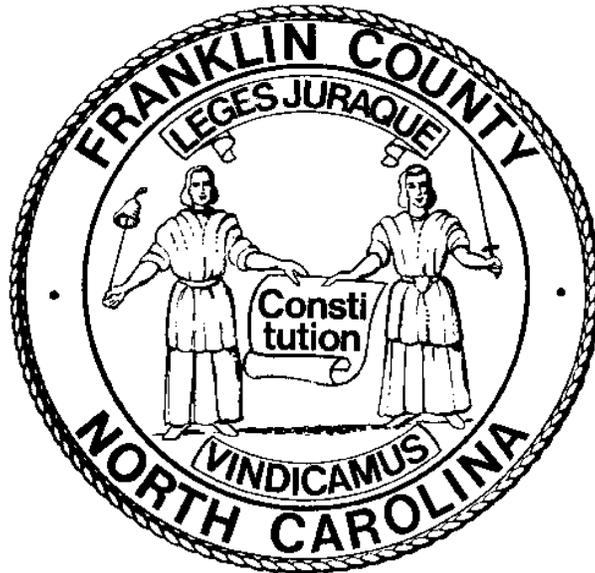


***FRANKLIN COUNTY  
STORMWATER ORDINANCE***



***REVISED  
JUNE 30, 2012***

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## **Section 1 — AUTHORITY**

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These regulations, officially known as the “Franklin County Stormwater Ordinance,” are adopted pursuant to the authority vested in Franklin County by the Session Laws and the General Statutes of North Carolina, particularly Article 18, Parts 1, 2, 3, and 4, Chapter 153A-140, Chapter 153A-121; North Carolina General Statutes Chapter 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Chapter 143-215.6A; Chapter 153A-454; Chapter 160A, §§ 174, 185, 459; and any special local legislation enacted by the General Assembly for Franklin County.

## Section 2 — PURPOSE AND INTENT

Pursuant to requirements of the North Carolina Administrative Code Section 15A NCAC 2B .0200 *Classifications and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina*, and Section 15A NCAC 2B .0258 *Tar-Pamlico River Basin Nutrient Sensitive Waters Management Strategy: Basinwide Stormwater Requirements*, the Tar-Pamlico River Basin Stormwater Management Area has been established. This area is for lands within the Tar-Pamlico River Basin in Franklin County. Wherever other County ordinances and regulations differ from the Tar-Pamlico River Basin standards, the more restrictive provisions shall apply. Additional information may be obtained at:

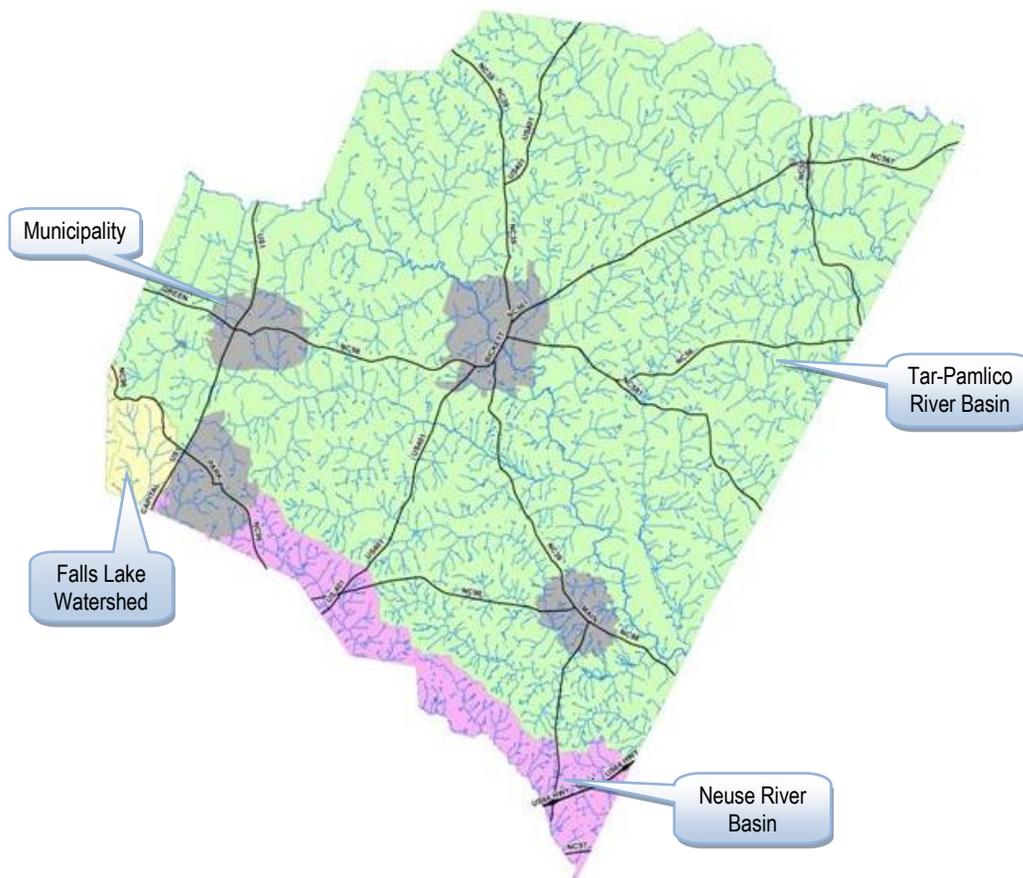
<http://portal.ncdenr.org/web/wq/ps/nps/tarpamlico>

A small portion of southern Franklin County is located within the **Falls Lake Watershed**. New development within the Falls Lake Watershed must comply with the "Falls Lake Watershed Stormwater Ordinance," Section 8. Additional information may be obtained at:

<http://portal.ncdenr.org/web/wq/ps/nps/fallslake>

*Internet hyperlinks are included in this ordinance for the benefit of the user and are subject to change.*

### **FRANKLIN COUNTY STORMWATER MAP**



The purpose of the County Commissioners in adopting these regulations is to protect the water quality of the Tar-Pamlico River Basin by addressing nitrogen loading reduction by 30% from 1991 levels and hold phosphorus loading to 1991 levels. The Tar-Pamlico River Basin Stormwater Management Ordinance for Franklin County shall achieve this by utilizing the following approach:

- A. Review of stormwater management plans for new developments to ensure that:
  - 1. The nitrogen load contributed by the proposed new development activity shall not exceed 70 percent of the average nitrogen load contributed by the non-urban areas in the Tar-Pamlico River basin based on land use data and nitrogen export research data. Based on 1995 land use data and available research, the nitrogen load value shall be 4.0 pounds per acre per year;
  - 2. The phosphorus load contributed by the proposed new development activity shall not exceed the average phosphorus load contributed by the non-urban areas in the Tar-Pamlico River basin based on land use data and phosphorus export research data. Based on 1995 land use data and available research, the phosphorus load value shall be 0.4 pounds per acre per year;
- B. Review of new development plans for compliance with requirements for protecting and maintaining existing riparian areas.
- C. Identification and removal of illegal discharges.

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## Section 3 —DEFINITIONS AND CONSTRUCTION

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For the purpose of this Ordinance, these terms shall be defined as follows:

**Applicator.** Any person, firm, corporation, wholesaler, retailer, distributor, any local, state or federal governmental agency, or any other person who applies fertilizer to the land of a consumer, or client, or to land they own, or to land they lease or otherwise hold rights.

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

The Falls Lake Stormwater Load Accounting Tool worksheet is available online at:  
<http://www.co.franklin.nc.us/Planning/LongRange/stormwater.htm>

**Best Management Practice (BMP).** Means a structural or non-structural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

**Buffer.** A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

**Built-upon area (BUA).** That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts) etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious). “Built-upon area” does not include pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

**Channel.** A natural water- carrying trough eroded vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

**Design Manual.** The North Carolina Department of Environment and Natural Resources, Division of Water Quality (NCDENR DWQ), Water Quality Section, *Stormwater Best Practices Manual 1999*, and all amendments thereto. Note that in any discrepancy between the NCDENR Manual and Franklin County ordinances, the more stringent of the requirements apply. Refer to: <http://portal.ncdenr.org/web/wq/ws/su/bmp-manual>

**Development.** Any land-disturbing activity which adds to or changes the amount of impervious or partially impervious cover (built-upon area) on a land area or which otherwise decreases the infiltration of precipitation into the soil. [15A NCAC 2B.202 (23)].

**Discharge.** The addition of any human-induced effluent either directly or indirectly to surface waters.

**Ditch or canal.** A constructed channel, other than a modified natural stream constructed for drainage purposes, that is typically dug through inter-stream divided areas. A ditch or canal may

have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

**Disturbed Area.** Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation including, but not limited to: grubbing, stump removal, grading or removal of structures.

**Domestic wastewater discharge.** The discharge of sewage, non-process industrial wastewater, other domestic wastewater, or any combination of these items. Domestic wastewater includes, but is not limited to, liquid waste generated by domestic water using fixtures and appliances, from any residence, place of business, or place of public assembly, even if it contains no sewage. Examples of domestic wastewater include once-through non-contact cooling water, seafood packing facility discharges, and wastewater from restaurants.

**DWQ.** Division of Water Quality, NC Department of Environment and Natural Resources.

**Effluent channel.** A discernable, confined, and discrete conveyance that is used for transporting treated wastewater to a receiving stream or other body of water.

**Ephemeral (stormwater) stream.** A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel; the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with continuous or intermittent conveyance of water.

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

- a. It either is built or has established a statutory or common-law vested right as of the effective date of this ordinance; or
- b. It occurs after the effective date of this ordinance, but **does not result in a net increase in built-upon area** and does not decrease the infiltration of precipitation into the soil

**Engineered stormwater control:** A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Engineered stormwater control includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. “Engineered stormwater control” is synonymous with “structural practice,” “stormwater control facility,” “stormwater control practice,” “stormwater treatment practice,” “stormwater management practice,” “stormwater control measures,” “structural stormwater treatment systems,” and similar terms used in this ordinance. It is a broad term that may include practices that do not require design by a professionally licensed engineer.

**Fertilizer.** Any substance containing nitrogen or phosphorous which is used primarily for its plant food content.

**Forest plantation.** An area of planted trees that may be conifers (pines) or hardwoods. On a plantation, the intended crop trees are planted rather than naturally regenerated from seed on the site, coppice (sprouting), or seed that is blown or carried into the site.

**Forest vegetation.** The plants of an area which grow together in disturbed or undisturbed conditions in various wooded plant communities in any combination or trees, saplings, shrubs, vines, and herbaceous plants. This includes mature and successional forests as well as cutover stands.

**Industrial discharge.** The discharge of industrial process treated wastewater or wastewater other than sewage. Stormwater shall not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater. Industrial discharge includes:

- Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- Wastewater resulting from processes of trade or business, including wastewater from Laundromats and car washes, but not wastewater from restaurants; or
- Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

**Intermittent stream.** A natural drainage way, which appears as a blue line on the USGS 7.5 minute quadrangle maps and has a contributing drainage area of 300 acres or more shall be considered an intermittent stream for the purposes of this ordinance.

NCDENR defines an intermittent stream as a “well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.” [15A NCAC 02B.0233(2)(g)].

**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 [15A NCAC 2B.20 .(37)]. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock, involves the diversion or piping of any natural or man-made watercourse, or the establishment of new impervious surface. The term “land disturbing” shall also include the term “land disturbance.”

**Larger common plan of development or sale.** Any area where multiple separate and distinct construction or *land-disturbing activities* will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

**Major variance.** A variance from the minimum statewide watershed protection or Falls rules that results in the relaxation, by a factor *greater than* five percent (5%) 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 (10%), of any management requirement under the low density option. For provisions in this ordinance that are more stringent than the state's minimum water supply protection rules and Falls rules, a variance to this ordinance is not considered a major variance as long as the result of the variance is not less stringent than the state's minimum requirements. [15A NCAC 2B.202, plus 15A NCAC 2B.104].

**Minor variance.** A variance from the minimum statewide watershed protection or Falls rules that results in a relaxation, by a factor of *up to* five percent (5%) of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation by a factor *up to* 10 percent (10%), of any management requirement under the low density option.

**Modified natural stream.** An on-site channelization or relocation of a stream channel and subsequent relocation of the intermittent or perennial flow as evidenced by topographic alterations in the immediate watershed. A modified natural stream must have the typical biological, hydrological and physical characteristics commonly associated with continuous conveyance of water.

**Nonpoint source pollution.** Pollution which enters waters mainly as a result of precipitation, and subsequent runoff from lands, which have been disturbed by human activity, and includes all sources of water pollution which are not required to have a permit in accordance with G.S. 143-215.1(c).

**Nutrients.** Nitrogen and phosphorus, which if present in excessive amounts within a water body, can lead to large growths of algae, low dissolved oxygen concentrations, and other water quality problems.

**Nutrient sensitive waters.** Those waters which are so designated in the classification schedule in order to limit the discharge of nutrients (usually nitrogen and phosphorous). They are designated by “NSW” following the water classification.

**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 [SL 2004-163].

**Operation and Maintenance Agreement (O&M).** A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance or stormwater management practices.

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

**Owner.** The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. “Owner” shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of “owner” under another description in this definition, such as a management entity.

**Perennial stream.** Perennial streams are streams that have essentially continuous flows. NCDENR defines a perennial stream as “a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological and physical

characteristics commonly associated with continuous conveyance of water.” 15A NCAC 02B .0233(2)(i)

**Perennial water body.** A natural or constructed basin that stores surface water permanently at depths sufficient to preclude growth of rooted plants, including lakes, ponds, sounds, non-stream estuaries, and oceans.

**Person.** Includes, without limitation, individuals, firms, partnerships, associations, institutions, corporations, municipalities and other political subdivisions, and governmental agencies [G.S. 143-212(4)].

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

**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. [15A NCAC 2B.0277 (3)(a)].

**Redevelopment Area.** Any area, such as a historic crossroads community or other existing developed area, for which the Board of County Commissioners establishes a redevelopment strategy that is conducive to the goals of the Tar-Pamlico nutrient strategy, addressing the following criteria:

1. A “fix it first” policy that reserves public funds for repair of existing infrastructure in these areas before investing in new infrastructure of the same type in new growth areas.
2. Mixed use/mixed density zoning provisions.
3. Retrofits are consistent with NCDOT definitions for pedestrian scale in traditional neighborhood developments (e.g., 80% of users are within a ¼ mile walk from schools, libraries, and recreational/athletic facilities, 60% of students and 50% of teachers are within ½ mile walk from schools, and 40% of congregants are within ¼ mile from churches).
4. Parking maximums or shared parking rations.
5. Residential density bonuses where parking maximums, pedestrian scale, or “fix it first” are proposed.

**Residential Development.** Buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated outbuildings such as garages, storage buildings, and gazebos.

**Stormwater Administrator:** For the purposes of this ordinance the Stormwater Administrator shall be the Franklin County Planning Director or Designee.

**Stormwater collection system.** Any conduit, pipe, channel, curb, or gutter for the primary purpose of transporting (not treating) run-off. A stormwater collection system does include vegetated swales, swales stabilized with armoring or alternative methods where natural topography prevents the use of vegetated swales (subject to case-by-case review), curb outlet systems or pipes used to carry drainage underneath built-upon surfaces that are associated with development controlled by the provisions of 15A NCAC 2H 1003(c)(1).

**Stormwater Treatment Practices (STP's).** Measures, either structural or nonstructural, that are determined to be the most effective, practical means or preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

**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.

**Stream.** A body of concentrated flowing water in a natural low area or natural channel on the land surface

**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.

**Tree.** A woody plant with a DBH equal to or exceeding five inches.

**Waste disposal.** The use of waters for disposal of sewage, industrial waste or other waste after approved treatment.

**Wetlands.** “Waters” as defined by G.S. 143-212(6) and are areas that inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do generally include swamps, marshes, bogs and similar areas. Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 CFR 328.3 and 40 CFR 230.3.

## Section 4 — NEW DEVELOPMENT REVIEW

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Development and redevelopment must comply with all other applicable sections of the Franklin County Unified Development Ordinance. Wherever other County or State ordinances and regulations differ from the Stormwater Ordinance, the more restrictive provisions shall apply.

The Franklin County UDO is available at the Franklin County website:  
<http://www.franklincountync.us/services/planning-and-inspections>

### 4.1 WATERSHED ORDINANCE

#### A. Watershed Areas

As shown in the Watershed Protection Overlay District portion of the UDO, (Article 20), the County is hereby divided into the following areas as appropriate:

WS-I	No areas currently exist in Franklin County
WS-II-CA	(Critical Area)
WS-II-BW	(Balance of Watershed)
WS-IV-CA	(Critical Area)
WS-IV-PA	(Protected Area)
WS-V-RS	(River Segment)

#### B. Watershed Areas Described

Descriptions of the above watersheds are provided below, as excerpted from the County Watershed Ordinance.

##### 1. *WS-I Watershed Areas*

The intent is to provide maximum protection for water supplies within essentially natural and undeveloped watersheds by allowing only low intensity uses. No residential or nonresidential uses are allowed except those listed below. Impacts from non-point source pollution shall be minimized.

##### 2. *WS-II Watershed Areas - Critical Area (WS-II-CA)*

In order to maintain a predominately undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum density of one (1) dwelling unit per eighty thousand (80,000) square feet. The built-upon area of all residential and nonresidential development shall be allowed at a maximum Impervious Surface Ratio of six percent (6%). Projects must be constructed according to detailed development drawings which minimize built-upon surface area, protect naturally vegetated areas, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. Landfills and sludge application sites are specifically prohibited.

##### 3. *WS-II Watershed Areas - Balance of Watershed (WS-II-BW).*

In order to maintain a predominately undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum density of one (1) dwelling unit per forty thousand (40,000) square feet. The built-upon area of all residential and nonresidential development shall be allowed at a maximum Impervious Surface Ratio of twelve percent (12%). Projects must be constructed according to detailed development drawings which minimize built-upon surface area, protect naturally vegetated areas, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. Landfills and sludge application sites are specifically prohibited.

4. ***WS-IV Watershed Areas - Critical Area (WS-IV-CA).***

Only new development activities that require an erosion/sedimentation control plan under the State law or approved local program are required to meet the provisions of this Ordinance when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed at a maximum density of one (1) dwelling unit per twenty thousand (20,000) square feet. The built-upon area of all residential and nonresidential development shall be allowed at a maximum Impervious Surface Ratio of twenty-four percent (24%). Projects must be constructed according to detailed development drawings which minimize built-upon surface area, protect naturally vegetated areas, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. Landfills and sludge application sites are specifically prohibited.

5. ***WS-IV Watershed Areas - Protected Area (WS-IV-PA).***

Only new development activities that require an erosion/sedimentation control plan under the State law or approved local program are required to meet the provisions of this Ordinance when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses shall develop at a maximum density of one (1) dwelling unit per twenty thousand (20,000) square feet. The built-upon area of all residential and nonresidential development shall be allowed at a maximum Impervious Surface Ratio of twenty-four percent (24%). Projects must be constructed according to detailed development drawings which minimize built-upon surface area, protect naturally vegetated areas, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. Landfills and sludge application sites are allowed. A maximum density of one (1) dwelling unit per fifteen thousand (15,000) square feet or a built-upon area of thirty-six percent (36%) Impervious Surface Ratio is allowed for projects without a curb and gutter street system.

Developers should contact the County Watershed Administrator for the administration of required activities within the regulated Surface Water Public Water Supply Watersheds.

#### 4.2 **TAR-PAM VS FALLS LAKE WATERSHED REQUIREMENTS**

Developers may refer to the Stormwater Jurisdiction Map or the NCDENR Interactive Stormwater Map (<http://149.168.87.13/stormwater/>) to help identify their location within the following watersheds in Franklin County:

**A. Neuse River Basin**

Development and redevelopment within the Neuse River Basin is *exempt* from Stormwater Review [15A NCAC 2B .0235]. However, any encroachment within a Neuse River Basin riparian buffer, wetland or stream is subject to NCDENR DWQ approval. Developments within the Neuse River Basin are required to submit a Stormwater Management Review Application in Appendix A.

Additional information about Neuse Nutrient Strategy may be obtained at:

<http://portal.ncdenr.org/web/wq/ps/nps/neuse>

**B. Tar-Pamlico River Basin**

New development or redevelopment within the **Tar/Pamlico Basin** must comply with the following:

6. Riparian areas must be protected and maintained in compliance with the Division of Water Quality rules and regulations 15A NCAC 2B .0259.
7. Nitrogen load contribution must not exceed 4.0 lbs per acre per year and Phosphorous must not exceed 0.4 lbs per acre per year, and
8. No net increase in peak flow leaving the site from the predevelopment conditions for the 1-year, 24-hour storm.

9. Additional information about Tar-Pamlico Nutrient Strategy may be obtained at:

<http://portal.ncdenr.org/web/wq/ps/nps/tarpamlico>

**C. Falls Lake Watershed**

New development or redevelopment within the **Falls Lake Watershed** portion of southern Franklin County must comply with the Falls Lake New Development Stormwater requirements outlined in Section 8.

Additional information about Falls Lake Nutrient Strategy may be obtained at:

<http://portal.ncdenr.org/web/wq/ps/nps/fallslake>

**D. Nutrient Loading Limits:**

	<b>Tar-Pamlico River Basin (lbs/ac/year)</b>	<b>Falls Lake Watershed (lbs/ac/year)</b>
<b>Nitrogen</b>	4.0	2.2
<b>Phosphorus</b>	0.40	0.33
<b>Refer to Ordinance:</b>	Section 4	Section 8

**E. Land Disturbance required for Stormwater Permit**

A stormwater management plan and permit is required for land disturbance as follows:

Type of Development	Tar-Pamlico River Basin	Falls Lake Watershed
Single-family, detached and duplex residential	1.0 ac or greater	0.50 ac or greater
Multi-family residential, commercial and industrial	0.50 ac or greater	12,000 sf or greater
<b>Refer to Ordinance:</b>	Section 4	Section 8

### 4.3 INCORPORATION OF THE DESIGN MANUAL

The North Carolina Department of Environment and Natural Resources, Division of Water Quality (NCDENR DWQ), Water Quality Section, Stormwater Best Management Practices Manual, 1999, and all amendments thereto, is hereby adopted by reference as fully as though set forth herein.

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

The NCDENR 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 Tar-Pamlico and Falls Lake Rules.

If the standards, specifications, guidelines, policies, criteria, or other information in the NCDENR 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.

If any standard, requirement, or procedure as set forth in the NCDENR Design Manual is in conflict with any standard, requirement, or procedure as set forth in this ordinance then the most stringent shall prevail. A copy of the NCDENR Manual shall be available for public review in the Planning and Inspections office and online at:

<http://portal.ncdenr.org/web/wq/ws/su/bmp-manual>



### 4.4 APPLICABILITY

#### A. New Development:

For the purposes of the ***Tar-Pamlico Stormwater Program***, new development shall include the following:

1. Any activity that disturbs greater than **one (1.0) acre** of land to establish, expand, or replace a single family or duplex residential development or recreational facility. New development also includes individual single family residential lots of record that are not part of a larger common plan of development or sale that result in *greater* than ten percent built-upon area (10% BUA);
2. Any activity that disturbs greater than **one-half (0.5) acre** of land to establish, expand, or replace a multifamily residential development or a commercial, industrial or institutional facility.

#### B. Exemptions to Applicability

1. Projects meeting the criteria in item 1 above that replace or expand existing structures or improvements and that do *not* result in a net increase in built-upon area shall not be required to meet the basinwide average non-urban loading levels.
2. **Redevelopment:** The following projects are exempt from the nutrient loading requirements:
  - a. Any project replacing or expanding existing structures or improvements that does not result in a net increase in built-upon area.
  - b. Any project located in a “redevelopment area” as defined in Section 3.
3. **Agricultural Activity:** Agricultural activities (including intensive livestock operations), mining or forestry activities are exempt from nutrient and peak flow attenuation rules.
4. **Peak Flow Attenuation Exemption** - A development is exempt from the above peak flow attenuation requirements if:
  - a. The *increase* in peak flow between pre-and post-development conditions **does not exceed 10%**; OR
  - b. The *overall impervious surface* (total site BUA) is **less than 15%** of the total site area, and the remaining pervious portions of the site are utilized to the maximum extent practicable to convey and control the stormwater runoff; OR
  - c. The County and/or its representative makes a determination that *peak stormwater control* at this particular location will increase flooding, accelerate erosion or negatively impact existing storm drainage problems in the area. In such cases, an alternate method of stormwater quantity control may be required.
  - d. Even if a project meets the above requirements a completed application and sealed supporting calculations are required.

#### 5. Vested Projects

- i) All new development projects that have received approval from Franklin County for a site-specific or phased development plan by September 21, 2004, and that have implemented that development in accordance with Article 21 shall be exempt from the requirements of the Tar-Pamlico stormwater rule. Any plats associated with such development must be recorded within a maximum of two (2) years from the date of development approval. All new development projects that have not received such approval by September 21, 2004 or recorded any plats associated with such development within two (2) years of the development's approval shall be subject to the requirements of the rule.
- ii) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities shall be considered exempt if a state permit was issued prior to the effective date of September 1, 2004.
- iii) The projects shall meet NCGS §153A-344.1 Vesting rights.

### C. State and Federal Entities

Franklin County interprets the Falls State and Federal Rule [Rule 15A NCAC 02B .0281] (Session Law 2006-246) as requiring the County to apply the requirements of this rule to state and federal projects that do not have an NPDES stormwater permit. In regards to stormwater regulations, Franklin County intends to permit state and federal projects relative to the requirements of this rule.

## 4.5 CALCULATING N AND P EXPORT LOADING:

The nitrogen and phosphorus export from each new development must be calculated by the applicant in accordance with the latest NCDENR requirements. This export will be calculated in pounds per acre per year (lbs/ac/yr). Worksheets to carry out this method are provided in the appendix and online at:

<http://portal.ncdenr.org/web/wq/ps/nps/tarpamstorm>

Nutrient limits shown below are in reference to **Tar-Pam River Basin** requirements. Those projects located within the **Falls Lake Watershed** should refer to the limits and requirements in Section 8.

### A. Single and Two-Family Residential New Development

1. The nitrogen load contributed by new development activities shall not exceed 4.0 pounds per acre per year (lbs/ac/yr). Projects may achieve this load through onsite or offsite measures or some combination thereof as described in Section 4.6. In no case shall onsite loading exceed 6 lbs/ac/yr.
2. The phosphorus load contributed by new development activities shall not exceed 0.4 pounds per acre per year (lbs/ac/yr).
3. The nitrogen (N) and phosphorus (P) exports must be calculated from each new development in pounds per acre per year (lbs/ac/yr) on the worksheets provided

both manually and electronically by the Franklin County Planning and Inspections Department and as updated by NCDENR DWQ:

- a. Export Calculation Worksheet for Piedmont Communities.
- b. BMP Removal Calculation Worksheet for Piedmont
- c. The Residential Worksheet provided in the calculation worksheets must be used to estimate land coverage's (pervious and impervious), and apply the results to the nutrient export worksheets.
- d. Worksheets are available online at:  
<http://portal.ncdenr.org/web/wq/ps/nps/tarpamstorm>

## **B. Multi-family and Non-Residential New Development**

1. The nitrogen load contributed by new development activities shall not exceed 4.0 pounds per acre per year (lbs/ac/yr). Projects may achieve this load through onsite or offsite measures or some combination thereof as described in Section 4.6. In no case shall onsite loading exceed 10 pounds per acre per year (lbs/ac/yr).
2. The phosphorus load contributed by new development activities shall not exceed 0.4 pounds per acre per year (lbs/ac/yr).
3. The nitrogen (N) and phosphorus (P) exports must be calculated from each new development in pounds/acre/year on the following automated worksheets provided both manually and electronically by the Franklin County Planning and Inspections Department and as updated by DWQ:
  - a. Export Calculation Worksheet for Piedmont Communities.
  - b. BMP Removal Calculation Worksheet for Piedmont
  - c. Worksheets are available online at:  
<http://portal.ncdenr.org/web/wq/ps/nps/tarpamstorm>

## **C. BMPs for Reducing Nitrogen and Phosphorus**

1. Single and Two-family Residential Development
  - a. When Nitrogen export is greater than 6 pounds per acre per year (lbs/ac/yr), the owner must either use on-site BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy to lower nitrogen to at least 6 pounds per acre per year (lbs/ac/yr).
  - b. When Nitrogen export is greater than 4 but less than 6 pounds per acre per year (lbs/ac/yr), the owner may install onsite BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy or provide treatment of an offsite-developed area that drains into the same stream to achieve the same nitrogen mass loading reduction that would have occurred on the new development site, or some combination thereof.

- c. When Phosphorus export is greater than 0.4 pounds per acre per year (lbs/ac/yr), the owner must install onsite BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy or provide treatment of an offsite-developed area that drains into the same stream to achieve the same phosphorus mass loading reduction that have occurred on the new development site, or some combination thereof as long as the Nitrogen export is less than 6 pounds per acre per year (lbs/ac/yr).

## 2. Multifamily and Nonresidential Development

- a. When Nitrogen export is greater than 10 pounds per acre per year (lbs/ac/yr), the owner must either use on-site BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy to lower nitrogen to at least 10 pounds per acre per year (lbs/ac/yr).
- b. When Nitrogen export is greater than 4 but less than 10 pounds per acre per year (lbs/ac/yr), the owner may install onsite BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy or provide treatment of an offsite-developed area that drains into the same stream to achieve the same nitrogen mass loading reduction that would have occurred on the new development site, or some combination thereof.
- c. When Phosphorus export is greater than 0.4 pounds per acre per year (lbs/ac/yr), the owner must install onsite BMPs or take part in an approved regional or jurisdiction-wide stormwater strategy or provide treatment of an offsite-developed area that drains into the same stream to achieve the same phosphorus mass loading reduction that have occurred on the new development site, or some combination thereof as long as the Nitrogen export is less than 10 pounds per acre per year (lbs/ac/yr).

## 3. Multiple BMPs

Multiple BMPs may be installed in series on a development; however the removal rate is calculated through serial rather than additive calculations. (i.e., The total nitrogen rate of removal for a wet pond (25) and grass swale (20) in series is 40 in lieu of 45. See the latest Tar-Pamlico Nutrient Management Spreadsheet for the formula to calculate the BMPs in series.)

<http://portal.ncdenr.org/web/wq/ps/nps/tarpamstorm>

## 4. Assigning Values to Pervious Cover

- a. *Wooded or Forested Areas* - Undisturbed wooded or forested areas are calculated at the lawn/landscape managed pervious export rate unless a County-approved *permanent conservation easement* for ensuring protection is executed and recorded.
- b. *Riparian Buffer Areas* described in Article IV Section 12-3.4.5 “Delineation of Buffer Zones” are calculated as follows:
  - Zone 1 is calculated as “wooded pervious”
  - Zone 2 is calculated as “managed pervious” (lawn/landscape)

#### 4.6 OFFSITE PARTIAL OFFSET OPTION FOR NUTRIENT REDUCTION

The Tar-Pamlico stormwater rule provides two options for partially offsetting nitrogen and phosphorus load increases from new development by making a one-time payment to the *North Carolina Ecosystem Enhancement Program's (NCEEP) Riparian Buffer Restoration Fund*, OR by providing treatment of *offsite-developed areas*. There is no option for making a payment to address *peak flow attenuation*. To participate in either option, the development plan must demonstrate the following:

1. The new development first reduces nitrogen export from the site to at least 6.0 lbs/ac/yr for residential and 10.0 lbs/ac/yr for other types of development. The balance of the nitrogen removal must be made by the offsite options.
2. The net phosphorus loading for the project must be reduced to at least 0.4 lb/ac/yr. Some or all of the reduction may be obtained through the offsite options.

A. **Option 1: NC EEP Payment Option** - Pay a one-time offset payment to the North Carolina Ecosystem Enhancement Program's Riparian Buffer Restoration Fund using the applicable nitrogen and phosphorous offset payment calculations specified in the Nutrient Offset Payments Rule (15A NCAC 02B.0240). See Section 4.7 below.



B. **Option 2: Offsite Construction Measures**

The offsite area must drain to the same classified surface water as the new development, as defined in the schedule of classifications, 15A NCAC 2B .0316. The developer must also provide appropriate legal measures to ensure that the offsite area achieves and maintains the credited nutrient reduction for as long as the development exists, including through changes of ownership on either property. In order to take advantage of the partial offset option, the development plan must demonstrate the following criteria:

1. That the offsite facility drains into the same classified surface water as the new development.
2. The offsite facility may be used to address only the nutrient requirements, unless the development proposal demonstrates that meeting some or all attenuation requirements offsite will not result in degradation of surface waters to which the new development site discharges.
3. The off site BMP may serve multiple projects provided the facility is appropriately sized and a tracking system to allocate nutrient removal is in place and the off-site facility has been approved as a regional BMP.
4. Both the development owner and the owner of the offsite facility must agree in a documented, enforceable manner that offsite facilities are dedicated to achieving the specified nutrient and flow reductions for the life of the new development. The responsibility for maintaining these reductions as well as the provisions of any required conservation easements and operation and maintenance

agreements shall run with the land and be binding upon subsequent owners of both the development project and the off site BMP.

5. The operation and maintenance agreement shall require an annual inspection by a licensed professional and shall ensure that Franklin County has the authority to inspect the stormwater facilities and make any necessary corrections if the owner fails to complete the required inspection or complete any required improvements. Any costs associated with this work, including administrative costs and fines, will be charge to the owner or party legally responsible for maintenance of the facility.
6. A complete list of all owners of the existing development site along with their addresses and contact information—the offsite facility may be public or private.
7. A yearly maintenance plan for the offsite facility that meets all of the requirements of this ordinance.
8. Prior to approval of any subsequent change of use or land development activity on either site, the applicant shall demonstrate that offsite property nutrient loading reductions and, if applicable, attenuation as required by this ordinance shall be maintained.

Many individual developments include stormwater designs that could be interpreted as “off-site” or “regional” under the broadest of definitions, but which are not intended for the type of review and approval process described here. Projects such as phased developments or commercial projects without parcels may propose using shared stormwater facilities that receive runoff from more than one lot and that would be accessed by lots under different ownership at different points in time. These shared facilities are not considered “off-site” or “regional” and may be permitted as “on-site” facilities not subject to the pre-treatment limitations defined above.

## 4.7 NCEEP

The NC General Assembly has set goals for nutrient reduction in particular river basins and watersheds in the state. These nutrient reduction goals must be met through a combination of management strategies, including requirements for stormwater controls for development activities. Rules adopted by the NC Environmental Management Commission provide options for how developers meet these nutrient control standards.



The *NC Ecosystem Enhancement Program's Nutrient Offset Program (NCEEP)* was developed to provide a mechanism to assist developers in meeting their nutrient loading requirements. More information on nutrient management strategies in the state can be found at the N.C. Division of Water Quality's web site:

<http://portal.ncdenr.org/web/eep/home>

Before a developer can receive final site-plan approval from a local government, the anticipated nutrient loading for nitrogen and/or phosphorus where applicable in pounds over a 30-year period is calculated by the developer and verified by the local government. If the loading exceeds the allowable threshold established by rule or law, then the excess loading must be offset by the developer. Developers can offset nutrient loading on site or choose a third-party mitigation provider such as the NCEEP or a compensatory mitigation bank to “buy down” their loading requirements to meet the thresholds established for nutrient loading.

The Ecosystem Enhancement Program partners with private biological-engineering and mitigation contractors on wetlands restoration and enhancement programs across the state. NCEEP accepts “buy down” payments from permit holders in lieu of actual undertaking of a mitigation project. NCEEP then uses the money to create, restore or enhance wetlands, streams and riparian areas.



### A. THE NUTRIENT BUY-DOWN PROCESS

Developers choosing to “buy down” their loading requirements to meet the nutrient loading requirements must coordinate with both the County and NCEEP. With the developer as “applicant,” the process is as follows:

1. Applicant submits the Nitrogen and Phosphorus Loading Calculation Worksheet, BMP Removal Calculation Worksheet, and the Nutrient Offset Mitigation Payment Summary Worksheet to the County for review.
2. County reviews and approves nutrient calculations.
3. County writes a verification letter to the NCEEP In-Lie Fee Coordinator regarding the project, and copies the applicant. The verification letter specifies the amount of nutrient buy-down to be made by the developer.

4. Applicant submits the signed NCEEP Nutrient Offset Payment Request Form and a copy of the County verification letter directly to the NCEEP In-Lieu Fee Coordinator and copies the County.
5. NCEEP reviews the Request Form and County verification letter, and considers the financial, temporal and technical ability of the EEP Program to satisfy the mitigation request.
6. Once EEP has agreed to accept payment, NCEEP provides an invoice letter to the Applicant for the Nutrient Offset Mitigation Payment amount due.

Fees may be obtained from: <http://portal.ncdenr.org/web/eep/fee-schedules>

7. Applicant pays NCEEP. The Applicant has 30 days from the date of the invoice to submit payment to EEP.
8. NCEEP provides a receipt to the Applicant upon receipt of payment.
9. Applicant submits receipt to County, at which time Contractor may begin work if all other County and other regulatory requirements have been met.

**B. Questions regarding this process may be addressed to:**

**Kelly Williams**

**NCEEP In-Lieu Fee Program Coordinator**

1652 Mail Service Center

919.716.1921,v

kelly.williams@ncdenr.gov

Raleigh, NC 27699-1652

919.715.2219, f

Hours: M-Th 8-4:30

### THE NCEEP NUTRIENT BUY-DOWN PROCESS



#### 4.8 CONSERVATION EASEMENTS

The Following information was obtained from the NCEEP and *Conservation Easements: An Introduction for North Carolina Landowners*. Conservation Trust for North Carolina, P.O. Box 33333, Raleigh, NC, 27636. An example conservation easement is included in the appendix.

- A. A conservation easement is a written agreement between a landowner and Franklin County or the State of North Carolina that protects water quality by maintaining or establishing natural vegetation. The property under conservation easement cannot be used for commercial, residential or industrial development or cultivation.
- B. The State is required by N.C. General Statutes to acquire a conservation easement on all sites qualifying for an NCEEP project to permanently protect the site. The landowner should know that condemnation authority is not applicable and is prohibited by statute for EEP projects. Negotiations must be amicable and, in the event that negotiations fail, the State will not be able to acquire the property, and EEP will not be able to implement the project.
- C. Donating a conservation easement does not mean giving up title to the property. The fee-simple title to the land still resides with the landowner. The landowner has the use of the property consistent with the rights specifically reserved in the easement. For

example, this might include hunting, hiking and fishing, control of access, and the passive enjoyment of the property under the easement. In general, the landowner may continue to use the land consistent with the conditions agreed upon in the easement. A **permanent** conservation easement applies in perpetuity and follows the land from owner to owner via the deed. The conservation easement does not restrict the owner from selling or willing their property.

- D. The conservation easement provides for permanent access to the easement area so that the County or State can ensure its success and protection. The easement does not require or imply any public access to your land.
- E. Conveying a conservation easement on wetlands or stream buffers may increase the value of the remainder of your land. Buyers will often pay more for homes near permanently protected open space. A landowner may also realize many tax benefits from dedicating a permanent conservation easement. Conservation easements are also important for protecting environmental and historical values.
- F. Easements only apply to the portion of land specifically identified and agreed upon in the easement. The easement area acquired is surveyed by a licensed N.C. land surveyor, and a plat is prepared of the total land area.
- G. There are several economic benefits of placing a conservation easement on your property, including possible NC income tax credits, federal income tax credits, and federal estate tax deductions. Interested individuals advised to consult an attorney and a financial advisory/estate planner concerning these programs.

#### 4.9 REGIONAL OR JURISDICTION WIDE OPTIONS FOR NUTRIENT REDUCTION OR FLOW CONTROL REQUIREMENTS

Regional and jurisdiction-wide options and requirements are described in the Franklin County Stormwater Program plan. Franklin County shall propose any such strategy to and gain approval from the NC Division of Water Quality prior to permitting its use by any proposed development project.

##### A. Calculating Peak Runoff Volume

1. Developments shall not result in a *net increase in peak flow* leaving the site from pre-development conditions for the **1-year, 24-hour storm event**. The storm peak flow from each new development must be calculated by the applicant.
2. Using the 2-year Design Storm, but Controlling it to 1-year Predevelopment Levels:
  - a. Compute the peak flows (both pre- and post-development) from the drainage area based on the 2-year design storm using one of the methodologies in the NC BMP Design Manual.
  - b. Estimate the 1-year predevelopment peak flow by multiplying the 2-year predevelopment peak flow by 80%.

- c. Design a BMP that will control the 2-year post-development peak flow to 1-year pre-development peak flow levels (estimated by the second step).
3. The same method must be used for both the pre- and post-development conditions.
4. Acceptable methodologies for computing the pre- and post-development conditions for the design storm include:
  - a. The Rational Method.
  - b. Dr. Rooney Malcom, P.E., Small Watershed Method
  - c. NRCS Methodologies applied through the Corps of Engineers HEC-1 Program
  - d. The Peak Discharge Method as described in USDA Soil Conservation Service's Technical Release Number 55 (TR-55).  
The Putnam Method.

#### 4.10 EROSION CONTROL

- A. All erosion and sediment control measures shall be designed in accordance with the *North Carolina Erosion and Sediment Control Planning and Design Manual*, latest revision (<http://www.dlr.enr.state.nc.us/pages/publications.html>), and the NCDENR DWQ *Stormwater Best Management Practices Manual* ([http://h2o.enr.state.nc.us/su/bmp\\_forms.htm](http://h2o.enr.state.nc.us/su/bmp_forms.htm)). These manuals contain valuable information and tools for developing plans to minimize soil erosion and prevent sedimentation pollution associated with land-disturbing activities.
- B. NCDENR Land Quality Section must issue a Letter of Approval for Erosion and Sedimentation Control Plans prior to final plan approval. Applicant to submit a copy of the Letter of Approval to the County.
- C. No person may initiate any land-disturbing activity that will disturb one acre (43,560 sf) or greater without having an erosion and sedimentation control plan approved by NCDENR Land Quality Section.
- D. Limits of disturbance must be *clearly identified* on the plan and are to include any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation [15A NCAC 2B.20 .(37)].



This may include grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock, involves the diversion or piping of any natural or man-made watercourse, or the establishment of new impervious surface. Plans must also indicate stockpile locations, access to construction activities and adequate space for installation of erosion control measures.

- E. All land-disturbance *less than one acre* not requiring a NCDENR permit are required to install silt fence on the low side of the lot, erosion and sediment control measures as needed to prevent sediment from leaving the site, and, at the discretion of the County, tree protection fence around the remaining perimeter. For those projects

whose *apparent* disturbance exceeds one-half acre, the County also reserves the right to require an as-built survey of the disturbed area prepared by a professional land surveyor. If site disturbance is determined to exceed one-half acre “after-the-fact,” then the property must comply with applicable sections of this ordinance.

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## **Section 5 — STORMWATER MANAGEMENT PLAN AND PERMIT**

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### **5.1 PERMIT REQUIRED**

No person shall receive any permit for land development, land disturbing activity or building permit without first meeting the requirements of this part and receiving a stormwater permit prior to commencing the proposed activity unless specifically excluded from the requirements of this ordinance.

### **5.2 EFFECT OF PERMIT**

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

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the *development* or *redevelopment* site consistent with the requirements of this ordinance, whether the approach consists of *engineered stormwater controls* or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this ordinance.

### **5.3 AUTHORITY TO FILE APPLICATIONS**

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

### **5.4 ESTABLISHMENT OF APPLICATION REQUIREMENTS, SCHEDULE AND FEES**

#### **A. Application Contents and Form**

The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the *stormwater permit application* shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.

#### **B. Submission Schedule**

The Stormwater Administrator shall be able to establish a submission schedule for applications. The schedule shall be able to establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

### **C. Permit Review Fees**

The Franklin County Planning Director shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time. [G.S. §153A].

## **5.5 APPLICATION REQUIREMENTS**

### **A. Exemption Review:**

Any project seeking an exemption according to Section 4.4 shall submit in writing the reason for the exemption with sealed supporting calculations. The Planning Director or Designee shall issue an exemption confirmation including any conditions or limitations on exemption (e.g. the date a vesting exemption expires).

### **B. Preliminary Plat Review:**

Nutrient calculation worksheets must be submitted with preliminary plats or preliminary site plans and must show that the design will obtain the required nutrient reduction.

### **C. Permit Review:**

Any person desiring a stormwater permit shall submit a permit application to the Planning Director or Designee on a form provided by Franklin County for that purpose. Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order for the permit application to be considered complete:

#### **A. If No BMPs or Peak Flow measures are Proposed:**

- a. Two copies of professionally sealed calculation worksheets demonstrating that the proposed development complies with Tar-Pam Nutrient Reduction Requirements as designed (include an electronic copy);
- b. Site plan or preliminary plat showing land coverage (transportation and roof impervious, managed and wooded pervious areas);
- c. Conservation easement with map and description, if applicable, and;
- d. A non-refundable permit review fee.

#### **B. If BMPs or peak flow attenuation measures are indicated or required, the application must also include:**

- a. Approved BMP and/or Peak flow facility design specifications and calculation (both hard copy and electronic copy), including narrative;
- b. Map showing drainage area into treatment BMP or peak flow facility (may include offsite areas)

- c. Two copies of stormwater management plan;
- d. Two copies of an operation and maintenance agreement;
- e. A non-refundable permit review fee.

## 5.6 APPLICATION PROCEDURE

Applications for a stormwater permit may be filed with the Planning and Inspections Department during regular business hours.

- A. Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.
- B. An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance (refer to Stormwater Management Application and Checklist in Appendix), along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.
- C. An application for a stormwater permit may be filed simultaneously with an application for a building permit, grading permit or other land development permit issued by Franklin County.
- D. Any applicant claiming a variance to one or more requirements of this ordinance shall submit evidence of valid approval of such variance at the time of permit application per Article 24 of the Franklin County UDO.

## 5.7 STORMWATER MANAGEMENT PLAN REQUIREMENTS

The stormwater management permit application shall detail how *post-development* stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance. All such sealed plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify under seal that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Design Manual*, and that the designs and plans ensure compliance with this ordinance.

- A. All stormwater management plan submittals shall include:
  - 1. Stormwater management plan, as described in 5.7.B.
  - 2. **Stormwater Management Review Application** (found in appendix)

3. **Stormwater Management Checklist** (found in appendix)
  4. Items identified on checklist and outlined below.
- B. All plans shall include a site plan, which at a minimum, clearly indicates the following features unless the Planning Director or Designee determines that certain elements are not appropriate or are unnecessary for a particular application:
1. Ownership and use of the proposed site and all surrounding properties;
  2. The entire area of development and existing built-upon area on the site;
  3. Existing and proposed structures and impervious surfaces;
  4. The location of any watercourses or surface water bodies;
  5. The location, extent and dimensions of all existing and proposed stormwater conveyances on and immediately adjacent to the development site;
  6. Existing and proposed buffer areas;
  7. Existing and proposed open space;
  8. Existing and proposed conservation easements;
  9. Existing and proposed topography using two foot contours;
  10. Existing and proposed structural BMPs;
  11. Existing and proposed structures related to peak flow attenuation;
  12. The extent of existing vegetation;
  13. Acreages of the various proposed land covers (e.g. pervious, impervious, managed open space, etc.);
  14. Drainage areas flowing into BMPs and/or Peak Flow attenuation facilities (may include offsite areas); Runoff Map
  15. Diversion methods or structures if offsite drainage is diverted around site and excluded from calculations; and
  16. Any other information that the Planning Director or Designee needs in order to determine compliance with these regulations.
- C. All plans shall clearly demonstrate protection of and diffuse flow through buffer areas.
- D. All plans shall include **nutrient calculation worksheets** and **peak flow calculations**. Applicants shall submit NCDENR Nutrient Calculation Worksheets, BMP Supplement Forms and Operation and Maintenance Forms found online at:  
<http://portal.ncdenr.org/web/wq/ws/su/bmp-manual>
- E. All plans shall include data, site plans, and information necessary to support a proposed offsite approach, if applicable, as established in Section 4.6.B.
- F. All plans shall include a **landscaping plan**, which clearly shows the extent of undisturbed vegetation and the location, species, number, and planting characteristics (including height at time of planting, spacing, etc.) of proposed vegetation. The plan must also describe the vegetative stabilization and

management techniques to be used at the site after construction is completed, who will be responsible for the maintenance of vegetation, and what practices will be employed to ensure that adequate vegetative cover is preserved.

- G. All plans shall include engineering detail for each structural BMP, including calculations and narrative, sufficient to determine compliance with this ordinance.

**H. Stormwater Management Summary Statement**

A Stormwater Management Summary Statement is required with all plans submissions that implement structured engineering controls to help the Stormwater Administrator determine how the stormwater management facility was designed.

At a minimum, the Stormwater Management Summary Statement must include:

1. Development name and address.
2. Developer/Owner and Consultant contact information.
3. A description of the existing site.
4. A description of the proposed development or construction activity.
5. An impervious area calculation for both existing site and proposed site conditions.
6. A description of the stormwater impacts the proposed development or construction activity may have on the surrounding properties. This includes identifying upstream and downstream drainage facilities potentially affected by the new development and the ability of the existing drainage ways to handle the additional runoff.
7. A description of the proposed stormwater management facility and how they will be designed, constructed, maintained and operated to:
  - a. Minimize the adverse affects on the quality of stormwater runoff from the development,
  - b. Provide BMP's to maximize infiltration, minimize connected impervious surfaces and minimize concentrated flows,
  - c. Provide distributed stormwater runoff to minimize offsite impacts and provide sheet flow into existing vegetated buffers,
  - d. Extend the time of concentration to the maximum practical level.
  - e. Preserve and protect the natural drainage ways,
  - f. Respect the practical limits of public and private drainage facilities,
  - g. Protect neighboring properties from unreasonable adverse effects resulting from the development,
  - h. Prevent flooding within the development and on surrounding properties, and
  - i. Limit the impacts of stormwater runoff discharging into or from the site, or obtain approvals and easements from the affected property owners.
8. A **vicinity map** showing the location of the site. The scale of the map shall be adequate to show the area in question with reasonable depiction of streets to determine the exact location of the site. The scale shall be no less than 1"=400'.

9. A **USGS Quadrangle map** with the site location depicted on the map.
10. A copy of the **NRCS Franklin County Soil Survey** with the site location clearly depicted on the map.
  - a. Per NCDENR Letter of Memorandum dated May 21, 2007, the *hard copy paper bound version of the soil surveys* are the only soil survey maps that will be accepted by NCDENR DWQ for applicability of the Tar-Pamlico Buffer and Neuse River Basin Rules. Therefore, applicants must submit a copy of the official “hard-copy” publication with the site location clearly depicted.
  - b. Paper copies of the 2004 Franklin County Soil Survey are available from the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), available for purchase online at:  
[http://soils.usda.gov/survey/printed\\_surveys/state.asp?state=North%20Carolina&abbr=NC](http://soils.usda.gov/survey/printed_surveys/state.asp?state=North%20Carolina&abbr=NC)
  - c. The NRCS online version of the soils maps may be used for soil breakouts and design, but cannot be used for stream determination.

## 5.8 PLAN/ PERMIT REVIEW AND APPROVAL PROCEDURE

- A. The Planning Director or Designee shall approve, approve with conditions, or deny the permit application within the specified time frame per Franklin County UDO requirements for submission.
- B. If the permit application is **denied**, the Planning Director or Designee shall provide written comments to the applicant explaining the reason(s) for denial. The applicant shall have an opportunity to submit a revised application.

A complete revised application shall be reviewed by the Stormwater Administrator after its re-submittal and shall be approved, approved with conditions or disapproved. If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

- C. If the permit application is **approved** by the Planning Director or Designee, a stormwater permit shall be issued. The Stormwater Administrator may impose *conditions of approval* as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval. 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.
- D. A previously denied permit application may not be resubmitted for consideration unless the Planning Director or Designee determines that material facts, either in the ordinance or the application, have changed significantly enough to warrant reconsideration.

## 5.9 PERMIT DURATION

Permits issued under this section shall be as specified by Franklin County UDO requirements. An approved plan shall become null and void if the applicant fails to make *substantial progress* on the site within one (1) year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

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

## 5.10 PERMIT AMENDMENTS

Once an applicant has received a stormwater permit, any minor change or alteration to the site, as determined by the Planning Director or Designee, that is inconsistent with the approved permit shall require an amendment to the approved permit. Any major change or alteration to the site, as determined by the Planning Director or Designee, shall require the owner to submit a new stormwater permit application to the Planning Director or Designee for review and approval. Until such amendment or new permit have been approved, no work inconsistent with the original permit shall be commenced.

## 5.11 STORMWATER ADMINISTRATOR

For the purposes of this ordinance the Stormwater Administrator shall be the Franklin County Planning Director or Designee. The Stormwater Administrator shall have the following powers and duties under this ordinance:

- A. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
- B. To make determinations and render interpretations of this ordinance.
- C. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to Franklin County on applications for development or redevelopment approvals.
- D. To enforce the provisions of this ordinance in accordance with its enforcement provisions.
- E. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this ordinance.
- F. To provide expertise and technical assistance to Franklin County upon request.
- G. To designate appropriate other *person(s)* who shall carry out the powers and duties of the Stormwater Administrator.
- H. To take any other action necessary to administer the provisions of this ordinance.

### **5.12 RETENTION OF EXPERT ASSISTANCE**

The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for re-certification.

Minimum qualifications are persons performing services only in their area of competence, including North Carolina registered professional engineer, 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 BMPs.

### **5.13 APPEALS**

Any aggrieved *person* affected by any decision, order, requirement, or determination relating to the interpretation or application of this ordinance made by the Planning Director, Stormwater Administrator or Designee, may file an appeal to the Board of Adjustment as outlined within the Franklin County UDO.

## Section 6 — ANNUAL MAINTENANCE

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The long-term effectiveness of any engineered stormwater control relies, above all, on appropriate maintenance. This section provides provisions to ensure that such maintenance occurs, including identifying who will be responsible for maintenance over the long term as well as during development, and ensuring that funds for maintenance and repair are available when appropriate.

The County is required to ensure that BMPs implemented to achieve the nitrogen and phosphorus reduction and flow attenuation requirements for development are maintained and inspected on a yearly basis.

### 6.1 FUNCTION OF BMP AS INTENDED

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

### 6.2 OWNERS' ASSOCIATIONS

An owners association shall be established in accordance with Article 28-4 for the purpose of owning all BMPs shown on the development plan and for ensuring that maintenance is performed to keep BMPs functioning properly. The articles of incorporation must be submitted to the County for review and approval and must contain clear language and a means for collecting dues for the cost of BMP maintenance and yearly certification.

### 6.3 ESTABLISHMENT AND ELEMENTS OF THE MAINTENANCE AGREEMENT

- A. Prior to the conveyance or transfer of any lot or building site to be served by a *engineered stormwater control* pursuant to this ordinance, and prior to issuance of any permit for development requiring a *engineered stormwater control* pursuant to this ordinance, the applicant or owner of the site must execute a legal **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 *engineered stormwater control*. Until the transference of all property, sites, or lots served by the *engineered stormwater control*, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.
- B. The legal **Operation and Maintenance** agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the *engineered stormwater control*, and shall state the terms, conditions, and schedule of maintenance for the *engineered stormwater control*.
- C. The legal **Operation and Maintenance agreement** and/or conservation easement must be approved by the Stormwater Administrator prior to plan approval, and it shall

be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the Operations and Maintenance agreement and/or conservation easement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within fourteen (14) days following its recordation.

- D. The ***Operation and Maintenance Agreement*** shall be submitted at the time of final plat or site plan and executed by the Owner or Owners Association and the County prior to recordation of the final plat or issuance of a Certificate of Occupancy, and shall contain the following elements:

**1. Annual Maintenance Plan**

- a. Name, address and contact telephone numbers of all current officers of the Owners Association. Any changes in this information during the year shall be provided to the Planning and Inspections Department within 30 days of the change.
- b. Description of method used to collect dues or other payments necessary for maintenance of BMPs.
- c. For each BMP type, description of BMP features requiring inspection, inspection frequency, types and frequencies of or basis for routine and periodic maintenance activities, actions in the event that repair is needed. Maintenance actions and frequencies shall at minimum include those identified by practice in the NC BMP Manual. Franklin County utilizes the BMP Operation and Maintenance Agreement Forms provided by NCDENR DWQ in the Design Manual and online at:  
<http://portal.ncdenr.org/web/wq/ws/su/bmp-manual>
- d. Depending on the BMPs constructed the plan might include schedules or other provisions for:
  - i) Any mowing of permanent vegetation.
  - ii) Any removal of bushes and trees from the dam of a wet detention pond.
  - iii) Reseeding of any eroding areas of the wet detention ponds, open channel practices, riparian buffers and vegetated filter strips.
  - iv) Replacing of impaired vegetation in a constructed wetlands or riparian buffer.
  - v) Removal of debris from the “trash rack” on any wet detention pond or sand filter.
  - vi) Repair of any damage to structural aspects of wet detention ponds, constructed wetlands, level spreaders, and sand filters.

**2. Annual Inspection and Certification of BMPs**

The person responsible for maintenance of any *engineered stormwater control* installed pursuant to this ordinance shall submit to the Stormwater Administrator an annual 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:

- a. The name and address of the land *owner*;
- b. The recorded book and page number of the lot of each *engineered stormwater control*;
- c. A statement that an inspection was made of all *engineered stormwater controls*;
- d. The date the inspection was made;
- e. A statement that all inspected *engineered stormwater controls* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- f. The original signature and seal of the engineer, surveyor, or landscape architect, if applicable.

All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of *as-built certification* and each year thereafter on or before the date of the as-built certification. **Annual inspection report form** and **annual certification forms** are found in the appendix and online at:

<http://www.co.franklin.nc.us/Planning/LongRange/stormwater.htm>

Records of maintenance and/or repair activities shall be maintained by the owner for at least 5 years and shall be provided to the County upon request.

### 3. Contact Information

- a. Name and address of the person or organization financially responsible for maintenance specified in the annual inspection report.
- b. Emergency contact information.

### 4. Authority for the County to Inspect and Maintain Stormwater Facilities

- a. Legal authority for the County to routinely inspect stormwater facilities.
- b. Legal authority for the County to require performance of maintenance activities to ensure continued operational performance of BMPs.
- c. Legal authority for the County to place liens on common properties in the subdivision/development and maintenance if the BMPs are not properly maintained and certified.
- d. Legal Authority for right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the engineered stormwater control; however, in no case shall the right of entry, of itself, confer an obligation on Franklin County to assume responsibility for the engineered stormwater control.

#### **6.4 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE**

- A. The County may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, *letter of credit* or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the engineered stormwater controls are:
  - 1. Installed by the permit holder as required by the approved stormwater management plan; and/or
  - 2. Maintained by the owner as required by the operation and maintenance agreement.
- B. The amount of an installation performance security shall be in the amount of 110% of the *cost estimate* for the BMP. The performance bond may be reduced to 25% at the time the Certificate of Occupancy is issued to satisfy the requirement for the one year warranty period.
- C. Within sixty days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.
- D. 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
- E. Upon *default* of the *owner* to construct, maintain, repair and, if necessary, reconstruct any *engineered stormwater control* in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the *owner* to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the County may not return any of the unused deposited cash funds or other security.
- F. If County takes action upon such failure by the applicant or owner, the County 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.

#### **6.5 FAILURE TO COMPLY WITH THE PROVISIONS OF THE MAINTENANCE AGREEMENT**

Any violation of the Maintenance agreement shall be considered a violation of the Unified Development Ordinance and shall be enforced in accordance with Article 25 of the Franklin County UDO. In addition, if the situation meets the definition of a nuisance as defined in NCGS 153A-140 other corrective actions may be taken.

## 6.6 REQUIREMENT OF SEALED AS-BUILT DRAWINGS FOR STORMWATER FACILITIES

- A. Developers shall be required to submit the following sealed as-built drawings:
1. Drawings of any new or addition to a stormwater conveyance by a private developer;
  2. Drawings of all development sites to determine compliance with the “approved plan” and the requirements of the Tar-Pamlico Overlay District.
  3. As-built plans of each BMP along with a statement under seal that the BMP as constructed complies with the approved plans and the UDO.
- B. Upon completion of a project, and before a Certificate of Occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit **actual field surveyed “as built” plans** for all stormwater management facilities or practices after final construction is completed.
- C. The as-built plan shall be prepared by a land surveyor or professional engineer registered to practice in North Carolina. Applicant to provide (2) sealed paper copies and (1) digital copy on CD (compact disk), consistent with the programs used by the Franklin County GIS Department. Field survey/ as-built to be tied to NC grid system.
- D. The plans shall show the final design specifications for all stormwater management facilities and practices and the **field surveyed location, size, depth**, and planted vegetation (if applicable) of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the Stormwater Administrator may be required before the release of any performance securities.

## **Section 7 — RIPARIAN BUFFER REQUIREMENTS**

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Riparian buffers shall be protected because in most cases they provide a measure of protection for surface waters by removal of nutrients from nonpoint sources. The riparian buffer regulations are intended to protect and preserve existing riparian buffers and maintain their nutrient removal functions within the county's river basins.

### **7.1 GENERAL REQUIREMENTS**

All of the regulations delineated in Section 12-3.4 are intended to comply with the requirements of 15A NCAC 2B .0259. All property located in Franklin County outside of any municipal boundary or extraterritorial jurisdiction shall comply with the riparian buffer regulations.

### **7.2 APPLICABILITY**

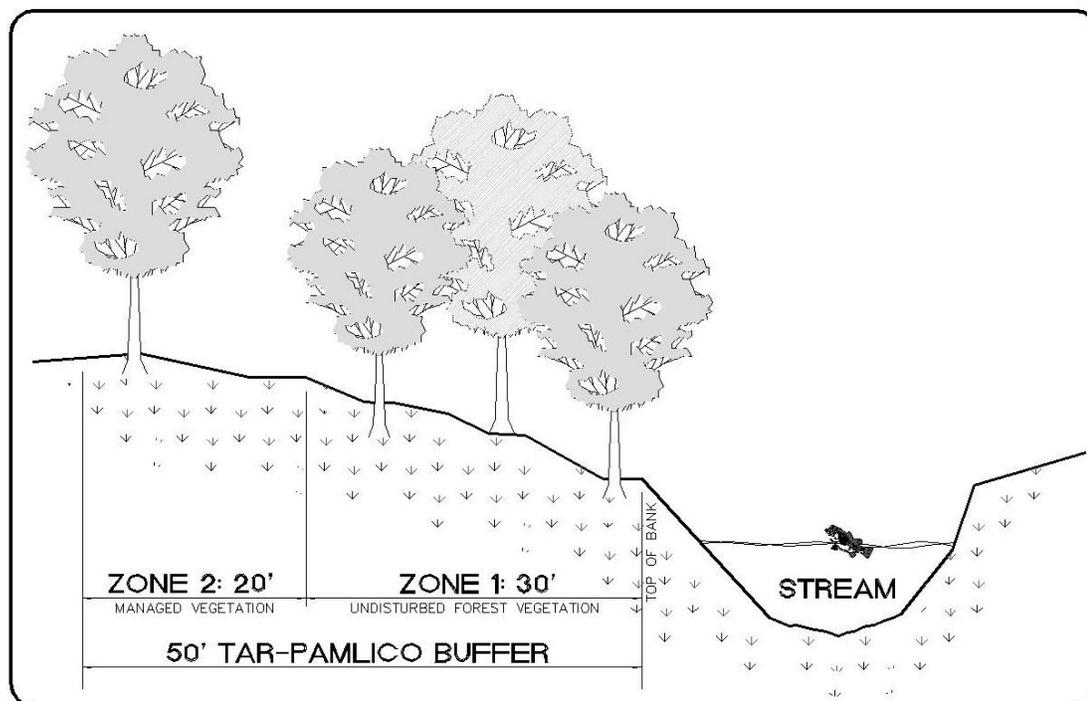
- A. The Riparian Buffer regulations shall apply to all areas of the county outside of any municipal boundary or its extraterritorial jurisdiction.
- B. Riparian Buffer Exemption – Existing and ongoing uses within the riparian buffer, if present as of January 1, 2000, may be exempt from the riparian buffer protection requirements according to the provisions outlined in 15A NCAC 02B .0259. Proposed developments, which have County approval, but have not been constructed as of January 1, 2000, may not claim an exemption to the riparian buffer protection requirements.

### **7.3 RIPARIAN BUFFER PROTECTION**

The purpose of this regulation is to protect and preserve existing riparian buffers to maintain their nutrient removal functions in the entire Tar-Pamlico River Basin. As required by 15A NCAC 02B .0259, a fifty-foot (50') wide riparian buffer shall be maintained directly adjacent to all perennial and intermittent streams, including lakes, ponds and other bodies of water, excluding wetlands, as indicated on the most recent version of the 1:24,000 scale (7.5 minutes) quadrangle topographic maps prepared by the USGS and all other surface waters as indicated by the most recent version of the Soil Survey for Franklin County, North Carolina. Where obvious conflicts exist between actual field conditions and USGS and county soil survey maps, appeals may be made to the North Carolina Division of Water Quality.

### **7.4 DELINEATION OF BUFFER ZONES**

The buffer is divided into two zones, moving landward from the surface water, that are afforded different levels of protection. Zone 1, the first 30 feet, is to remain essentially undisturbed, while Zone 2, the outer 20 feet, must be vegetated but may be managed in certain ways, such as grading and revegetating provided that the health of the vegetation in Zone 1 is not compromised. Zones are specifically described in 15 NCAC 02B .0259 (4)(a and b).



For intermittent and perennial streams, Zone 1 begins at the most landward limit of the top of the bank or the rooted herbaceous vegetation and extending landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to the surface water.

For ponds lakes and reservoirs located within a natural drainage way, Zone 1 shall begin at the most landward limit of the normal water level or the rooted herbaceous vegetation and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water.

Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water.

## 7.5 ACTIVITY WITHIN THE BUFFER

- A. Activity may take place within any riparian buffer zone as defined by 15A NCAC 02B .0259 subject to approval from DWQ. No development proposal that includes impact to the riparian buffer shall be approved by Franklin County unless it includes one of the following:
1. Certifications from DWQ that surface waters are not present as determined by an on-site inspection.
  2. An Authorization Certificate from DWQ for an “allowable” use such as a road crossing or utility line, or for a use that is “allowable with mitigation” along with a Division-approved mitigation plan has been obtained.
  3. A documented opinion from DWQ that a vested right has been established for the proposed development activity.

4. A letter from DWQ documenting that a variance has been approved for the proposed development activity.
- B.** For more information on allowable activities within a riparian buffer or along a stream or for detailed information for exemptions from the riparian buffer rule, contact the NCDENR DWQ Raleigh Regional Office at 919.791.4200, or at <http://portal.ncdenr.org/web/wq/ps/nps/tarpamlico>
- C.** A small portion of southern Franklin County is located within the **Falls Lake Watershed**. New development within the Falls Lake Watershed must comply with the “Falls Lake Watershed Stormwater Ordinance,” Section 8. Additional information may be obtained at: <http://portal.ncdenr.org/web/wq/ps/nps/fallslake>

## 7.6 BUFFERS DEPICTED ON DEVELOPMENT PLANS

- A.** Required riparian buffers shall be shown on all plats and/or site plans submitted with a note indicating the protected nature of the buffer and how diffuse flow is to be maintained. When required by the Planning Director, the placement of adequate signage shall be required to relay the buffer protection to the public.
- B.** In addition, the following items must be addressed, where applicable, on Stormwater Management Plans:
  1. All surface waters, as shown on the USGS Quadrangles or Franklin County Soil Survey (published paper copy), must be shown on the proposed plan.
  2. All riparian buffers must be appropriately labeled on the proposed plan and final plat. Riparian buffers must extend 50 feet from the top of bank for streams or the edge of normal water levels for ponds and other impoundments.
  3. Where development requires the disturbance of a riparian buffer, documentation of approval from NCDENR DWQ is required. If the project is considered exempt, documentation or an explanation should be provided noting this, utilizing the conditions stated in NCDENR rules.
  4. Diffuse flow must be provided for all stormwater runoff entering the riparian buffer. The following guidelines should be utilized:
    - a. Development located near riparian buffers should minimize large concentrated discharge points. By providing multiple outlets for stormwater runoff and maintaining natural drainage patterns, the stormwater runoff impacts from new development can be minimized.
    - b. Documentation must be provided, indicating that the proposed development has provided sheet flow at all discharge points where required. Appropriate calculations and details should be included.
    - c. Additional methods to provide diffuse flow will be reviewed and approved on an individual basis. Developers and design professionals may request a pre-design conference to determine if a proposed facility will be accepted.

- d. The NCDENR DWQ Level Spreader Design Guidelines, latest revision, shall be utilized as necessary. Refer to the NCDENR BMP Design Manual.
  - e. Discharge that will flow into an existing, non-buffered draw or stream, prior to entering the riparian buffer will be exempt from the diffuse flow requirement.
- C. All stormwater facilities proposed to create sheet flow must be contained within permanent drainage easements and have Operation and Maintenance Agreement and/or guidelines provided in the restrictive covenants. The Operation and Maintenance Agreements and the restrictive covenants must be recorded.

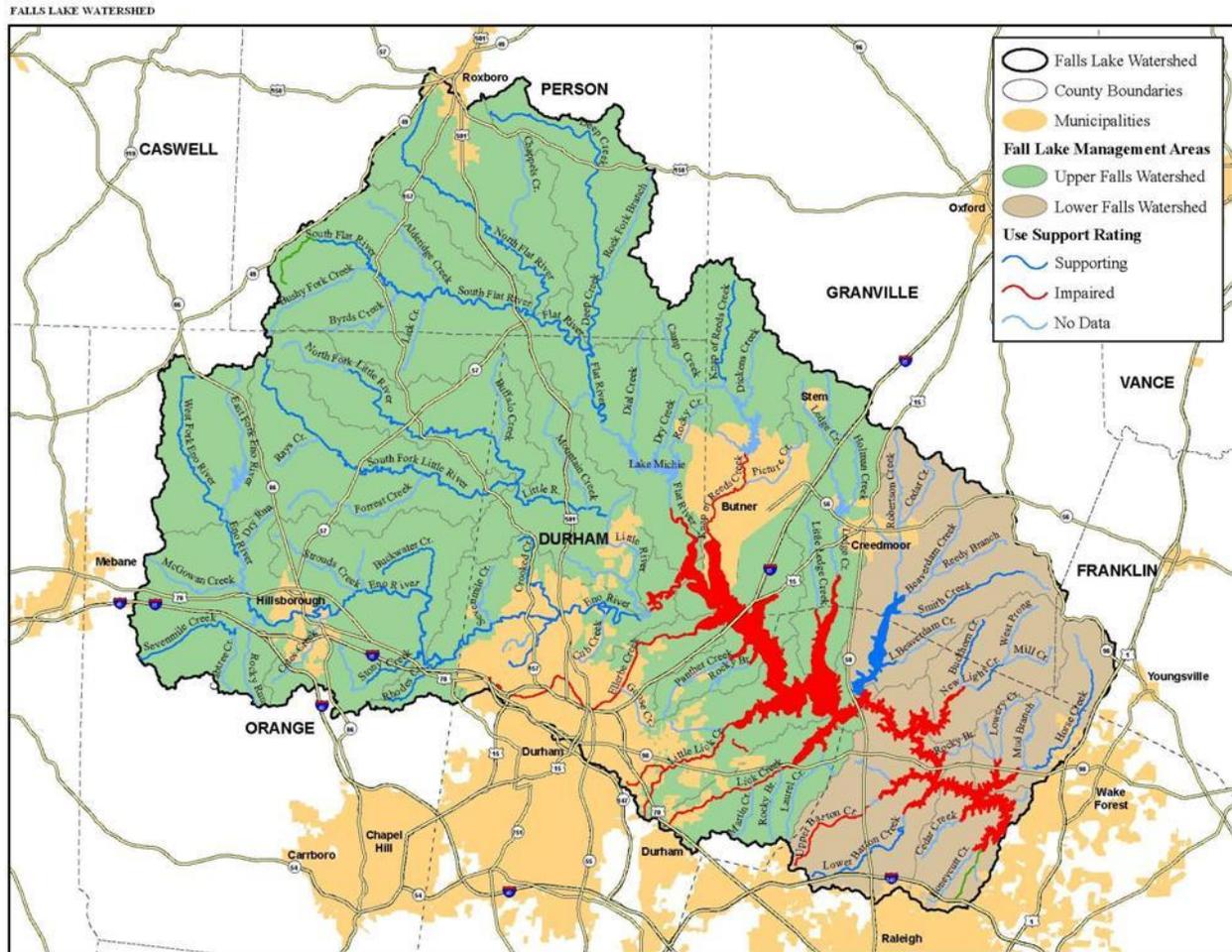
#### **7.7 VARIANCES TO THE RIPARIAN BUFFER RULE**

Requests for variances to the Riparian Buffer Rule shall be directed to, and approval sought from, the Division of Water Quality, NCDENR.

#### **7.8 AMENDMENTS AND VARIANCES TO THE TAR-PAM OVERLAY DISTRICT REGULATIONS**

The County may not amend the program or grant a variance in a manner that fails to meet the minimum requirements of the rule without prior approval from NCDENR DWQ.

## Section 8 — FALLS LAKE WATERSHED STORMWATER ORDINANCE



Source: NCDENR DWQ

### 8.1 FINDINGS

It is hereby determined that:

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

- C. These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.
- D. Further, the NC *Environmental Management 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 exceedences 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 NCAC 02B .0275-.0282 and amended .0235 and .0315].

Therefore, Franklin County 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*.

Further information is available online at: <http://portal.ncdenr.org/web/wq/ps/nps/fallslake>

## 8.2 PURPOSE

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of nitrogen and phosphorus in stormwater runoff and nonpoint and point source pollution associated with new development and *redevelopment* in the watershed of Falls of Neuse reservoir. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

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

- A. Establishing decision-making processes for development that protects 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 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 and review criteria for the construction, function, and use of *structural stormwater BMPs* that may be used to meet the minimum post-development stormwater management standards;
- E. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of green 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 submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

**8.3 APPLICABILITY AND JURISDICTION**

**A. General**

Beginning with and subsequent to its effective date, this ordinance shall be applicable to all **development and redevelopment**, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to this ordinance.

**B. Exemptions**

**Single family and duplex residential and recreational development and redevelopment** that cumulatively disturbs **less than one half acre (<1/2 acre)** and is **not part of a larger common plan** of development or sale is exempt from the provisions of this ordinance.

Commercial, industrial, institutional, multifamily residential or local government *development and redevelopment* that cumulatively **disturbs less than 12,000 square feet** and is **not part of a larger common plan** of development or sale is exempt from the provisions of this ordinance.

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

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

<u>Type of Development</u>	<u>Falls Lake Watershed</u>
Single-family, detached and duplex residential	0.50 ac or greater
Multi-family residential, commercial and industrial	12,000 sf or greater

**C. No Development or Redevelopment Until Compliance and Permit**

No development or redevelopment shall occur except in compliance with the provisions of this ordinance or unless exempted. No development or *redevelopment*

for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

**D. Map**

The provisions of this ordinance shall apply within the areas designated on the map titled "Falls Watershed Stormwater Map of Franklin County, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this ordinance (See Appendix A).

**8.4 FALLS LAKE WATERSHED STANDARDS**

**A. General Standards**

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

## B. Nitrogen and Phosphorus Loading

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

<b>Falls Lake Watershed (lbs/ac/year)</b>	
<b>Nitrogen</b>	2.2
<b>Phosphorus</b>	0.33

- b) Calculations within the Falls Lake Watershed are to follow the model and worksheets described in Section 4, with the nutrient loading limits described above.
- c) 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 nutrient loading standards identified above 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.
- d) According to Neuse River Basin Strategy (15A NCAC 2B.0235), developers shall have the option of partially offsetting their nitrogen loads by funding wetland or riparian area restoration through the North Carolina Wetland Restoration Fund as described in below in Section 8.4.E and Section 4.7.
- e) The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the *approved accounting tool*. The **Falls Lake Stormwater Load Accounting Tool** worksheet is available online at:  
<http://www.co.franklin.nc.us/Planning/LongRange/stormwater.htm>  
<http://portal.ncdenr.org/web/wq/ps/nps/fallslake>

## 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.

## D. Control and Treatment of Runoff Volume

*Stormwater systems* shall be designed to control and treat the runoff generated from all surfaces by **one inch** of rainfall. The treatment volume shall be drawn down pursuant to standards specific to each practice as provided in the NCDENR DWQ Design Manual. To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive

flows, stormwater flows from the development shall not contribute to degradation of waters of the State.

At a minimum, the *development* shall not result in a net increase in peak flow leaving the site from pre-development conditions for the *one-year, 24-hour storm event*.

**E. 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**.

<u>Type of Development</u>	<u>Area Disturbed</u>	<u>Minimum Reduction in N&amp;P from Untreated Conditions</u>
<b>Single-family, detached and duplex residential</b>	0.50 ac to 0.99 ac	30%
	1.0 ac or more	50%
<b>Other development, including multi-family residential, commercial and industrial development</b>	12,000 sf to 0.99 ac	30%
	1.0 ac or more	50%

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 (NCEEP)* contingent upon acceptance of payments by that Program. A developer may use an offset option provided by Franklin County. A developer may propose other offset measures to Franklin County, 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. Refer to Section 4.7 of this ordinance for guidance.

## F. Evaluation of Standards for Stormwater Control Measures

### 1. Evaluation According to Contents of Design Manual

All stormwater control measures, *stormwater systems* and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the NCDENR BMP **Design Manual**. **The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this ordinance.** The Design Manual is available online at:

<http://portal.ncdenr.org/web/wq/ws/su/bmp-manual>

### 2. Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the *NCDENR Design Manual* and the *approved accounting tool* will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *NCDENR Design Manual*, **the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance.** The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

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## Section 9 — ILLEGAL DISCHARGES

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This section of the Ordinance establishes methods for controlling the introduction of pollutants into the stormwater collection system.

### 9.1 DISCHARGE PROHIBITIONS

No person shall discharge or cause to be discharged into the stormwater collection system any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

### 9.2 ALLOWABLE DISCHARGES

The commencement, conduct, or continuance of any illegal discharge to the stormwater collection system is prohibited except as described as follows:

The following discharges are exempt from discharge prohibitions established by this Ordinance provided that they do not significantly impact water quality:

- a. Waterline flushing,
- b. Landscape irrigation,
- c. Diverted stream flows,
- d. Uncontaminated rising groundwater,
- e. Uncontaminated groundwater infiltration to the stormwater collection system,
- f. Uncontaminated pumped groundwater,
- g. Discharges from potable water sources,
- h. Foundation drains,
- i. Uncontaminated air-conditioning condensation,
- j. Irrigation water,
- k. Springs,
- l. Water from crawl space pumps,
- m. Footing drains,
- n. Lawn watering,
- o. Non-commercial car washing,
- p. Flows from riparian habitats and wetlands,
- q. NPDES permitted discharges,
- r. Street wash water,
- s. Fire fighting emergency activities,
- t. Wash water from the cleaning of buildings,
- u. Dechlorinated backwash and draining associated with swimming pools, and
- v. Flows from firefighting.
- w. Discharges specified in writing by the County as being necessary to public health and safety.

- x. Dye testing is an allowable discharge, but requires verbal notification to the County prior to the time of the test. Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or waste discharge order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater collection system.

### 9.3 PROHIBITED DISCHARGES

- A. It is a violation of this Ordinance for any person to discharge any substance into the stormwater collection system, which by its nature, may:
  1. Become a public health hazard endangering human or animal health.
  2. Interfere with the free and rapid flow of surface water.
  3. Be flammable or explosive.
  4. Be toxic to human, animal or plant life.
  5. Be corrosive or damaging to the stormwater collection system.
  6. Affect adversely the State of North Carolina classification of the stream into which the discharge flows.
- B. Non-allowable discharges include, but are not limited to, the following:
  1. Dumping of oil, anti-freeze, chemicals, garbage, paint or cleaning fluids,
  2. Untreated animal waste,
  3. Commercial car washes,
  4. Industrial discharges,
  5. Contaminated foundation drains,
  6. Cooling water unless no chemicals are added, and a NPDES permit is in place,
  7. Washwaters from commercial and industrial activities,
  8. Sanitary sewer discharges,
  9. Septic tank discharges,
  10. Washing machine discharges, and
  11. Chlorinated backwash and draining associated with swimming pools.
- C. Prohibition of Illegal Connections
  1. The construction, use, maintenance, or continued existence of illegal connections to the stormwater collection system are prohibited. Any connection to the stormwater collection system, which allows the discharge of non-stormwater, other than the exclusions listed in Section 7.B of this Ordinance, is prohibited.
  2. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.
  3. A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the stormwater collection system, or allows such a collection to continue.

4. Where such connections exist in violation of this Ordinance, and said connections existed prior to the adoption of this Ordinance, the property owner, or person using said connection shall remove the connection within one (1) year following the adoption of this Ordinance. This grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to human, animal or plant life, and natural resources.
5. Where it is determined that the one (1) year grace period shall not apply, the Planning Director or Designee shall determine the time within which the connection shall be removed. In setting the time limit for compliance, the County shall take into consideration:
  - a. The quantity and complexity of the work.
  - b. The consequences of delay.
  - c. The potential harm to the environment, to the public health, to public and private property, to wildlife, and to natural resources.
  - d. The cost of remedying the damage.

#### **9.4 SPILLS**

- A. Spills or leaks of polluting substances discharged to, or having the potential to reach the stormwater collection system, shall be contained, controlled, collected, and removed promptly. All affected areas shall be restored to their preexisting condition.
- B. Notification of Spills:
  1. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into or may reach the stormwater collection system or waters of the Tar-Pamlico River Basin in Franklin County, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such discharge. In the event of such a discharge of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services, and shall notify the County within twenty-four (24) hours. In the event of a discharge of non- hazardous materials, said person shall notify the County no later than the next business day. All notifications shall be confirmed by written notice addressed and mailed to the County within three (3) business days of the discharge.
  2. Notification shall not relieve said person of:
    - a. Any liability or expense related to the discharge.
    - b. Restoration of any area affected by the discharge to preexisting conditions.
    - c. Liability or violation of any regulatory body of the County, State or Federal government.

## **Section 10 — JURISDICTION-WIDE COLLECTION OF ILLEGAL DISCHARGE INFORMATION**

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Franklin County Planning and Inspections shall collect information related to Illegal Discharges from all applicable sources within its Jurisdiction within the Tar-Pamlico and Neuse River Basin.

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## Section 11 —INSPECTIONS AND INVESTIGATIONS

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### 11.1 AUTHORITY TO ENTER

Agents and officials of Franklin County shall have the right to enter property at all reasonable times to inspect sites subject to the requirements of this ordinance to determine whether the development, BMPs, discharges and/or other activities on the property conform to the standards and requirements as set out herein. No person shall obstruct, delay, hamper, or in any way interfere with a county agent or official while in the process of carrying out their duties under this ordinance.

### 11.2 INSPECTION OF STORMWATER FACILITIES

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or an NPDES stormwater permit; 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 drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

If the *owner* or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No *person* shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

### 11.3 REMEDIES

The provisions of this ordinance may be enforced by one, all, or a combination of the remedies authorized by Article 25 of Franklin County UDO.

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## **Section 12 — EFFECTIVE DATE AND AMENDMENTS**

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12.1 This Ordinance will become effective upon passage by the Franklin County Board of Commissioners and the approval of the Environmental Management Commission. Amendments to the Ordinance may not be made in a way that causes it to not meet the minimum requirements of the Tar-Pamlico Stormwater Rule or Falls Lake Watershed requirements. All amendments to the Stormwater Ordinance must be approved by the NCDENR Division of Water Quality.

12.2 Severability

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