

## **ARTICLE 10. PERFORMANCE STANDARDS**

### **PART VI. STORMWATER MANAGEMENT.**

#### **SECTION 10.42 PURPOSE.**

The purpose of this Article is to establish minimum criteria to control and minimize quantitative and qualitative impacts of stormwater runoff from development within the Town of Smithfield, a nutrient management program for new development in accordance with 15A NCAC 25.0235 Neuse River Basin Nutrient Sensitive Waters Management Strategy: Basinwide Stormwater Requirements.

Further, prudent site planning should include special consideration for the purposes of preserving natural drainage ways, maximizing infiltration, and slowing stormwater runoff from individual sites in route to streams and rivers by use of effective runoff management, structural and non-structural best management practices, drainage structures, and stormwater facilities.

#### **SECTION 10.43 APPLICABILITY; EXCEPTIONS TO APPLICABILITY.**

**10.43.1.** The provisions of this section shall apply to all areas within the planning jurisdictional limits of the Town of Smithfield, unless exempt as provided in Section 10.43.2.

**10.43.2.** The provisions of this section shall not apply to:

**10.43.2.1.** Developers/property owners that can demonstrate that they have vested rights as of the adoption date of the revised stormwater ordinance shall be exempt from the revised stormwater ordinance.

**10.43.2.2.** Developments that meet one of the following requirements shall be exempt from storm attenuation:

**10.43.2.2.1.** There is no increase in peak flow between pre- and post-development conditions; or

**10.43.2.2.2.** The proposed development meets all of the following criteria: overall impervious surface is less than fifteen (15) percent and the pervious portions of the site are utilized to the extent practical to convey and control stormwater runoff.

**10.43.2.3.** The nutrient management and/or reduction requirements of this Ordinance are required in all developments of one acre or more whether or not the development is exempt from further requirements. NOTE: Nutrient management and/or reduction shall be required.

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### **SECTION 10.44 INTERPRETATION.**

**10.44.1.** In interpreting and applying this section, the requirements are intended to be minimum requirements, which are imposed and are to be conformed to, and are in addition to, and not in lieu of, all other legal requirements.

**10.44.2.** This section shall not be deemed to interfere with or annul or otherwise affect in any manner whatsoever any ordinance, rules, regulations, permits, or easements, covenants, or other agreements between parties, provided, however, that where this section imposes greater restrictions and controls with respect to stormwater management, the provisions of this section shall prevail.

### **SECTION 10.45 STORMWATER PERMIT APPLICATION PROCESS.**

**10.45.1.** Except where provided elsewhere, land-disturbing activities shall not commence without obtaining a stormwater permit pursuant to the provisions of this section and the stormwater design manual.

**10.45.2.** The stormwater permit application shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which the permit is sought. The application shall be filed with the town on a form supplied by the town and shall be accompanied with the information identified in the stormwater design manual.

**10.45.3.** A stormwater permit shall not be issued until the following conditions are met:

**10.45.3.1.** Approval of the stormwater management plan by the UDO Administrator.

**10.45.3.2.** Submission and approval of any required easements and impervious area statements on a map to be recorded.

**10.45.3.3.** Submission and approval of any required inspection and maintenance agreement and/or escrow account or other legal instrument established to ensure long-term maintenance of BMPs.

**10.45.3.4.** Payment of all fees.

**10.45.4.** If the development requires approval of an erosion and sediment control plan, the stormwater permit will be conditional upon the owner receiving such erosion and sediment control approval.

**10.45.5.** The stormwater permit will be valid for one year from the date of issuance or until significant changes in the development are made that change the intent of the permit. The UDO

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Administrator shall determine significant changes. If significant changes are made, the original stormwater permit shall not be valid, and a new permit shall be required.

### **SECTION 10.46 FEES.**

A list of fees associated with this section is available at the planning department in the Smithfield Town Hall.

### **SECTION 10.47 STORMWATER MANAGEMENT AND PLANS.**

**10.47.1.** Stormwater shall be conveyed from developments in an adequately designed drainage system of natural drainage ways, grass swales, storm sewers, culverts, inlets, and channels. Drainage systems shall be designed, constructed, and maintained to encourage natural infiltration, control velocity, control flooding, and extend the time of concentration of stormwater runoff. The UDO Administrator shall determine adequacy of the stormwater drainage system.

**10.47.2.** The post-development runoff rate for the two-year storm event shall be attenuated to the predevelopment runoff rate for the two-year storm.

**10.47.3.** The nitrogen loading contributed by new development shall be restricted to 3.6 pounds of nitrogen per acre per year. Methodologies for determining nitrogen loading are outlined in the stormwater design manual.

**10.47.4.** A developer has the option of offsetting the nitrogen loading from a development by paying into the state wetlands restoration program. Procedures for offset payments are outlined in the stormwater design manual. When using the offset payment, the total nitrogen loading from a development shall not exceed 6.0 pounds per acre per year for residential development and ten pounds per acre per year for nonresidential development.

**10.47.5.** Stormwater management plans shall:

**10.47.5.1.** Include drawings, maps, supporting calculations, specifications, and summaries as outlined in the stormwater design manual.

**10.47.5.2.** Demonstrate through accepted engineering practices described in the stormwater design manual the impacts of the proposed development. Impacts of the proposed development shall include:

**10.47.5.2.1.** Effects on existing upstream and/or downstream drainage systems and property;

**10.47.5.2.2.** Ability of the natural drainage way to handle additional stormwater runoff; and

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**10.47.5.2.3.** Site-specific criteria supporting the analysis of any impacts noted in subsections 10.47.5.2.1 and 10.47.5.2.2 above.

**10.47.5.3.** Demonstrate through accepted engineering practices described in the stormwater design manual that stormwater runoff is adequately conveyed through the development in a drainage system designed to meet the criteria described in the stormwater design manual.

**10.47.5.4.** Demonstrate through accepted engineering practices described in the stormwater design manual that stormwater facilities required to control the impacts of the development are designed to meet the criteria described in the stormwater design manual.

**10.47.5.5.** Demonstrate that the nitrogen loading from the new development does not exceed the limits set forth in Section 10.47.3.

**10.47.5.6.** For new construction, prior to the issuance of a certificate of occupancy, the engineer's certificate of completion and compliance for the constructed BMP will be required.

### **SECTION 10.48 MAINTENANCE AGREEMENT.**

A written inspection and maintenance agreement in a form acceptable to the town attorney and executed by the applicant and the owner(s) of the BMP, if different than the applicant, shall be provided prior to receiving a stormwater permit. The agreement shall:

**10.48.1.** Bind the parties thereto and all subsequent owners, successors, and assigns to maintenance and inspection of the system or structure;

**10.48.2.** State that if the town directs the correction, repair, replacement, or maintenance of the system or structure in writing and the actions are not satisfactorily performed within a reasonable time (but not greater than one hundred twenty [120] days), the town (or its contractors) may, after reasonable notice, enter the land and perform all the necessary work and may assess the owner(s) of the facility with the cost of the work performed or the town can seize all or part of the escrow or other fund set aside by the applicant for perpetual maintenance. The owner(s) served by the facility shall be jointly responsible to the town for the maintenance of the facility and liable for any costs incurred by the town pursuant to the said agreement. All properties are jointly subject to the imposition of the liens for said costs.

**10.48.3.** The inspection and maintenance agreement shall be recorded in the register of deeds at the expense of the applicant.

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### **SECTION 10.49 EASEMENTS.**

Easements for stormwater BMPs shall include the area of the BMP, area of ponded water, and enough area for access and maintenance from a public right-of-way. The easement shall be recorded in the register of deeds at the expense of the applicant and shall be depicted on the final plat or recorded map.

### **SECTION 10.50 ILLEGAL DISCHARGE.**

No person shall cause or allow the discharge, disposal, pouring or pumping directly or indirectly to any stormwater conveyance structure, stormwater conveyance system, stream, lake, pond, wetland, or other body of water, or upon the land in proximity to the same, any fluid, solid, or other substance (other than stormwater). Prohibited substances include, but are not limited to oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter. Examples of illegal discharges are:

- 10.50.1.** Dumping of oil, anti-freeze, paint or cleaning fluids;
- 10.50.2.** Untreated commercial carwash wash water;
- 10.50.3.** Industrial challenges;
- 10.50.4.** Contaminated foundation drains;
- 10.50.5.** Cooling waters, unless no chemicals added and has valid NPDES permit;
- 10.50.6.** Wash water from commercial and industrial activities;
- 10.50.7.** Chlorinated backwash and draining associated with swimming pools;
- 10.50.8.** Domestic wastewater;
- 10.50.9.** Septic system effluent;
- 10.50.10.** Washing machine discharges.

### **SECTION 10.51 ALLOWABLE DISCHARGES.**

Examples of allowed discharges are:

- 10.51.1.** Water line flushing;

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**10.51.2.** Irrigation;

**10.51.3.** Uncontaminated groundwater pumping;

**10.51.4.** Street wash water;

**10.51.5.** Dechlorinated backwash and drainage associated with swimming pools;

**10.51.6.** NPDES permitted discharges.

### **SECTION 10.52 ILLEGAL CONNECTIONS.**

Connections to a stormwater conveyance system or structure that allow the discharge(s) of non-stormwater are unlawful. Prohibited connections include but are not limited to:

**10.52.1.** Floor drains;

**10.52.2.** Waste water from washing machines or sanitary sewers;

**10.52.3.** Wash water from commercial vehicle washing or steam cleaning;

**10.52.4.** Waste water from septic systems.

### **SECTION 10.53 DETERMINATION OF CONNECTION.**

Upon determining that said connection:

**10.53.1.** May result in the discharge of hazardous materials, may pose a threat to health and safety, or is likely to result in immediate injury or harm to human or animal life, natural resources, to real or personal property, or habitat, or

**10.53.2.** Was made in violation of any applicable regulation or ordinance, the UDO Administrator shall outline in a notice of violation, sent by certified mail, the time in which the connection shall be removed. Failure to comply with the terms and deadline set in the notice of violation will constitute a violation of this Ordinance.

### **SECTION 10.54 RIPARIAN BUFFERS.**

Fifty-foot wide riparian buffers shall be maintained along both sides of a stream, river or other water body as required by the Neuse River Basin: Nutrient Sensitive Waters Management Strategy - Protection and Maintenance of Riparian Buffers, Section 3(a-b). Riparian buffer shall be noted on the maps submitted for stormwater management plan approval and shall be noted on the final, recorded map.

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Determination of exemptions as noted in 15A NCAC 2B.0233 Neuse River Basin: Nutrient Sensitive Waters Management Strategy - Protection and Maintenance of Riparian Buffers, Section 3 (a-b) shall be made by the NCDEQ Division of Water Resources.

### **SECTION 10.55 RIGHT TO ENTER.**

Any town personnel, or contractors for the town shall be permitted to enter upon public or private property for the purposes of inspection, sampling, monitoring, testing, or otherwise verifying compliance. Should the town personnel, or contractor for the town, be denied reasonable access to any property, the UDO Administrator shall obtain an administrative search warrant.

No person shall obstruct, hamper or interfere with any such representative while carrying out his/her official duties.