordinance Administrator within fourteen (14) days following its recordation.

(B) Special Requirement for Homeowners’ and Other Associations

For all structural BMPs required pursuant to this Article and that are to be or are owned and maintained by a homeowners’ association, property owners’ association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

(1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

(2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the Town of Butner, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural BMPs, provided that the Town shall first consent to the expenditure.

(3) Both a developer contribution(s) 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 15% of the initial construction cost of the structural BMPs. Two-thirds of the total amount of sinking fund budget shall be deposited into the escrow account within the first 5 years and the full amount shall be deposited within 10 years following initial construction of the structural BMPs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

(4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Butner depending on the design and materials of the stormwater control and management facility.

(5) Granting to the Town of Butner a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.

(6) Allowing the Town of Butner to recover from the association and its members any and all costs the (name of local government) expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town all of its expended costs, after 45 days written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both.. Interest, collection costs, and attorney fees shall be added to the recovery.
(7) A statement that this agreement shall not obligate the Town of Butner to maintain or repair any structural BMPs, and the Town shall not be liable to any person for the condition or operation of structural BMPs.

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

(9) A provision indemnifying and holding harmless the Town of Butner for any costs and injuries arising from or related to the structural BMP, unless the Town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

15.7.3 Inspection Program

Inspections and inspection programs by the Town of Butner 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 Ordinance 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 Ordinance Administrator or his designee while carrying out his official duties.

15.7.4 Performance Security

(A) Performance Security May Be Required

The Ordinance Administrator may, at his 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 structural BMPs are:

(1) Installed by the permit holder as required by the approved Stormwater Management Permit, and/or

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

(B) Amount of Security

(1) Installation Security

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 Security
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 structural BMP in accordance with the applicable permit or operation and maintenance agreement, the Ordinance 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 Town 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 the Ordinance Administrator takes action upon such failure by the applicant or owner, the Town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(4) Refund

Within 60 days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected 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.

15.7.5 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, as applicable, pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the Granville 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, as applicable, shall be recorded with the Granville 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 Ordinance Administrator to assure compliance with this Article, structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

15.7.6 Records of Installation and Maintenance Activities

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least 5 years from the date of creation of the record and shall submit the same upon reasonable request to the Ordinance Administrator.

15.7.7 Nuisance

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

15.7.8 Inspection Easement

Every structural BMP installed pursuant to this Article shall be made accessible for inspection by an inspection easement. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.

Article 17 – Definitions

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.

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 Phase II jurisdictions this part of the Falls Watershed by the NC Department of Environment and Natural Resources for the proper implementation of the requirements of the federal Phase II Falls Watershed stormwater program. All references herein to the Design Manual are to the latest published edition or revision.

**DEVELOPMENT**
The initiation, construction, change, or enlargement of any use or structure, the disturbance of land through the removal of trees or ground cover, or the division of land into two or more parcels.

“Development” shall include, but not be limited to, the following:

- Construction or enlargement of a building or structure;
- Change in the type of use of a building, structure, or land;
- Material increase in the intensity of use of land, such as an increase in the number of businesses, offices, manufacturing establishments, or dwelling units located in a building or structure or on the land;
- Commencement or expansion of resource extraction, agricultural, horticultural, or forestry activities on a parcel of land;
- Demolition of a structure or the removal of trees from a parcel of land;
- Deposition of refuse, solid or liquid waste, or fill on a parcel of land;
- Alteration, either physically or chemically, of the shore, bank, or channel of any stream, lake, or other body of water or alteration of any wetland; and
- Any land disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**DIVISION**
The Division of Water Quality in the Department.

**EXISTING DEVELOPMENT**
Structures, buildings, site specific development plans or other projects that are completely built or that at a minimum have established a vested right as of the effective date of this Ordinance based on at least one of the following being satisfactorily proven to the Ordinance Administrator for the specific development in question:

1. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the development, or

2. Having an outstanding valid building permit as authorized by North Carolina General Statutes Section 153A-344.1 and North Carolina General Statutes Section 160A-385.1, or

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3. Having an approved site specific or phased development plan as authorized by North Carolina General Statutes Sections 153A-344.1 and 160A-385.1.

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.

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.

OUTFALL
A point at which stormwater (1) enters surface water or (2) exits the property of a particular owner.

PERSON
For the purposes of enforcing this Ordinance in accordance with Article 4, Enforcement Procedures, “person” includes any individual, corporation, government agency, government official, business trust, partnership, two or more persons having a joint interest, or any other legal entity. Persons subject to the remedies and penalties established in Article 4, Enforcement Procedures, for violating this Ordinance shall include: an 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 an owner, any tenant or occupant, or any other person, who has control
over, or responsibility for, the use or development of the land on which the violation occurs. For all other purposes, “person” means any individual, corporation, government agency, business trust, partnership, two or more persons having a joint interest, or any other legal entity.

**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.

**10 Nutrient Loading Accounting Tool**
Butner will be using the Jordan/Falls nutrient load accounting tool.
Appendix
Program Contacts and Professional Qualifications

Stormwater Administrator:  Melissa Hodges  
Town of Butner  
415 Central Avenue  
Suite A  
Butner, NC 27509  
(919) 575-3031  
mhodges@butnernc.org
**Stormwater Map**

All of Butner and its Extra-territorial jurisdiction are in the Falls Lake Watershed. The Stormwater Map, referred to as the USMP Map in Section 15.4.4 in the Land Development Ordinance is the same as the zoning map for the town of Butner. A reduction of the map is attached, and a pdf is included on the cd with the full submittal for the Falls Lake Stormwater Management Program for New Development. The Butner Zoning Map is available in pdf on the town website at [http://www.butnernc.org/docs/PlanZone/Zoning%20Map%202012-15-08.pdf](http://www.butnernc.org/docs/PlanZone/Zoning%20Map%202012-15-08.pdf).
Forms

Please note the following forms attached:

- Stormwater Permit Application
- Sample Stormwater Permit
- As-Built Submittal Form
- BMP Certification Statement
- Operation and Maintenance Agreement for BMP’s
- Sample Stormwater Annual Maintenance Inspection Notification letter
- Maintenance Inspection Report
- Example Access Easement from Catawba County
- Example Conservation Easements from Cherokee County and Halifax County
# Stormwater Permit Application - Please fill out completely.

## 1. Application Type

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<td></td>
<td></td>
<td></td>
<td>WS-IV-CA</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## 2. Project Information

- Property Address
- PIN(s)
- Current Use
- Proposed Use
- Total Property Size (acres) (sq. ft.)
- Proposed Impervious Area (sq. ft.)
- Existing Impervious Area (sq. ft.)
- Total Impervious Area (sq. ft.)
- Pre-development Nitrogen Load (lbs/ac/yr)
- Post-development Nitrogen Load (lbs/ac/yr)
- Pre-development Phosphorus Load (lbs/ac/yr)
- Post-development Phosphorus Load (lbs/ac/yr)
- Nitrogen Removed by BMP(s) (lbs/ac/yr)
- Phosphorus Removed by BMP(s) (lbs/ac/yr)

## 3. Contact Information

<table>
<thead>
<tr>
<th>Property Owner</th>
<th>Applicant (Company &amp; Contact)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>Address</td>
</tr>
<tr>
<td>City, State, Zip</td>
<td>City, State, Zip</td>
</tr>
<tr>
<td>Telephone</td>
<td>Telephone</td>
</tr>
<tr>
<td>E-mail address</td>
<td>E-mail address</td>
</tr>
<tr>
<td>Telephone</td>
<td>Fax</td>
</tr>
<tr>
<td>E-mail address</td>
<td>Signature</td>
</tr>
<tr>
<td>Print Name</td>
<td>Date</td>
</tr>
</tbody>
</table>

## 4. Stormwater Plans and calculations

Please submit 2 complete sets of stormwater plans, one set of calculations, and a copy of the operation and maintenance agreement with this application.

**Staff Use Only:**

-
-
Stormwater Permit
For Inspections Call: (919) 575-3031

Town of Butner
Planning Department
415 Central Avenue
Suite A
PO Box 270
Butner, NC 27509

<table>
<thead>
<tr>
<th>Location:</th>
<th>Issued To:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Address</td>
<td>Name</td>
</tr>
<tr>
<td>City, State Zip</td>
<td>Address</td>
</tr>
<tr>
<td>Parcel Number</td>
<td>City, State Zip</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Property Owner:</th>
<th>Comments:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner Name</td>
<td></td>
</tr>
<tr>
<td>Owner Address</td>
<td></td>
</tr>
<tr>
<td>City, State Zip</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Property Size</th>
<th>Land Use</th>
<th>Zoning permit #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of BMP</td>
<td>Watershed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fee: $Permit Amount</th>
<th>Issue Date: Issue Date</th>
</tr>
</thead>
</table>

This permit is granted upon the express condition that the building or use for which the permit is issued shall conform to all the applicable Development Regulations as adopted by the Town Council. This permit may be revoked at anytime upon violation of any of the provisions or failure of plans, as approved, to comply with said Regulations. This permit expires on Expiration Date, if measurable progress towards completion is not demonstrated as outlined in the Butner Land Development Ordinance.

**THIS PERMIT IS NON-REFUNDABLE AND NON-TRANSFERABLE.**

Not valid without authorized signature(s) or stamp(s): Print Date:

_____________________________ date_____
TOWN OF BUTNER
415 Central Ave Suite A·PO Box 270·Butner, NC 27509·919-575-3032·Fax 919-575-3034
As-Built Submittal Form—Please fill out completely.

Prior to obtaining a Certificate of Occupancy, the following items must be provided to the Butner 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 Mebane Phase II 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 Mebane Phase II 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

______________________________
Print Name

Seal (NCPE or ASLA)
1. Application Type

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Zoning Permit #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>WS-II-GW</td>
</tr>
<tr>
<td>Non-residential</td>
<td>WS-II-CA</td>
</tr>
<tr>
<td>Other</td>
<td>WS-III-GW</td>
</tr>
<tr>
<td></td>
<td>WS-IV-GW</td>
</tr>
<tr>
<td></td>
<td>WS-IV-CA</td>
</tr>
</tbody>
</table>

2. Project Information

<table>
<thead>
<tr>
<th>Property Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>PIN(s)</td>
</tr>
</tbody>
</table>

3. Contact Information

<table>
<thead>
<tr>
<th>Property Owner Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner’s Mailing Address</td>
</tr>
<tr>
<td>Telephone</td>
</tr>
</tbody>
</table>

4. Certification

Based upon my assessment of the constructed facility, my review of the as-built survey data, my review of the drainage area treated or managed by the facility, and my analysis of the hydraulic performance of the constructed facility, I hereby certify that the hydrologic and hydraulic, public safety, facility access, drainage area, and vegetative elements of the constructed facility are in compliance with the requirements of the facility as proscribed in the approved Zoning and Stormwater permits, approved design documents, and/or any approved modifications, except as noted in red on the ‘As-Built’ drawings. Furthermore, I certify that the red-noted exceptions do not adversely affect the required performance or public safety aspects of the facility.

<table>
<thead>
<tr>
<th>Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Seal:

Note: This certification statement must be executed by a registered North Carolina Professional Engineer (PE) or North Carolina Registered Landscape Architect (RLA).
TOWN OF BUTNER

BMP Operation and Maintenance Agreement

THIS AGREEMENT, made this ___ day of ________, 20___, by and between

__________________________________________, hereinafter referred to as the “OWNER(S)”,

and the Town of Butner North Carolina, hereinafter referred to as the “TOWN”,

WITNESSETH,

that

WHEREAS, the OWNER is the owner of certain real property described as

__________________________________________, as recorded by deed in the land records of Granville County, (Granville County tax Map/Parcel Identification Number)

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 TOWN, provides for treatment of stormwater within the confines of the property; and

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

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

5. In the event the OWNER, its successors and assigns, fails to maintain the structural stormwater Management facilities in good working condition acceptable to the TOWN, the TOWN may enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the OWNER, its successors and assigns. This provision shall not be construed to allow the TOWN to erect any structure of permanent nature on the land of the OWNER outside of the easement for the structural stormwater Management facilities. It is expressly understood and agreed that the TOWN is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the TOWN.

6. 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 and the association shall enter into an escrow agreement with TOWN. The agreement shall contain all of the following provisions:

   a. Acknowledgment that the association shall continuously operate and maintain the structural stormwater Management facilities.
   
   b. Establishment of an escrow account which can 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. If structural stormwater Management facilities are not performing adequately or as intended or are not properly maintained, the TOWN, in its sole discretion, may remedy the situation, and in such instances the TOWN shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural stormwater Management facilities; provided that, the TOWN shall first consent to the expenditure.

c. Both OWNER contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of stormwater permits, whichever shall first occur, the OWNER shall pay into the escrow account an amount equal to fifteen (15) per cent of the initial construction cost of the structural stormwater Management facilities. 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 stormwater control measure or device. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the property owners 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.

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

e. Allowing the TOWN to recover from the association and its members any and all costs the TOWN expends to maintain or repair the stormwater control and management facility or to correct any operational deficiencies. Failure to pay to the TOWN all of its expended costs, after thirty (30) days written notice, shall constitute a breach of the agreement. The TOWN 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.

f. A statement that this agreement shall not obligate the TOWN to maintain or repair any stormwater control measure or device, and that the TOWN shall not be liable to any person for the condition or operation of structural stormwater Management facilities.

g. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the TOWN to enforce any of its ordinances as authorized by law.

h. A provision indemnifying and holding harmless the TOWN for any costs and injuries arising from or related to the structural BMP, unless the TOWN has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that
7. 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.

8. In the event the TOWN, 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 TOWN upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the TOWN hereunder.

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

10. This Agreement shall be recorded among the land records of Granville County, 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

TOWN OF ____________________

The foregoing Agreement was acknowledged before me this ________ day of _____
______, 20___, by

__________________________________________

__________________________ NOTARY PUBLIC

My Commission Expires: __________________________
TOWN OF BUTNER, NORTH CAROLINA

___________________________________________________________
Town of Butner (Seal)

By: _______________________________________________________

___________________________________________________________
(Type Name)

___________________________________________________________
(Type Title)

STATE OF NORTH CAROLINA

TOWN OF ______________________

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

_____________________________________________
NOTARY PUBLIC

My Commission Expires: ______________
The Town of Butner Water Supply Watershed Protection Ordinance requires that all runoff control structures be inspected monthly to insure they are being maintained and are functioning as originally designed. As part of this inspection process, the Town requires an annual maintenance inspection report to be completed by a licensed professional qualified to perform this inspection. Please see the attached form to be completed by the qualified licensed professional and returned to the town within 30 days of the receipt of this letter.

If you have any questions about this Runoff Control Structure Annual Maintenance Inspection or need assistance in determining how to complete this inspection, please call or e-mail me, Melissa Hodges, at 919-575-3031 or mhodges@butnernc.org.

Respectfully,

Melissa L. Hodges, Butner Town Planner
Ordinance Administrator

Cc File
Watershed Protection Annual Maintenance Inspection Report - Please fill out completely.

The Town of Butner Water Supply Watershed Protection Ordinance requires that runoff control structures be inspected annually to insure they are being maintained and are functioning as originally designed.

A. General Information:

<table>
<thead>
<tr>
<th>Tenant Name:</th>
<th>Owner Name: LicenseeName</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location: LicenseeUDFValue1</td>
<td>Owner Address: AddressLineOne, City, State Zip</td>
</tr>
<tr>
<td>Map/Parcel No.: LicenseeUDFValue4</td>
<td>Tenant/Contact Name:</td>
</tr>
<tr>
<td>Water Supply Watershed: LicenseeUDFValue6</td>
<td>Tenant/Contact Address:</td>
</tr>
</tbody>
</table>

B. The following stormwater runoff controls are found at this project site:

- Wet Detention Pond
- Sand Filters
- Extended Dry Detention
- Infiltration Devices
- Extended Detention Pond
- Bioretention Area
- Filter Strips
- Stream Buffers: ______ ft.
- Grassed Swales
- Pocket Wetlands
- Other: ___________________________________________________

C. THE RESULTS OF THIS YEAR'S INSPECTION ARE AS FOLLOWS:

- VISUAL INSPECTION FOUND NO APPARENT PROBLEMS.

D. Repair and/or Maintenance Items to Completed Within 90 Days:

<table>
<thead>
<tr>
<th>Ponds/Basins:</th>
<th>PRINCIPAL &amp; WQ SPILLWAYS</th>
</tr>
</thead>
<tbody>
<tr>
<td>DAM TOP &amp; SLOPES / FACES</td>
<td>Clear obstructed water quality hole or riser.</td>
</tr>
<tr>
<td>Remove trash &amp; high bushes.</td>
<td>Repair riser/barrel (applicable problems circled): leaking, cracked, deteriorated, collapsed, damaged.</td>
</tr>
<tr>
<td>Evidence of (applicable problems circled): seepage, overtopping.</td>
<td>Outlet end of barrel is eroded or blocked.</td>
</tr>
<tr>
<td>Repair eroded areas.</td>
<td>Filter rock is clogged.</td>
</tr>
<tr>
<td>Seed bare areas.</td>
<td></td>
</tr>
<tr>
<td>EMERGENCY SPILLWAY</td>
<td>IMPOUNDSMENT</td>
</tr>
<tr>
<td>Remove trees and high bushes.</td>
<td>Repair eroded inlet channel and/or drains.</td>
</tr>
<tr>
<td>Repair eroded areas.</td>
<td>Repair eroded slopes.</td>
</tr>
<tr>
<td>Seed bare areas.</td>
<td>Clean sediment from forebay area.</td>
</tr>
<tr>
<td>Repair displaced rip-rap.</td>
<td>Permanent pool less than 3 feet. Perform pond volume check.</td>
</tr>
<tr>
<td>Remove obstructions from spillway.</td>
<td>Clean clogged filter surface.</td>
</tr>
<tr>
<td>Enlarge spillway to adequate capacity.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>OTHER: ________________________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Controls:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Restore sheet flow</td>
<td>Remove debris/trash</td>
</tr>
<tr>
<td>Other:</td>
<td>Restore vegetation</td>
</tr>
<tr>
<td>Location:</td>
<td></td>
</tr>
</tbody>
</table>

E. Additional Comments/Recommendations:

__________________________

Please notify us when work is complete or if you have questions. Inspection by: __________________________________________________________________________________

Melissa Hodges: P.O. Box 270 Central Avenue, Butner, NC 27509 - (919)575-3031 – mhodges@butnernc.org
STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA  

STORMWATER BMP FACILITY  
ACCESS EASEMENT  

THIS DEED OF EASEMENT made this ___ day of , 20__, by and between  
___________________________ (check one)  a [ ] North Carolina Limited Liability 
Company, [ ] North Carolina Corporation, [ ] foreign Business Organization licensed to  
conduct business in North Carolina, [ ] partnership, [ ] resident of the City of Hickory, 
North Carolina, having a mailing address of _________________________________  
_______________________________________, (hereinafter referred to as “Grantor”)  
and CITY OF HICKORY, a North Carolina Municipal Corporation duly organized and  
eexisting under the laws of the State of North Carolina, having a mailing address of Post 
Office Box 398, Hickory, North Carolina, and being situated in Catawba County,  
(hereinafter referred to as “Grantee”);  

WHEREAS, said Grantor owns a certain tract of land located in Hickory 
Township, Catawba County, North Carolina, the same being the land conveyed  
to_________________________. pursuant to deed recorded in Deed Book _____, Page ____,  
in the office of the Catawba County Register of Deeds, which deed is hereby referred to  
for greater certainty of description; and  

WHEREAS, development of said property is subject to the National Pollutant 
Discharge System (NPDES) Phase II Stormwater Regulations and the Phase II  
Stormwater Ordinance adopted by the City of Hickory which requires the Grantor to  
construct, operate, and maintain a structural Best Management Practice (“BMP”)  

device(s) on the described property according to the Operation and Maintenance Agreement and the Operation and Maintenance Manual recorded in Deed Book ____ and Page ____ and which is referenced herein; and

WHEREAS, the parties have determined that it is in the best interest for the Grantor to allow the Grantee access to the BMP device(s) in order to carry out all provisions of the City of Hickory’s Phase II Stormwater Ordinance, including but not limited to inspections of said BMP device(s).

NOW, THEREFORE, said Grantor, for and in consideration of the sum of Ten and no/100 ($10.00) Dollars and other valuable considerations paid to the Grantor by the Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto said Grantee, its successors and assigns, a perpetual non-exclusive right and easement to access the structural BMP device(s) being more particularly described as follows:

With respect to authority granted to the Grantee pursuant to this stormwater BMP facility easement for purposes of the BMP device(s)’ construction, inspection, maintenance, repair, and operation pursuant to the Phase II Stormwater Ordinance adopted by the City of Hickory being all ____________ foot permanent easements and access locations as described and marked on said property, as shown on a survey plat prepared by____________________ and marked thereon as “Access Easement” in which was recorded in Plat Book , ____Page , _____ of the Catawba County Registry of Deeds.

Said Grantor’s property is described in Deed Book ____, at Page ____, Catawba County Registry, and has Tax Parcel Identifications of __________________________.

The Grantor further acknowledges that the Grantee is acquiring this easement for the purpose of performing any operation necessary to restore functionality to the BMP device(s), in the event Grantor or its subsequent successors or assigns fails to operate, maintain, or repair the BMP device(s) so that it does not function as designed.

TO HAVE AND TO HOLD the same, together with all the rights and appurtenances belonging thereto, unto the City of Hickory, its successors and assigns forever, and Grantor is hereby bound, together with all heirs, executors, administrators, or successors, to warrant and forever defend the easement granted herein unto the City of Hickory, its successors and assigns, against every person lawfully claiming the easement or any part thereof.
IN TESTIMONY WHEREOF, the said Grantor has hereunto set his hand and seal the day and year first above written.

_______________________________ (SEAL)
Owner

_______________________________ (SEAL)
Owner

STATE OF NORTH CAROLINA
COUNTY OF _____________

I, _____________________________, a Notary Public of ________________ County, North Carolina, do hereby certify that ____________________________________ and, ___________________________________ personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and seal this ________ day of _________________________, 20__.  

_______________________________
Notary Public
(SEAL)

My Commission Expires: __________________________
ACCEPTANCE

Accepted by the Hickory City Council for and on behalf of the City of Hickory, North Carolina, this ___ day of ____________________________, 20___.

THE CITY OF HICKORY,
A North Carolina Municipal Corporation

ATTEST:

(SEAL)

______________________________
Mick Berry, City Manager

_________________________________
Pamela S. Tallent, City Clerk

Approved as to form on behalf of the City of Hickory this ___ day of __________, 20___.

_________________________________
Attorney for the City of Hickory

STATE OF NORTH CAROLINA
COUNTY OF CATAWBA

I, _____________________________, a Notary Public of said County and State, certify that Pamela S. Tallent personally came before me this day and acknowledged that she is City Clerk of the City of Hickory, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the City Council of the City of Hickory, the foregoing instrument was signed in its name and by its City Manager, sealed with its corporate seal and attested by her as its City Clerk.

Witness my hand and seal, this the ________ day of _________________, 20___.

______________________________
Notary Public

(SEAL)

My Commission Expires: _____________________________.
Pilchuck Creek Soil and Water Conservation District, Grays fracture
Kenneth Brian Shott and Wife, Jennifer C. Shott, Grantors

("Conservation Easement")

DEED OF CONSERVATION EASEMENT

K-4770
R 36 E 34-1-63

Wm. Wm. Wm.

Book 2269 Page 152
WHEREAS, the Grantee has expressed a desire to purchase the Property and is willing to purchase it for the price and upon the terms and conditions specified herein.

NOW, THEREFORE, the Grantee agrees to purchase the Property from the Grantor(s) at the price of $10,000.00, subject to the terms and conditions set forth herein.

The Property consists primarily of agricultural and forest land.

Conservation Easement:

The conservation easement is for the benefit of the Green Mountain Conservancy, which has agreed to accept the easement for the purpose of protecting the natural and scenic values of the property.

The conservation easement is recorded in the Halifax County Register of Deeds as Book 2269, Page 153.

RECEIPTS:

The Grantor(s) have paid the consideration of $10,000.00 for the Property.

The Grantor(s) agree to deliver a deed of conveyance to the Grantee, which will convey the Property to the Grantee.

THE GRANTORS:

[Signatures]

THE GRANTEE:

[Signatures]

HALIFAX COUNTY, NORTH CAROLINA

DEED OF CONSERVATION EASEMENT

BOOK 2269 PAGE 153
uses permitted on the Property by this Conservation Easement are permitted, reasonably necessary and incidental to carrying out the improvements and construction and maintenance of unpaved farm roads that may be

F. Grants' Road Construction

by the Grantee.

activities include, but are not limited to, the conservation activities that are approved under the... the natural resources found on or near the Property, to repair, restore, or otherwise enhance the natural resources found on or near the Property.

G. Grants' Right to Use the Property for Customary Rural Enterprises

C. Grants' Right to Use the Property for Customary Rural Enterprises

B. Grants' Reserved Uses and Restrictions

A. Grants' Development Rights

E. Natural Resource Restoration and Enhancement Activities

D. Prohibited Activities

cabin, breach, sawmills, farm machinery repair enterprises, and hunting lodge or

Grantor(s) retain the right to use the Property for otherwise lawful and customary rural enterprises, such as, but not limited to, a winery, bed and

Grantor(s) may engage or contract others to engage in any activity designed

Notwithstanding any terms contained within this Conservation Easement,
K. Transfer of Property.

Transfer of Property.

Transfer of Property. Pursuant to applicable state and federal regulations that may be in effect at the time,赣itors reserve the right to undervalue recreational uses, including hunting and fishing, and including leasing of such rights for economic gain.

J. Fishing and Hunting Rights.

Fishing and Hunting Rights. Pursuant to applicable state and federal regulations that may be in effect at the time,赣itors reserve the right to undervalue recreational uses, including hunting and fishing, and including leasing of such rights for economic gain.

L. Farm and Foreseable Values of the Property.

Values of the Property. Pursuant to applicable state and federal regulations that may be in effect at the time,赣itors reserve the right to undervalue recreational uses, including hunting and fishing, and including leasing of such rights for economic gain.

M. Trash and Hazardous Waste.

Trash and Hazardous Waste. Pursuant to applicable state and federal regulations that may be in effect at the time,赣itors reserve the right to undervalue recreational uses, including hunting and fishing, and including leasing of such rights for economic gain.

G. Mining.

Mining. Pursuant to applicable state and federal regulations that may be in effect at the time,赣itors reserve the right to undervalue recreational uses, including hunting and fishing, and including leasing of such rights for economic gain.
Property is a condition prior to the violation as restoration of the Property may issue an injunction or order requiring the Grantor(s) to restore the property.

Conservation Easement Through Judicial Action. The parties agree that a court of this Conservation Easement who, at the time of transfer, is a qualified organization under 26 U.S.C. § 170(h) of the Internal Revenue Code, or applicable state law, a court with jurisdiction shall transfer this Conservation Easement to any public agency or private nonprofit organization subject to the contingent rights of the State of North Carolina with implied

Enforcement

Liability shall be apportioned accordingly.

O. Liability and Indemnification

any legal or other responsibility on the Grantor(s) of the State of North Carolina.

N. Obligations

The Grantor(s) warrant that they have no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property.

M. Grantor's Environmental Warranty

imposed by this Conservation Easement or assumed by this Conservation Easement having similar purposes that agrees to assume the responsibility.

L. Transfer of Conservation Easement

provided the agency or organization expressly agrees to assume the responsibility imposed on the Grantor(s) by this Conservation Easement. As a general rule, provided the agency or organization expressly agrees to assume the responsibility imposed on the Grantor(s) by this Conservation Easement.
R. Procedure in the Event of Condemnation or Eminent Domain

Services

Appraisal, from the North Carolina Department of Agriculture and Consumer Services, of the frost damage, shall give notice of any amendment to and secure duly recorded. Garnishment shall give notice of the Internal Revenue Code or any regulations issued by the Secretary of Agriculture, any such amendment shall be consistent with the General Condemnation of Eminent Domain and with the statement of purpose of the Condemnation of Eminent Domain may be amended by a written instrument executed by the Commissioner and the Garnishment(s) and approved by the Commissioner.

C. Amendment

Easement shall become vested in the State of North Carolina. The Commissioner of Agriculture shall appoint an officer of the Department of Agriculture and Mental Health to deliver a notice of the intent to establish a permanent easement on the terms of the Condemnation of Eminent Domain. Any amendments, and all other amendments under Federal or State Easement shall be approved and signed by the Secretary of Agriculture and his or her successors in accordance with the terms of the Condemnation of Eminent Domain. In the event that the Garnishment fails to enforce any of the terms of this Condemnation Easement, it is own costs.
partition or any other division of the Property, is prohibited.

Subdivision

Impairs the conservation values of the Property, or affects its productivity, or otherwise diminishes or

The estate of any person who is entitled to any part of the Property

Subsequent Easements

The general conservation purposes of this Conservation Easement shall be served by the proceeds constituting with

The North Carolina Department of Agriculture and Consumer Services shall use the proceeds constituting with

The ratio of the or to the appreciated value of the Conservation Easement to the

S. Procedure in the Event of Termination of Conservation Easement

Conservation purposes of this Conservation Easement shall be served by the proceeds constituting with the general

The North Carolina Department of Agriculture and

The Conservation Easement may be terminated or modified by a public authority rendering it impossible to fulfill any of the

If the Conservation Easement is extinguished, terminated or modified, a court with jurisdiction may, at the joint request of

If it is determined that conditions or surrounding the Property change so
IN WITNESS WHEREOF, the Granter(s) and Grantee, Intending to legally bind
agains the claims of all persons whatsoever
and the said Granter(s) do hereby covenant that they are seized of said
premises in fee and have the right to convey the same, that the same are free
and its successors and assigns forever.

TO HAVE AND TO HOLD this Deed of Conservation Easement unto Grantee

For the purpose of furthering:

North Carolina Department of Agriculture and Consumer Services:

To North Carolina Department of Agriculture:

Halifax, NC 27839
P. O. Box 6
Fishtown Creek Soil and Water Conservation District

To Grantee:

Gastonia, NC 28054
9660 Jackson Bypass Road
Kemneth Brian Short and Jennifer C. Short

To Granter(s):

notified in writing by the other or a change of address.

Any notices required by this Conservation Easement shall be in writing and

V. Notices
My Commission Expires: 1/32/2004

[Signature]

Notary Public

COUNTY OF

NORTH CAROLINA

2009,

Witnesse my hand and official stamp or seal, this the 3rd day of February,

Witness my intant in its name and on its behalf as act and deed.

By authority duly given and as the act of such entity, he signed the foregoing instrument in its name and on its behalf as act and deed.

By authority duly given and as the act of such entity, he signed the foregoing instrument in its name and on its behalf as act and deed.

I, a Notary Public for said county and state, do hereby certify that Kenneth Brian

HAILEY COUNTY

NORTH CAROLINA

B-64
NORTH CAROLINA

HALIFAX COUNTY

I, a Notary Public for said county and state do hereby certify that D. David Steinbock personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 2nd day of February, 2009.

[Signature]
Notary Public

My Commission Expires: 7/22/2013
December 27, 1991, and recorded in Book Cabinet 4, Slide 249, Harris Public Registry.

Standing in the name of June C. Behrman as H. Paul Behrman, prepared by Burker & Associates, P.A., dated December 27, 1991, containing 2.96 Acres, and Fred D. Granger, containing 2.0 Acres, on the following premises:

P. Beginning a new iron pipe located in the northern right of way of N.C. State Road No. 145, said beginning

EMPLOYMENT AND CONTRACTS

EXHIBIT A

BOOK 2269 PAGE 163
Town of Butner

Falls Lake Stormwater Management Program for New Development

Supplemental Information

Submitted: August 9, 2011
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1 Program Approval

The Town of Butner approval process is typically review and recommendation by staff, then the Planning Board, with final approval by the elected body or Butner Town Council. Prior to this Stormwater Program being submitted to DWQ, it was taken to the Planning Board and Town Council for review and comments. Since the program must be reviewed by the Division and approved by the Commission, Town staff is not asking the Planning Board or Town Council to consider approval of the program or ordinance amendments until after the program and ordinance are approved by the Commission. Once the Division makes their recommendation, and the Commission approves a final program for the Town, then the proposed stormwater program and associated Land Development Ordinance amendments will be taken to the Planning Board for recommendation and then to the Town Council for approval of the program and adoption of the requisite ordinance amendments to implement the program. At this time, staff intends to take the proposed stormwater program and ordinance amendments to the Planning Board for recommendation in March of 2012 to allow enough time for consideration and recommendation to the Town Council for both to be adopted by the Town Council no later than June of 2012 with an effective date of July 1, 2012.
2 Ordinance Changes

2.1 Existing Land Development Ordinance

Butner has implemented the Universal Stormwater Management Program as part of its Land Development Ordinance which applies to both the town’s incorporated area and the ETJ. The Falls Rule for New Development will be adopted as part of the Land Development Ordinance. Following the Model Ordinance provided and beginning with Section 1: General Provisions, the following is a list of the sections in the Land Development Ordinance (LDO) that are either existing, proposed to be added or amended to meet the Falls New Development Rule.

Section 1: General Provisions

Title – Section 1.1 of the LDO notes the title. Since the Falls Watershed Stormwater Ordinance will be part of the LDO, no change to the title is proposed.

Authority – Section 15.1 of the LDO grants authority to the Butner Town Council to adopt this ordinance. There are some small differences. No changes are proposed as the existing ordinance is sufficient.

Findings – Section 15.2 of the LDO notes the findings. 15.2.1, 15.2.2, 15.2.3 are the same as the model ordinance. The fourth finding in the model ordinance was added as 15.2.4 in the LDO, and the fifth finding in the model ordinance was moved from 15.2.4 to 15.2.5 in the LDO, and the words “for development” were added to the end to match the model ordinance exactly.

Purpose – The LDO notes the purpose in Section 15.3.1, however reference to nitrogen and phosphorus reductions were added to the LDO to match the model ordinance. The first seven of the objectives and means noted in the model ordinance already exist in the LDO as Sections 15.3.2(A) through 15.3.2(G). Objectives and means numbered 8-11 in the model ordinance are all optional and not being done by the Town at this point in time, so no additional objectives and means are proposed. Number eight addresses coordinating site design plans that include open space and natural areas with the Town’s comprehensive plan. At this time Butner does not have any regulations in the LDO to coordinate open space or natural areas, however there are areas designated on the 2020 Comprehensive Land Use Plan intended to be preserved as natural areas and this guides the Town Council and other boards and staff in consideration of text amendments and zoning map amendment requests. Object nine refers to controlling illicit discharges. Butner will begin implementing an illicit discharge and elimination program as part of its NPDES Phase II permit in year three of that permit which is anticipated to be in 2014. Until then, the South Granville Water and Sewer Authority handles illicit discharge for the town. Objective ten pertains to erosion and sedimentation from construction activities, which will continue to be handled by the State Department of Environment and Natural Resources at this time. Finally, there is an entire section of the LDO that addresses flood damage prevention and it is not being added to this section.

Applicability and Jurisdiction – Section 15.4 of the LDO address this. Changes were made to 15.4.2(A)(1) to reduce the thresholds for development. The other regulations in section 15.4.2 A are the same or more strict than the model ordinance so no further changes are proposed.
No development or Redevelopment Without a Permit – This is in Section 15.4.3 of the LDO with no changes proposed.

Map – Section 15.4.4 notes the map. At the time the LDO was adopted this was the USMP Map and Butner intends to apply the Falls New Development Rule to the same area that the USMP applied to, which is the entire planning jurisdiction for Butner, Including the ETJ, so no changes to the map, or the map name are proposed at this time.

Interpretation – This is addressed in Articles I and II of the LDO, more specifically:

Meaning and Intent – Section 1.5
Text Controls in the Event of Conflict – Section 1.6.3(H)
Authority and Interpretation – Proposed as Section 1.6.2
References to Statutes, Regulations, and Documents – Section 1.6.3(I)
Computation of Time – Section 1.6.3(F) with small changes to match the model ordinance
Delegation of Authority – Section 2.5.1
Usage/Mandatory and Discretionary Terms – Section 1.6.3(D)
Usage/Conjunctions – Opting not to add to the LDO at this time
Usage/Tense, Plurals, and Gender – Sections 1.6.3(B), 1.6.3(C) and 1.6.3(E)
Measurement and Computation – Opting not to add to the LDO at this time

Design Manual – This is in Section 15.5.1 of the LDO with two small differences. Instead of referring to engineered stormwater controls like the model ordinance, the LDO refers to BMP’s. This was not changed. At the very end of this Section, “Falls Rules” was added to match the model ordinance. Sections 15.5.2 and 15.5.3 match the model ordinance. There is nothing to be added regarding amendments to the Design Manual because Butner does not have a special local Design Manual.

Relationship to Other Laws, Regulations and Private Agreements – The LDO Sections 1.7.1, 1.7.2 and 1.7.3 address these items in the model ordinance. There are some small differences between the model ordinance and the LDO, but no changes are proposed at this time because the LDO is considered adequate.

Severability – Section 1.10 of the LDO matches the model ordinance.

Effective date and Transitional Provisions – Section 1.3 of the LDO addresses the effective date. The effective date of the LDO is the original effective date. No changes are proposed although the effective date for the amendments proposed related to complying with this model ordinance will be July 1, 2012. This will be in the amendment itself, not in the LDO.

Final Approvals, Complete Applications – Section 1.9 of the LDO addresses this. No changes are proposed at this time.

Violations Continue – Section 1.9.4 of the LDO addresses this. No changes are proposed at this time.

Section 2: Administration and Procedures
Review and Decision-Making Entities – Section 2.5 of the LDO designates an Ordinance Administrator. The Ordinance Administrator has the duties and responsibilities that are assigned to the Stormwater
Administrator in the model ordinance. At this time, there is no stormwater board so technical assistance to a stormwater board is not a proposed change at this time.

Review Procedures – Section 3.2.8
Permit Required - Section 3.2.8(B) with a proposed change to require a stormwater development permit for all development and redevelopment that is not exempt, rather than only in areas designated WPO-CA and WPO-GA.
Effect of Permit – Section 3.2.8(A) and 3.2.8(E)
Authority to File Applications – Section 3.1.1
Establishment of Application Requirements, Schedule, and Fees – 3.1.2, 3.1.4, 3.1.3. No Administrative Manual exists or is proposed at this time.
Submittal of Complete Application – 3.1.6
Review – 3.1.7. The regulation on Approval is also in addressed in 3.2.8(C)(2). There is no additional fee or regulation regarding re-submittal and subsequent review at this time. Planning staff has not needed to charge for addition reviews or re-submittals. Stormwater permits pay fees for review time charged by a third party consultant so each review fee is specific to the development and how much time must be spent in reviews and re-reviews.

Applications for Approval
Concept Plan – Concept plans and consultation meetings are not required, but are options available for site plan or subdivision plans and regulations for such are in Section 3.2.6 of the LDO. As Butner grows if needed this may be expanded upon to be required or to have more of the requirements recommended in the model ordinance, but at this time no changes are proposed.
Stormwater Management permit Application - Section 3.2.8(D) in the LDO addresses this the same as the model ordinance.
As-Built Plans and Final Approval – Section 3.2.8(F) of the LDO addresses this the same as the model ordinance. Only one item changed, and that was the addition of the last sentence regarding final inspection that was added to the LDO from the model ordinance.
Other Permits – Section 3.2.8(G) added to the LDO to match the model ordinance.

Approvals – Sections 3.2.8(E) and 3.2.8(H) in the LDO match the model ordinance Effect of Approval and Time Limit/Expiration.

Appeals – Appeals are in Section 3.2.13 in the LDO. Specifically Right of Appeal is Section 3.2.13(A), Filing and Procedures is in Section 3.2.13(B) with more specific detail than the model ordinance and is the same procedure for other types of appeals so no changes are proposed. Appeal of Decision provides the procedure for appealing Board of Adjustment decisions to the Superior Court in 3.2.13(D).

Section 3: Standards
General Standards – Section 15.6 and 15.6.2(E) in the LDO meet the model ordinance.

Nitrogen and Phosphorus Loading – Section 15.6.3 was added to the LDO matching the model ordinance to meet the requirements for nitrogen and phosphorus loading, partial offset of nutrient control requirements, and nitrogen and phosphorus standard is supplemental. Control and Treatment of Runoff Volume is addressed in Section 15.6.2 of the LDO with an additional statement in 15.6.2(E) “to ensure
that the integrity and nutrient processing functions of receiving waters and associated riparian buggers are not compromised by erosive flows, stormwater flows from the development shall not contribute to degradation of waters of the State.

Evaluation of Standards for Stormwater Control Measures – Sections 15.6.3(A) and 15.6.3(B) in the LDO match the model ordinance.

Dedication of BMP’s, Facilities & Improvements – Section 15.6.3(D) in the LDO match the model ordinance.

Variances – Section 3.2.5 of the LDO address all aspects of variances, and stormwater variances are handled the same as other variances. Section 3.2.5(L)(2) was changed to add provisions for any variance that would be a major watershed variance as defined in the model ordinance to go to the Commission for approval.

**Section 4: Maintenance**

Function of BMP’s as Intended – Section 15.7.1(A) of the LDO matches the model ordinance.

Annual Maintenance Inspection and Report – Section 15.7.1(B) of the LDO matches the model ordinance.

Operation and Maintenance Agreement – Sections 15.7.2(A) and 15.7.2(B) of the LDO match the model ordinance.

Inspection Program – Section 15.7.3 of the LDO matches the model ordinance.

Performance Security for Installation and Maintenance – Section 15.7.4 of the LDO matches the model ordinance.

Notice to Owners – Section 15.7.5 of the LDO matches the model ordinance.

Records of Installation and Maintenance Activities – Section 15.7.6 of the LDO matches the model ordinance.

Nuisance – Section 15.7.7 of the LDO matches the model ordinance.

Maintenance Easement – Section 15.7.8 of the LDO matches the model ordinance.

**Section 5: Enforcement and Violations**

Article IV of the Land Development Ordinance addresses all aspects of enforcement and violations of the Ordinance. No changes are proposed to this section so that enforcement of the stormwater regulations are handled the same as enforcement of zoning violations which follows GS 160A-174, 160A-175 and 160A-193.
Section 6: Definitions

The following definitions were added to the LDO Section 17.1 to match the model ordinance: Approved Accounting Tool, Built-upon Area (BUA), Commission, Department, Division, Engineered stormwater control, Land disturbing activity, Outfall, and Stormwater system.

The following definitions were already in the LDO in Section 17.1: Larger common plan of development or sale, 1-year, 24-hour storm, Owner, and Substantial progress.

The following definitions were already in Section 17.1 of the LDO and the definition in the LDO is more detailed and meets the standards for the model ordinance and so no change is proposed: Development, Existing development, Person, and Redevelopment.

Minor and Major Variances are not in the LDO because there is only 1 type of variance.

The definition for Design Manual was revised to reference Falls Watershed instead of Phase II regulations.

Following is a draft amendment stating the changes proposed to the Land Development Ordinance.

AMENDMENT TO THE BUTNER LAND DEVELOPMENT ORDINANCE (LDO) REVISIONS FOR COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE

Whereas, the Butner Town Council found it necessary to adopt the Butner Land Development Ordinance on September 24, 2008, to provide for the orderly, planned, and efficient growth of the Town of Butner; and

Whereas, the need to amend and/or change this same ordinance from time to time exist to provide for its efficient administration and enforcement or to address changing conditions of growth and development of the Town; and

Whereas, the Butner Planning Board held a public meeting on the proposed amendment on May 12, 2011 and made a positive recommendation on the adoption of the proposed amendment on [insert date]; and

Whereas, a public hearing was conducted on the proposed amendment by the Butner Town Council on [insert date] at which evidence was presented.

NOW THEREFORE BE IT ORDAINED BY THE BUTNER TOWN COUNCIL THAT:

The following are amendments proposed to the Land Development Ordinance to bring the town into compliance with the Falls Nutrient Strategy New Development Regulations. Changes are made in accordance with the recommendations of the model ordinance

SECTION 1. Amend Article 1 – General Provisions, Sections 1.6.1 Authority of Interpretation and Section 1.6.3(F) Days to follow as closely as possible the model ordinance for Falls Nutrient Strategy New Development Regulations. Areas highlighted in gray are proposed new language.

1.6.2 Authority of Interpretation
Ordinance Administrator has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Ordinance Administrator, who shall respond in writing. The Ordinance Administrator shall keep on file a record of all written interpretations of this ordinance.

1.6.3(F) Days

Any reference to “days” means calendar days unless otherwise specified. 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 Town of Butner, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Butner.

SECTION 2. Amend Article 3 – Review and Approval Procedures, Sections 3.2.5(L)(2) Additional Notification and Approval Requirements related to watershed variances, and 3.2.8(G) Other permits limiting other permits from being issued if the stormwater regulations are not being met. Existing Section 3.2.8(G) Expiration becomes Section 3.2.8(H). Areas highlighted in gray are proposed new language.

3.2.5(L)(2) Additional Notification and Approval Requirements

Upon the approval of a Watershed Variance, the Ordinance Administrator shall transmit a notice of such variance to the NC Environmental Management Commission. If the Board decides in favor of granting a variance from the statewide watershed protection of 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, then the Board shall prepare a preliminary record of the hearing and submit it to the Commission for review and approval. If the Commission approves the variance, or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision which authorizes the Town of Butner to issue a final decision which would include any conditions or stipulations added by the Commission. If the Commission denies the variance, then the Commission shall prepare a decision to be sent the Town of Butner. The Town of Butner shall prepare a final decision denying the variance. Appeals from the Commission decision are made on judicial review to Superior Court.

3.2.8(G) Other Permits

No certificate of compliance or occupancy shall be issued by the Town of Butner or any agency acting on behalf of the Town of Butner 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 Town of Butner 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.

SECTION 3. Amend Article 15 – Water Supply Watershed Protection, Section 15.1 Authority adding the Falls Nutrient Strategy New Development Regulations. Areas highlighted in gray are proposed new language, and text that is shown in strikethrough is proposed to be removed.

15.1 Authority

This Article is adopted pursuant to NCGS 143-214.7, Session Law 2006-246 and the rules promulgated by the North Carolina Environmental Management Commission thereunder. Specifically, this Article is adopted to comply with the standards of the Universal Stormwater Management Program and the Falls Nutrient Strategy New Development Rule as set forth in the North Carolina Administrative Code (15A NCAC 2H.1020(b) and 15A NCAC 02B .0277).

SECTION 2. Article 15 – Water Supply Watershed Protection, Section 15.2 Findings to replace 15.2.4 with the following:

15.2.4 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;

Section 15.2.4 as it is currently in the ordinance will now be 15.2.5.

15.2.5 Therefore, the Town of Butner 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.

15.3.1 General

The purpose of this Article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, nitrogen and phosphorus in stormwater runoff, and nonpoint and point source pollution associated with new development and redevelopment. 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.
15.4.2(A)(1) Single-family and duplex residential and recreational development that cumulatively disturbs less than 1 half acre of land, and is not part of a larger common plan of development or sale, and non-residential and multi-family development that cumulatively disturbs less than one half acre of land 12,000 square feet, and is not part of a larger common plan of development or sale, is exempt from the provisions of this Article.

15.4.2(A)(4) Redevelopment of non-residential structures that disturbs less than one half acre 12,000 square feet, that is not part of a larger common plan of development or sale, that is within the floodplain, and that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Article.

15.6.1 Impervious Surface Requirements

(A) Setback Requirement

All impervious surfaces, except for roads, paths, and water dependent structures, shall be located at least 30 feet landward of all perennial and intermittent surface waters. Public Roadway crossings, bridges and greenways may be allowed in the setback where no practicable alternative exists.

15.6.2(E) 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.

15.6.3 Nitrogen and Phosphorus Standards

(A) Nitrogen and Phosphorus Loading

(1) Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: [2.2 and .33 pounds per acre per year for nitrogen and phosphorus, respectively.]

(2) 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.

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

(B) 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:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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 Town of Butner. A developer may propose other offset measures to the Town of Butner, 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.

15.7.2(A)(2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to Town of Butner a right of entry in the event that the Ordinance Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the Town of Butner to assume responsibility for the structural BMP.

SECTION 4. Amend Article 17 – Definitions, Section 17.1 General Definitions to add or make changes to the following definitions as shown with proposed new text highlighted and itext to be removed shown in strikethrough.

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 Phase II jurisdictions of this part of the Falls Watershed by the NC Department of Environment and Natural Resources for the proper implementation of the requirements of the federal Phase II Falls Watershed stormwater program. All references herein to the Design Manual are to the latest published edition or revision.

DIVISION
The Division of Water Quality in the Department.

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.

OUTFALL
A point at which stormwater (1) enters surface water or (2) exits the property of a particular owner.

REDEVELOPMENT
Any development on previously-developed land, other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development. 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.
3  Land Use Planning

No review of local ordinances to identify potential modifications have been conducted by Town staff that would 1) reflect improved growth management practices 2) allow developers adequate flexibility to utilize planning measures to reduce impervious surfaces and 3) reduce untreated nutrient loading rates from development. Some review of local land use plans has been done by the Upper Neuse River Basin Association.