

TOWN OF TARBORO TAR-PAMLICO STORMWATER PROGRAM

I. Introduction and Purpose of the Plan

The Tar-Pamlico River Basin begins in Piedmont North Carolina and extends approximately 180 miles through the Coastal Plain to Pamlico Sound. Together, Pamlico Sound and neighboring Albemarle Sound constitute one of the most productive estuarine systems in the country. The 5,400 square mile Tar-Pamlico basin is comprised primarily of agricultural and forest land, and also includes a number of municipalities. Despite the rural character of the basin, in the mid-1970s the Pamlico River estuary began to see increasing frequencies of harmful algal blooms, fish kills, and other nutrient-related problems.

By the mid-1980's, the state began to consider actions to control nutrient inputs to the estuary. Those actions have included the following:

Phase I: In 1989, the North Carolina Environmental Management Commission designated the entire basin "Nutrient Sensitive Waters". The first phase of management through 1994 focused primarily on point sources, establishing an annually decreasing nutrient loading cap for an association of dischargers, and an innovative "trading" program that allowed dischargers to achieve reductions in nutrient loading more cost effectively.

PCS Recycling: In 1992, a phosphate mining company then known as Texas Gulf, which is located on the Pamlico River estuary, instituted a wastewater recycling system that reduced its phosphorus discharges to the estuary by 93%.

Phase II: Modeling of estuary conditions showed that despite the gains made to that point, significant reductions in nitrogen and phosphorus loading were still needed to restore water quality standards and minimize the recurrence of harmful algal blooms. The second phase of the nutrient strategy, which runs through 2004, established a biologically based goal of 30 percent reduction in nitrogen loading from 1991 levels and holding phosphorus loading at 1991 levels. Load reductions were apportioned among point sources and the major nonpoint sources. The point sources were given steady annual nitrogen and phosphorus loading caps. A program was designed with the nonpoint sources to achieve the goals through voluntary measures. After two years of voluntary implementation, the Commission found insufficient progress and called for rules for nonpoint sources.

Rules: Beginning in 1998, DWQ staff conducted a lengthy public input process to evaluate source categories and develop rules where needed. Over the course of 2000, the Commission adopted rules for agriculture, fertilizer application across all land uses, urban stormwater, and rules to protect the nutrient removal functions of existing riparian buffers. These rules were modeled after a similar set of rules recently adopted in the

adjacent Neuse River Basin. The Neuse rules were given extensive public review and modification, and the Tar-Pamlico rules similarly received extensive scrutiny. The resulting rules provide increased flexibility for the regulated community while maintaining the focus of the nutrient reduction goals.

II. Applicability and Timeframe for the Tar-Pamlico Stormwater Rule

The Tar-Pamlico stormwater rule applies to the local governments with the greatest likelihood of contributing significant nutrient loads to the Pamlico estuary (shown below). The EMC may designate additional local governments in the basin to comply with the rule in the future through rule amendment. The rule establishes a broad set of objectives for limiting nutrient runoff from urban areas. The rule also sets up a process for DWQ to work with the affected local governments to develop a model stormwater program for meeting the objectives. The affected local governments are:

<u>Municipalities</u>	<u>Counties</u>
Greenville	Beaufort *
Henderson	Edgecombe *
Oxford	Franklin *
Rocky Mount	Nash *
Tarboro	Pitt *
Washington	

*Applicable areas are those under the direct jurisdiction of the respective county.

Timeframes for implementation of the rule are as follows:

April 1, 2001:	Effective date of the rule.
February 13, 2003:	Target date for approval of the Model Stormwater Program by the Environmental Management Commission.
February 13, 2004	Deadline for submittal of local Stormwater Programs (including ordinances) to the Environmental Management Commission.
August 13, 2004	Deadline for local governments to begin implementing local Stormwater Programs.

Following implementation in August 2004, local governments are required to make annual progress reports to the EMC that will include nutrient loading reduction estimates.

III. Elements of the Plan

In general, the elements of the Town of Tarboro Stormwater Management Plan are:

A. New Development Review/Approval

New development is required to meet the 30% reduction goal by implementing planning considerations and best management practices. The rule imposes a 4.0 pounds per acre per year (lb/ac/yr) nitrogen loading limit and a 0.4 lb/ac/yr

phosphorus-loading limit on new development. Proposals that exceed these performance standards may partially offset their load increases by treating existing developed areas offsite that drain to the same stream. Developers in the Tar-Pamlico River Basin may also partially offset their nitrogen and phosphorous loads by making payments to the North Carolina Ecosystem Enhancement Program's Riparian Buffer Restoration Fund at the rates specified in the Nutrient Offset Payments Rule (15A NCAC 02B.0240).

New development must also avoid causing erosion of surface water conveyances. At minimum, post-development peak flows leaving the site may not exceed pre-development for the 1-year, 24-hour storm event. The rule also provides local government with the option of using regional stormwater facilities to help meet nutrient loading and attenuation requirements under certain circumstances.

Implementation of these requirements is achieved through amendments that will be adopted to the Town of Tarboro Unified Development Ordinance (Appendix B) effective August 13, 2004. A Professional Engineer will be utilized to review submitted projects.

B. Illegal Discharge Identification and Removal

Illegal discharges are substances deposited in storm sewers (that lead directly to streams) that really should be handled as wastewater discharges. Depending on the source, illegal discharges may contain nutrients. The Town of Tarboro must identify and remove illegal discharges in compliance with the rules.

Part of the public education program (discussed in D below) will be to educate citizens about what types of discharges should not go to the stormwater collection system and make them aware of the hotline.

The Town of Tarboro will contact persons who are responsible for establishments that are likely sources of illegal discharges to provide information concerning allowable and disallowable discharges and illegal connections. Some of these sources may include automotive sales, rental, repair and detailing establishments, lawn care companies, cleaners and certain types of contractors.

The Town of Tarboro will be responsible for establishing a hotline as described in the schedule in Table 1B. The hotline will require either designation of a new phone number or use of an existing service. The hotline will include a recording advising citizens what to do if they call during non-business hours. Another number will be provided in cases where the illegal discharge is perceived to be an emergency.

I. Establishing Legal Authority and Timetable for Implementation

The authority to identify and inspect properties for illegal discharges is achieved through Article III of the Town of Tarboro Stormwater Ordinance.

Table 1B provides an implementation schedule and a summary of the annual reporting requirements related to the Illegal Discharge element to DWQ.

Table 1B. Implementation Schedule and Annual Reporting

Year	Implementation Requirements	Annual Report Requirements
By August 2004	<ul style="list-style-type: none"> • Establish legal authority to address illegal discharges 	<ul style="list-style-type: none"> • Submit report identifying established legal authority to meet requirements.
By October 2006	<ul style="list-style-type: none"> • Collect jurisdiction-wide information. • Select high priority area for additional screening. • Initiate illegal discharge hotline. 	<ul style="list-style-type: none"> • Report on completion of jurisdiction-wide information collection. • Submit map of high priority areas and reason for selection. • Report on initiation of illegal discharge hotline.
Each subsequent year after 2006	<ul style="list-style-type: none"> • Complete mapping and field screening for high priority area. • Select next high priority area. • Identify and remove Illegal discharges as encountered. • Continue operating illegal discharge hotline. 	<ul style="list-style-type: none"> • Submit map of stormwater collection system in high priority area upon request by DWQ. • Document illegal discharges found and resulting action. • Report on hotline usage and actions taken. • Submit map of next high priority area and reason for selection.

II. Data Collection and Mapping Requirements of Stormwater Conveyances and Systems

According to the rule, each jurisdiction is required to collect geographic information at three increasing levels of detail:

1. Collecting Town of Tarboro Information
Schedule – Complete by October 2006

The purpose of collecting jurisdiction-wide information is to assist with identifying potential illegal discharge sources and characterizing illegal discharges after they are discovered.

The following information shall be collected and mapped at a scale useful to the jurisdiction but not greater than a scale of 1:24,000.

- Location of sanitary sewers in areas of the major stormwater collection systems and the location of areas that are not served by sanitary sewers.
- Waters that appear on the USDA & Natural Resources Conservation Service Soil Survey Maps and the US Geological Survey Survey 1:24,000 scale topographic maps.
- Land uses. Categories, at a minimum, should include undeveloped, residential, commercial, agriculture, industrial, institutional, publicly owned open space and others.
- Currently operating and known closed municipal landfills and other treatment, storage and disposal facilities, including hazardous materials.
- Major stormwater structural controls.
- Known NPDES permitted discharges to the stormwater collection system (list can be obtained from DWQ).

Written descriptions shall be provided for the map components as follows:

- A summary table of municipal waste facilities that includes the names of the facilities, the status (open/closed), the types and addresses.
- A summary table of the NPDES permitted dischargers that include the name of the permit holder, the address of the facility and permit number.
- A summary table of the major structural stormwater control structures that shows the type of structure, area served, party responsible for maintaining, and age of structure.
- A summary table of publicly owned open space that identifies size, location, and primary function of each open area.

2. Mapping and Field Screening in High Priority Areas

Schedule – Begin October 2006 and complete 10% each year.

Beginning in the third year after implementation of the local stormwater program, the Town of Tarboro shall identify a high priority area of its jurisdiction for more detailed mapping and field screening. This high priority area shall comprise at least ten percent of the Tarboro's area. This requirement will begin in the third year after implementation. Each subsequent year, the Town of Tarboro is responsible for selecting and screening another high priority

area that comprises at least ten percent of its jurisdiction. “High priority” means the areas within a jurisdiction where it is most likely to locate illegal discharges.

The first part of the screening process for the selected high priority area is mapping the stormwater system. At a minimum, the map that is produced will include the following:

- Locations of the outfalls, or the points of discharge, of any pipes from non-industrial areas that are greater than or equal to 36 inches.
- Locations of the outfalls of any pipes from industrial areas that are greater than or equal to 12 inches.
- Locations of the outfalls of drainage ditches that drain more than 50 acres of non-industrial lands.
- Locations of the outfalls of drainage ditches that drain more than 2 acres of industrial land.
- An accompanying summary table listing the outfalls that meet the above criteria that includes outfall ID numbers, location, primary and supplemental classification of receiving waters, and use-support of receiving waters.

The second part of the screening process for the selected high priority area is conducting a dry weather field screening of all outfalls that meet the above criteria to detect illegal discharges. The dry weather field screening shall not be conducted during or within 72 hours following a rain event of 0.1 inches or greater. In residential areas, it is recommended to conduct the field screening either before 9:00 am or after 5:00 pm, since these are the hours that citizens are most likely to be home and thus any illegal discharges are more likely to be evident.

If the field screening shows that an outfall has a dry weather flow, then the local government is required to complete a screening report for the outfall. The information that should be contained in the screening report is outlined in Table 2B. Screening reports shall be kept on file for a minimum of five years.

Table 2B: Field Screening Report Information

General Information	Sheet Number Outfall ID Number Date Time Date, Time and Quantity of Last Rainfall Event
Field Site Description	Location Type of Outfall Dominant Watershed Land Use(s)

Visual Observations	Photograph Odor Color Clarity Floatables	Deposits/Stains Vegetation Condition Structural Condition Biological Flow Estimation
Sampling Analysis *	Temperature pH Nitrogen-Ammonia	Nitrogen-Nitrate/Nitrite Fluoride or Chlorine Total Phosphorus Ortho-Phosphate

Note: Analytical monitoring is required only if an obvious source of the dry weather flow cannot be determined through an investigation of the upstream stormwater collection system.

Outfalls with flow will be screened again within 24 hours for the above parameters. The tests for ammonia and nitrate/nitrite that are purchased should be sensitive for 0.1 to 10 mg/L.

The purpose of the field screening is to provide clues as to the source of the illegal discharge. The characterization should be used in conjunction with the jurisdiction-wide information and a field investigation to identify the source of the illegal discharge. The process of identifying and removing illegal discharges is discussed in the next section.

As part of the review process for field screening activities, there may be training needs associated with performing these activities. The Public Education Program will look at the development of training materials and opportunities to assist local governments in preparing to implement these measures.

3. Identifying and Removing Illegal Discharges

Schedule: Begin October 2006

After the field screening is complete, local governments are required to take measures to identify and remove illegal discharges. Identifying illegal discharges may require a combination of office and fieldwork. After the field screening, local government staff will consult the jurisdiction-wide information they have compiled to obtain information about the land uses, infrastructure, industries, potential sources and types of pollution that exist in the drainage area of the outfall.

After potential sources have been identified in the office, a systematic field investigation will be planned that minimizes the amount of resources required to identify the source. Several field methods may be used to identify illegal discharges. Listed below are several approaches that will be used.

- Site Investigation
- Additional Chemical Analysis (recommend testing for fecal coliform if the ammonia concentration was found to exceed 1.0 mg/L)

- Flow Monitoring (recommended to use multiple site visits rather than a depth indicator)
- Dye Testing (fluorescent dye is recommended)
- Smoke Testing
- Television Inspection

One tip on identifying illegal discharges is that outfalls that do not have flow during wet weather are likely to originate from floor drains.

Documentation of the results of the office and field investigations will be kept on file for five years with the screening report.

In addition to keeping all screening reports on file, each jurisdiction shall maintain a map that includes the following:

- Points of identified illegal discharges.
- Watershed boundaries of the outfalls where illegal discharges have been identified.
- An accompanying table that summarizes the illegal discharges that have been identified that includes location, a description of pollutant(s) identified, and removal status.

C. Identification of Retrofit Locations

The rule requires that all affected local governments establish a program to identify and prioritize places within existing developed areas that are suitable for retrofits.

There are a number of funding sources available for water quality retrofit projects, such as the Clean Water Management Trust Fund and the Wetland Restoration Program that the NC General Assembly has recently established. To assist technical experts, the Town of Tarboro is required to identify sites and opportunities for retrofitting existing development to reduce total nitrogen and phosphorus loads.

I. Approach for Meeting the Requirements

Retrofit opportunities will be considered acceptable if all of the following conditions have been investigated:

- The retrofit, if implemented, clearly has the potential to reduce nitrogen or phosphorus loading to the receiving water.
- The watershed is clearly contributing nitrogen or phosphorus loading above background levels.
- The landowner where the retrofit is proposed is willing to have the retrofit installed on his property. Securing the landowner's cooperation is one of the most important tasks for the local government, as this is

- often the most difficult aspect of implementing a retrofit.
- There is adequate space and access for the retrofit.
- It is technically practical to install a retrofit at that location.

The minimum number of retrofit opportunities that each local government is required to identify is based on a sliding scale according to the population of the government. For those communities that are not completely located within the Tar-Pamlico River Basin, the number of retrofits can be based on the estimated population within the Tar-Pamlico River Basin. Table 1C shows the minimum requirements for identifying retrofit opportunities for each affected jurisdiction. Sites may be carried over to meet the minimum requirements for up to two subsequent years provided that BMPs/retrofits have not been implemented and the site continues to meet the criteria above on an annual basis.

Table 1C below represents the minimum number of retrofit opportunities that each local government must identify on an annual basis.

Table 1C – Retrofit Opportunities by Jurisdiction

Population Retrofit Category Sites to be Identified	Local Government	Estimated 2001 Basin	# of Population
Less than 15,000	Town of Tarboro	11,200	1
	Oxford	8,500	
	Washington	9,700	
Between 15,000 And 30,000	Edgecombe County	22,400	2
	Henderson	16,300	
	Nash County	29,000	
Between 30,000 And 60,000	Beaufort County	30,600	3
	Franklin County	38,500	
	Greenville	41,667	
	Pitt County	31,800	
	Rocky Mount	56,000	
Over 60,000 4	None	NA	

II. Data Collection and Notification

1. Each retrofit opportunity that is identified shall be accompanied by information to describe the location of the retrofit, the type of retrofit being proposed, the property owner, as well as basic information about the watershed and the receiving water. The following is the format for presenting information for each retrofit

opportunity.

- Location description, including directions from a major roadway.
 - Type and description of retrofit opportunity.
 - Current property owner.
 - Information on the property owner's willingness to cooperate.
 - Land area available for retrofit (sq. ft.).
 - Accessibility to retrofit site.
 - Drainage area size (acres).
 - Land use in drainage area (percent of each type of land use).
 - Average slope in drainage area.
 - Environmentally sensitive areas in drainage area.
 - Approximate annual nitrogen loading from drainage area (lbs/ac/yr).
 - Potential phosphorus reduction (lbs/ac/yr).
 - Estimated cost of retrofit.
 - Receiving water.
 - DWQ classification of receiving water.
 - Use support rating for receiving water.
 - Potential Nitrogen Reduction
 - Other important information.
2. The aforementioned data shall be submitted to the Division of Water Quality on October 30 of each year beginning in the year 2005 as part of the annual report. The Division will take the responsibility for posting these retrofit opportunities on its Web Page and also for notifying, at a minimum, the following organizations of the opportunities for retrofitting within existing developed areas:

Clean Water Management Trust Fund
N.C. State University Cooperative Extension Service
Kerr-Tar Regional Council of Governments
Upper Coastal Plain Council of Governments
Mid-East Commission
Environmental Programs at NCSU, Duke University, UNC, ECU
and others
N.C. Sea Grant

3. The Town of Tarboro is required to provide maps that show the locations of retrofit opportunities. Mapping may be accomplished by using computers or with existing hard copy maps. The scale of the map should be large enough to adequately identify the following required parameters:

- Drainage area to retrofit opportunity site.
- Land uses within the drainage area.
- Location of retrofit opportunity.
- Property boundaries in the vicinity of the retrofit opportunity.
- Significant hydrography (as depicted on U.S.G.S. topographic maps and USDA-NRCS Soil Survey maps).
- Roads.
- Environmentally sensitive areas (steep slopes, wetlands, riparian buffers, endangered/ threatened species habitat – where available).
- Publicly owned parks, recreational areas, and other open lands.

D. Public Education

Citizens can reduce nutrient pollution coming from their lawns and septic systems if they understand the impacts of their actions and respond with appropriate management measures. The Town of Tarboro will develop and implement public and developer education programs appropriate for the Tar-Pamlico Basin.

The ultimate goal of the public education program is to educate the general public and affected county staff, development community, and local officials. Each targeted local government affected by the rule is required to develop a Public Education Action Report and Plan. The purpose of the Action Report and Plan is to provide local governments a platform to design their own locally unique public education effort and to maintain it on an ongoing basis. The Action Report and Plan will outline the proposed education activities for the upcoming year, identifying target audiences, and anticipated and actual costs of the program. Each targeted community shall submit an annual Action Report and Plan to DWQ for approval prior to October 30 of each year that includes activities totaling a minimum of fifteen (15) points. The Public Education Action Report and Plan form is shown in Appendix C.

The Action Report and Plan contains various types of activities. Innovative public education activities not included may be submitted and will be considered for approval on a case-by-case basis by DWQ. All activities are designed to raise awareness and educate the audience about water quality, nonpoint source pollution, and the effects of everyday activities on water quality and nutrient loading. Reports are required to include two technical workshops in the first year, geared toward education of staff and the development community.

E. Protecting Riparian Buffers

The Tar-Pamlico Riparian Buffer Protection Rule, 15A NCAC 2B .0259, requires local governments that are subject to the stormwater rule to ensure that riparian areas on new developments are protected in accordance with the buffer rule's provisions.

The buffer rule requires that 50-foot riparian buffers be maintained on all sides of intermittent and perennial streams, ponds, lakes and estuarine waters in the basin. The buffer rule provides for certain "allowable" uses within the buffer with DWQ approval, such as road and utility crossings.

Implementation of the Tar-Pamlico Buffer rule will be implemented through adoption of the Town of Tarboro Stormwater Ordinance and effective October 11, 2004.

F. Reporting Requirements

Annual Tar-Pamlico River Basin stormwater program reports must be submitted to the Division of Water Quality by October 30 of each year beginning in 2005. All reports shall contain the following information.

1. New Development Review / Approval

Under the model program for new development review / approval, local governments are responsible for submitting the following information as part of the annual reporting requirement:

- Acres of new development and impervious surface based on plan approvals
- Acres of new development and impervious surface based on certificates of occupancy.
- Summary of BMPs implemented and use of offsite options.
- Computed baseline and net change in nitrogen and phosphorus export from new development that year.
- Summary of maintenance activities conducted on BMPs.
- Summary of any BMP failures and how they were handled.
- Summary of results from any applicable jurisdictional review of planning issues.

2. Illegal Discharges

Table 2C outlines the annual reporting requirements for illegal discharges.

Table 2C: Implementation Schedule and Annual Reporting Requirements

Year	Implementation Requirements	Annual Report Requirements
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By August 2004	<ul style="list-style-type: none"> • Establish legal authority to address illegal discharges 	<ul style="list-style-type: none"> • Submit report identifying established legal authority to meet requirements.
By October 2006	<ul style="list-style-type: none"> • Collect jurisdiction-wide information. • Select high priority area for additional screening. • Initiate illegal discharge hotline. 	<ul style="list-style-type: none"> • Report on completion of jurisdiction-wide information collection. • Submit map of high priority areas and reason for selection. • Report on initiation of illegal discharge hotline.
Each subsequent year after 2006	<ul style="list-style-type: none"> • Complete mapping and field screening for high priority area. • Select next high priority area. • Identify and remove Illegal discharges as encountered. • Continue operating illegal discharge hotline. 	<ul style="list-style-type: none"> • Submit map of stormwater collection system in high priority area upon request by DWQ. • Document illegal discharges found and resulting action. • Report on hotline usage and actions taken. • Submit map of next high priority area and reason for selection.

3. Retrofit Locations

- Data on each retrofit opportunity
- Maps of potential retrofit sites
- The status of any retrofit efforts that have been undertaken within the jurisdiction.

IV. BMP Maintenance and Inspections

The Town of Tarboro will require the owners of all projects that install stormwater BMPs to meet the requirements of the Tar-Pamlico stormwater rule to maintain those BMPs to ensure their proper function. Owners will be responsible for implementing an operation and maintenance plan, keeping records of maintenance activities, and submitting an annual

maintenance inspection report to the Stormwater Administrator. The Town will annually inspect at least 10% of all permitted projects with stormwater facilities to gauge compliance with permitted designs and the reliability of annual reports submitted by owners.

The Town will require corrective actions by the owners as needed. If an owner fails to comply, the

Town will pursue enforcement action as provided for in the Town of Tarboro Stormwater Ordinance. The Town may also perform any maintenance or repairs needed and charge the owner for costs incur.

V. Amendments to the Program

An amendment to the Stormwater Management Program may be initiated by the Tarboro Town Council.

In cases where proposed amendments involve changes to the Town of Tarboro Stormwater Ordinance, the amendment process shall be consistent with the provisions for amending the Town of Tarboro Stormwater Ordinance. For all other amendments, the Tarboro Town Council shall solely consider the request.

All amendments must meet the minimum requirements of the Tar-Pamlico Stormwater Rules and be approved by the North Carolina Division of Water Quality.

TOWN OF TARBORO STORMWATER ORDINANCE

ARTICLE I

1-1 Authority.

These regulations are adopted pursuant to the authority vested in the Town of Tarboro by the Session Laws and the General Statutes of North Carolina, particularly Article 19, Parts 1, 2, 3, 4, and 5, Chapter 160A-174, Chapter 160A-193, and any special local legislation enacted by the General Assembly for the Town of Tarboro.

1-2 Purpose.

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in the Town of Tarboro. This ordinance seeks to meet that purpose through the following objectives:

- (A) To achieve and maintain a 30 percent reduction, relative to pre-development levels, in nitrogen loading to the Pamlico estuary from lands in the Town of Tarboro on which new development occurs; and
- (B) To limit phosphorus loading to pre-development levels; and
- (C) To provide control for peak stormwater flows from new development lands to ensure that the nutrient processing functions of existing riparian buffers and streams are not compromised by channel erosion; and
- (D) To minimize, to the greatest extent practicable, nitrogen and phosphorus loading to the estuary from existing developed areas in the basin; and
- (E) To meet the requirements of 15A NCAC 2B .0258.

1-3 Title.

This ordinance shall be known as the *Town of Tarboro Stormwater Ordinance* and may be cited as the *Stormwater Ordinance*.

1-4 Jurisdiction.

This ordinance shall be applied to all land within the planning jurisdiction of the Town of Tarboro with the exception of Part III Illegal Discharge Detection and Elimination, which shall only be applied inside the corporate limits of the Town of Tarboro. Edgecombe County has agreed to enforce the requirements of Part III in the Extraterritorial Jurisdiction (ETJ) of the Town of Tarboro.

1-5 Severability.

If any section, specific provision, or standard of these regulations is found by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, or standard of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

1-6 Relation to Other Ordinances.

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, or other provision of law. If the provisions of this ordinance conflict with the provisions of any other validly enforceable ordinance(s) or laws, the most stringent provisions shall control.

1-7 Effective Date.

These regulations shall become effective on October 11, 2004

1-8 Fees.

All fees referred to in this ordinance shall be those fees established by the Town of Tarboro Town Council. Any time this ordinance requires the recordation of an instrument at the Office of the Register of Deeds of Edgecombe County all costs associated with the recording of such instrument shall be in addition to any stated fees and shall be borne in full by the applicant.

1-9 Applicability.

- (A) No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any changed use be established for any building, structure, or land; nor shall any land disturbing activity commence unless in conformity with the provisions of this ordinance, except that Part II of this ordinance shall not apply to:
 - (1) Any portion of a project, or use which has established vested rights according to this ordinance; or
 - (2) Any agriculture, mining, or forestry activities; or
 - (3) Any activity that disturbs one acre or less of land to establish, expand, or replace a single family or duplex residential development or recreational facility; or
 - (4) Any activity on an individual single family residential lot of record that that results in ten percent or less new built-upon area to

establish, expand, or replace a single family residence not part of a larger common plan of development or sale; or

- (5) Any activity that disturbs one-half acre or less of land to establish, expand, or replace a multifamily residential development or a commercial, industrial or institutional facility.
 - (a) It shall be the burden of the property owner or developer to prove to the satisfaction of the Stormwater Administrator that their proposed project meets the exception listed in (A) above. Any person claiming such an exception shall file a request for determination of exception with the Stormwater Administrator either prior to or in conjunction with an application for a stormwater permit issued by the Town of Tarboro. Such request shall be in writing and shall include all relevant documentation to prove such exception.
 - (b) Redevelopment projects that result in no net increase in built-upon area and provide equal or greater stormwater control than the previous development will be considered in compliance with the nutrient loading and post-construction management requirements of this ordinance.

1-10 Incorporation of the Stormwater Best Management Practices Manual.

The North Carolina Department of Environment and Natural Resources, Division of Water Quality, 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. If any standard, requirement, or procedure as set forth in the 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 this manual shall be available for public review in the office of the Stormwater Administrator.

1-11 Rules of Construction and Definitions.

(A) Rules of Construction.

For the purposes of these regulations, the following rules of construction apply.

- (1) Interpretations shall be guided by statements of intent.
- (2) The term “this ordinance” shall refer to the *Town of Tarboro Stormwater Ordinance*.
- (3) The words "shall", "must", and "will" are mandatory, implying an obligation or duty to comply with the particular provision.
- (4) The word “may” is permissive, except when the context of the particular use is negative, then it is mandatory (e.g. “may not”).

- (5) The word “should,” whether used in the positive or the negative, is a suggested guideline.
- (6) References to "days" will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.
- (7) For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined in subsection (B) below. Except as defined herein, all other words used in this ordinance shall have their everyday dictionary definition.
- (8) Words used in the present tense include the future tense and words used in the future tense include the present tense.
- (9) Words used in the singular number include the plural and words used in the plural number include the singular.
- (10) The word “person” includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- (11) The word “lot” includes the word “plot”, “parcel” or “tract.”
- (12) The word “building” includes the word “structure” and the word “structure” includes the word “building.”
- (13) The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged” or “designed” to be used or occupied.
- (14) Words used in the masculine gender include the feminine gender.
- (15) The word “street” includes the words road, avenue, place, way, drive, lane, boulevard, highway, and any other facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians.
- (16) The terms “Council” and “Town Council” shall mean the Tarboro Town Council.
- (17) The term “Stormwater Administrator” shall mean the stormwater administrator of the Town of Tarboro, North Carolina or his designee.
- (18) The terms “Manager” or “Town Manager” shall mean the manager of the Town of Tarboro, North Carolina.
- (19) The term “State” shall mean the state of North Carolina.
- (20) The term “the Town” shall mean the Town of Tarboro, North Carolina.
- (21) Any reference to a section shall mean a section of the *Town of Tarboro Stormwater Ordinance*, unless otherwise specified.

(c) Definitions.

“Applicant” means a property owner or agent of a property owner who has filed an application for a stormwater permit.

“Applicator” means 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 which they lease or otherwise hold rights.

“Best Management Practice (BMP)” means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

“Buffer” means 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. The buffer shall be measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

“Building” means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

“Built-Up Area” means that portion of a development project that is covered by impervious or partially impervious surface 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.).

“Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

“Dedication” means the deliberate appropriation of property by its owner for general public use.

“Design Manual” means the North Carolina Department of Environment and Natural Resources, Division of Water Quality, Water Quality Section, *Stormwater Best Management Practices Manual, 1999*, and all amendments thereto.

“Detention” means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

“Detention Facility” means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

“Developer” means a person who undertakes land disturbance activities.

“Development” means any land disturbing activity, which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

“Development Review Committee” means a the Town of Tarboro committee appointed by the Town Manager to assist the Stormwater Administrator with administration and enforcement of this ordinance.

“Discharge” means the addition of any man-induced waste effluent either directly or indirectly to state surface waters.

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

“Domestic Wastewater Discharge” means 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.

“Drainage Easement” means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

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

“Illegal Connection” means:

- i. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or

- ii. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records approved by the Town of Tarboro.

“Illegal Discharge” means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted by this ordinance.

“Impervious Cover” means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

“Industrial Discharge” means 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:

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

“Infiltration” means the process of percolating stormwater into the subsoil.

“Jurisdictional Wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

“Land Disturbing Activity” means any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface or any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation. 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.”

“Landowner” means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

“Nonpoint Source Pollution” means pollution from any source other than from any discernible, confined, and discrete conveyance, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

“Non-Stormwater Discharge” is any discharge to the storm drain system that is not composed entirely of storm water.

“Off-Site Facility” means a stormwater BMP located outside the subject property boundary described in the permit application for land development activity.

“1-year, 24-hour storm” means a rainfall of intensity expected to be equaled or exceeded, on average, once in 12 months.

“On-Site Facility” means a stormwater BMP located within the subject property boundary described in the permit application for land development activity.

“Operation and Maintenance Agreement” means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

“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 coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

“Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“Qualified Professional” means a professional licensed and/or registered in the state of North Carolina performing services only in their areas of competence.

“Recharge” means the replenishment of underground water reserves.

“Redevelopment” means any rebuilding activity other than a rebuilding activity that:

- (a) Results in no net increase in built-upon area, and
- (b) Provides equal or greater stormwater control than the previous development.

“Riparian Area” means an area that is adjacent to a body of water.

“Stop Work Order” means an order issued which requires that all construction activity on a site be stopped.

“Stormwater” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

“Stormwater Administrator” means the Town of Tarboro staff person appointed by the Town Manager.

“Stormwater Management” means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

“Stormwater Permit” means a permit issued by the Stormwater Administrator.

“Stormwater Retrofit” means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

“Stormwater Runoff” means flow on the surface of the ground, resulting from precipitation.

“Stormwater Treatment Practices (STPs)” means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

“Wastewater” means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

“Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

“Waters” means any stream, river, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway, or other body or accumulation of water, whether surface or underground, public or private, or natural or artificial, that is contained in, flows through, or borders upon any portion of this State, including any portion of the Atlantic Ocean over which the State has jurisdiction.

1-12 Inspections and Enforcement.

(A) Authority to Enter.

Agents and officials of the Town of Tarboro 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 Town agent or official while in the process of carrying out their duties under this ordinance.

(B) 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.

(C) Remedies.

The provisions of this ordinance may be enforced by one, all, or a combination of the remedies authorized and prescribed herein including civil penalties, criminal penalties, injunctive relief, stop work orders, permit revocation, restoration, and abatement.

(D) Notice of Violation/Warning Citation.

(1) Upon determination that a violation of this ordinance has occurred, the Town shall issue a notice of violation to the owner of the property on which the violation has occurred and/or the alleged violator if such is believed to be different than the owner. A notice of violation shall be construed to be a warning citation and shall either: 1) be served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person, or 2) posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the Town of Tarboro or obtained from the violator at the time of issuance of a permit. The violator shall be deemed to have been served upon the mailing or delivery of said notice. The notice of violation shall indicate the nature of the violation, order any action necessary to correct the violation, state a deadline for compliance, and shall contain an order to immediately cease the violation. The notice of violation shall state that it may be appealed in a manner set out by this ordinance and it shall state that failure to correct the violation shall subject the violator to any and all penalties prescribed herein. In establishing the deadline for compliance, the Town shall take into consideration the quantity

and complexity of the work, the public health and environmental consequences of delay, and the effectiveness and timeliness of previous corrective actions taken by the violator but in no case shall the deadline for compliance exceed sixty calendar days.

- (2) An appeal from a notice of violation shall be taken within ten days from the date of said notice to the Town Council. The Town Council in considering appeals of notices of violation shall have power only in the manner of administrative review and interpretation where it is alleged that the enforcement official has made an error in the application of an ordinance, in the factual situation as it relates to the application of the ordinance, or both. A violator who fails to file an appeal within the time period prescribed above is deemed to have forfeited his appeal rights for the violation, the notice of violation, civil citations, and civil penalties assessed for the violation.
 - (3) Where the Stormwater Administrator determines that the period of time stated in the notice of violation is not sufficient for abatement based upon the work required or consent agreement, the Stormwater Administrator may amend the notice of violation to provide for additional time not to exceed sixty calendar days from the date of the initial notice. The Town Council shall have the authority to extend this deadline for those cases where such time extension is proven to this board to be required due to the complexity and/or severity of the violation. Such extension shall be granted as a result of an appeal of the deadline established by the stormwater administrator. Violations that are an imminent threat to public health, safety, and/or welfare shall not be granted an extension.
- (E) Civil Penalties in General.
- (1) Upon failure of the violator to obey the notice of violation, a civil citation shall be issued by the Stormwater Administrator and shall be either: 1) served directly on the violator, his duly designated agent, or registered agent if a corporation, in person, or 2) posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the Town of Tarboro or obtained from the violator at the time of issuance of the notice of violation. The violator shall be deemed to have been served upon the mailing or delivery of said citation. The citation shall direct the violator to appear before the Town Manager, or his designee, within ten days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise further citations shall be issued.

- (2) If a violation is repeated within a two-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies as set forth in this section. A repeat violation is one, which is identical to or reasonably similar to a previous violation for which the Town has issued a notice of violation or civil citation.
 - (3) If the violator fails to respond to a citation within fifteen days of its issuance and pay the penalty prescribed therein, the Town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.
 - (4) At the discretion of the Town Manager, civil penalties for first time offenders may be waived provided that the offender demonstrates a good faith effort to correct the violation in a timely manner.
- (F) Civil Penalty Amounts.
- (a) Any person who violates any provision of this ordinance, any order issued pursuant to this ordinance, or any condition of an approved permit shall be subject to civil penalties in the amount of fifty (50) dollars per day.
- (G) Criminal Penalties.
- (a) Any person who violates any provision of this ordinance, any order issued pursuant to this ordinance, or any condition of an approved permit shall be guilty of a misdemeanor punishable by fines and/or imprisonment as determined by the court.
- (H) Injunctive Relief.
- Whenever the Town has reasonable cause to believe that any person is violating or threatening to violate any provision of this ordinance, any order issued pursuant to this ordinance, or any condition of an approved permit, the Town may initiate a civil action in local superior court to restrain the actions of such person that would constitute a violation. Upon finding that such violation has occurred or is threatened to occur, the court may issue any order of abatement or action necessary to insure compliance with this ordinance. The institution of an action for injunctive relief shall not relieve any party to the proceeding from any civil or criminal penalty prescribed herein.
- (I) Stop Work Order.
- Whenever it is determined that work is proceeding without a valid stormwater permit, that work is proceeding in a manner inconsistent with a valid stormwater permit, or that work while proceeding according to a

valid permit is insufficient to meet the requirements of this ordinance, the Stormwater Administrator may issue a stop work order. The order shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons therefore, and the conditions under which the work may be resumed. An appeal from a stop work order may be filed with the Stormwater Administrator as set out herein.

(J) Revocation of Permits.

The Stormwater Administrator may revoke any permit issued pursuant to this ordinance at any time for one or more of the following reasons:

- (1) Failure to comply with an approved permit.
- (2) The discovery of false, incomplete, or erroneous information submitted as part of the permit application.
- (3) Failure to allow reasonable and timely access to the property for any and all inspections deemed by the Town to be necessary to insure compliance with this ordinance.
- (4) The discovery that a permit was mistakenly issued.

(K) Restoration.

Any person who violates any provision of this ordinance, any order issued pursuant to this ordinance, or any approved stormwater permit shall be, in addition to all other remedies, subject to site restoration. The Stormwater Administrator shall take into consideration the nature and extent of the violation, the impact upon the land, public health and safety and any other factors he deems necessary in determining whether or not restoration shall be required. If the Stormwater Administrator determines that restoration is required, the violator shall restore all land, water, and vegetation affected by the violation to its condition prior to the violation except that whenever the prior condition is unknown or disputed the Stormwater Administrator shall determine the extent of restoration required. Whenever trees are removed in violation of this ordinance, new trees shall be planted at a rate of nine inches of tree circumference for every one hundred square feet of disturbed area. All replacement trees shall be native woodland species suited to the growing conditions of the planting area. In setting the time limits for restoration, the Stormwater Administrator shall take into account the quantity of work required, planting seasons, and the consequences of delay.

(L) Abatement.

Whenever a violation of this ordinance for which a notice of violation has been sent remains uncorrected after the appeal rights of the violator have been forfeited or exhausted and such violation has been determined by the Stormwater Administrator to be dangerous or prejudicial to the public health, the Town shall have the authority to remove, abate, or remedy the

violation. The expense of this action including administrative costs shall be billed to the person in violation of this ordinance and, if not paid, shall be a lien upon the land or premises where the violation occurred and shall be collected as unpaid taxes.

(M) Continuing Violations.

Each day of violation shall constitute a separate and distinct violation subject to any and all remedies set forth herein.

1-13 Variances and Appeals.

(A) Appeals.

- (1) The Town Council shall hear and decide appeals from any order, requirement, decision, or determination made by the Stormwater Administrator pertaining to this ordinance.
- (2) An appeal may be taken by any person aggrieved by any order, requirement, decision or determination made by the Stormwater Administrator. An appeal to the Town Council shall be made within ten days of the order, requirement, decision, or determination made by Stormwater Administrator.
- (3) An appeal, specifying the grounds thereof, shall be filed with the Stormwater Administrator on a form provided by the Stormwater Administrator. Once an appeal is filed, the Stormwater Administrator shall forthwith transmit all papers with reference to the case to the Town Council.
- (4) The Town Council may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination with reference to the appeal.

(B) Variances.

- (1) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this ordinance, the Town Council shall have the power to vary or modify any of the regulations or provisions of this ordinance so the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- (2) Anyone requesting a variance shall file such with the Stormwater Administrator on a form provided by the Stormwater Administrator. Applications shall be filed at least ten days prior to the Town Council meeting at which it will be heard. After filing, the request shall be heard at the next available Town Council meeting.

- (3) The Town Council, in considering an application for a variance, shall not consider the following as grounds for granting a variance:
 - (a) The use of land or structures in the Town that are not in compliance with the requirements of this ordinance.
 - (b) The fact that property may be used more profitably.
 - (4) The Town Council, before granting a variance, shall make all of the following findings:
 - (a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. This shall be construed to mean:
 - i. If the property owner complies with the provisions of this ordinance, he can secure no reasonable return from, nor make reasonable use of, his property;
 - ii. The hardship results from the application of the requirements of this ordinance;
 - iii. The hardship is suffered by the applicant's property;
 - iv. The hardship is not the result of the applicant's own actions;
 - v. The hardship is peculiar to the applicant's property.
 - (b) That the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit.
 - (c) That in granting of the variance, the public safety and welfare have been assured and substantial justice has been done.
 - (d) That the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum one that will make possible the reasonable use of land or structures.
 - (5) The Town Council, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this ordinance.
- (C) Amendments.
- (1) Authority. The Town Council shall have the authority to amend the text of this ordinance. However, under no circumstances shall the Town amend, supplement or change these regulations so as to

cause them to violate 15A NCAC 2B .0258, as adopted and amended by the N.C. Environmental Management Commission.

- (2) Initiation. Any amendment to the text may be initiated by the Town Council, the staff, and any citizen or agent thereof upon filing an official petition including a complete application.
 - (3) Application. A petition for amendment to the text of this ordinance shall consist of:
 - (a) A completed application form.
 - (b) A written justification for the requested amendment including consistency of the proposal with the state rule.
 - (c) All appropriate fees.
 - (d) Any other information deemed necessary by the Stormwater Administrator.
 - (4) Hearing. The Town Council may refuse to call for a public hearing on any petition for amendment to the text for any reason or no reason. Notice of public hearings required under these regulations shall be in accordance with the North Carolina General Statutes. The hearing shall be conducted in accordance with rules and procedures established by the Town Council.
 - (5) Decision. The Town Council may modify any proposed text amendment upon adoption of an ordinance enacting the amendment, without the withdrawal or modification of the petition or further public hearings, when, in the opinion of the Council, such a change would not require a separate public hearing.
 - (6) NC DWQ Review and Approval. All text amendments shall be submitted to NC DWQ for formal review and approval. The effective date of any amendment to this ordinance shall not be set earlier than the date NC DWQ approves such amendment.
- (D) Withdrawal or Amendment of Petition.
- (1) The petitioner may withdraw a petition filed according to this section at any time up to the public notice of the date of the public hearing on the petition.
 - (2) If the petitioner wishes to withdraw the petition after the notice of the public hearing, the petitioner may file a written request to withdraw with the Stormwater Administrator. On the date scheduled for the hearing, the appropriate board may approve the request for withdrawal if it finds that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of any citizens affected by the petition.

- (3) Once the petition has been filed, the petitioner shall not be allowed to amend it except by request to the Council at the public hearing. No changes to the petition shall be accepted prior to the public hearing.
 - (4) If the Council hearing the petition deems any amendment to be a substantial change to the petition, it shall defer action on the petition for thirty days to allow interested parties the opportunity to comment on the amendment to the petition.
- (E) Effect of Denial.
- (1) Any request denied by the Town Council may be appealed to the local superior court by proceedings in the nature of certiorari within thirty days after the decision of the Council is filed in the office of the Stormwater Administrator.
 - (2) Any petition under this section, which is denied, may not be resubmitted unless, in the opinion of the Stormwater Administrator, substantial changes to the request result in a new petition before the Council.

1-14 Vested Rights.

- (A) Establishment of a Vested Right.
- (1) A vested right shall be deemed established upon the valid approval or conditional approval by the Town Council of a *stormwater permit with vested rights*, following notice and public hearing as specified herein.
 - (2) In approving a *stormwater permit with vested rights*, the Town Council may impose such additional terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.
 - (3) Notwithstanding subsections 1) and 2), approval of a *stormwater permit with vested rights* with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.
 - (4) A *stormwater permit with vested rights* shall be deemed approved upon the effective date of Town Council action relating thereto.
 - (5) The establishment of a vested right shall not preclude the application of new or amended regulations that impose additional requirements but do not affect the allowable intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the county, including, but not limited to, building, fire, plumbing,

electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a *stormwater permit with vested rights* upon the expiration or termination of the vested right in accordance with this section.

- (6) A vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a stormwater permit with vested rights, all successors to the original landowner shall be entitled to exercise such right while applicable.
 - (7) A vested right only protects the landowner from amendments that affect the allowable intensity of use of property but does not protect the landowner from amendments that do not affect the allowable intensity of use of property.
 - (8) A *stormwater permit with vested rights* shall expire two years after approval unless substantial work has been completed to develop the property in the manner approved by the permit. The landowner may apply for an extension of the permit prior to this time for a period not to exceed three additional years (for a total of no more than 5 years of applicable vested rights), if substantial work has not been completed. An application for an extension shall include all of the information required to obtain an original *stormwater permit for vested rights* along with a detailed plan of land development specifying work and expenditures to date and a timeline for construction and completion of the project.
- (B) Vested Rights Approval Procedure.
- (1) Application.
 - (a) An application for a *stormwater permit with vested rights* shall be processed in accordance with the following procedures and shall be considered by the Town Council, as applicable, for stormwater purposes.
 - (b) In order for a vested right to be established upon approval of a *stormwater permit with vested rights*, the applicant shall indicate at the time of application, on a form provided by the Stormwater Administrator, that a vested right is being sought.
 - (c) An application shall be accompanied by all information necessary to obtain a *stormwater permit with vested rights*, as described by this ordinance.
 - (d) The recorded permit shall contain the following notation: "Approval of this permit establishes a vested right under [## section of the city code]. Unless terminated at an earlier date, the vested right shall be valid until _____."

- (2) Notification. The landowner of the parcel for which the vested right is requested and the owners of all parcels of land adjoining and contiguous to that parcel of land as shown on the county tax listing shall be mailed a notice of the public hearing. Notice shall be by first class mail to the last addresses listed on the county tax abstracts for such owners. Notice of such proposed action shall also be published in a newspaper of general circulation in the same manner as provided by G.S. §160A-364.
- (3) Public Hearing. The Council shall hold a public hearing on the application. The Stormwater Administrator shall present the application together with staff recommendations.
- (4) Continuance. The Town Council may continue a vested right request for up to two (2) months provided the reason for said continuance is stated in the motion to continue. Nothing in this section shall prohibit a continuance from being granted for greater periods of time provided all parties concerned mutually agree it upon. Upon failure of the Board to act on a request following all proper continuances, the request shall be deemed to be denied.
- (5) Common law vested right. Nothing in this section shall preclude the stormwater administrator or Town Council from determining that a common law vested right has been established for a particular development.

ARTICLE II

ESTABLISHING STORMWATER CONTROLS

2-1 Exceptions to this Part.

- (A) Activities undertaken during an emergency except that such activities, if resulting in anything other than short term temporary stormwater impacts, shall, if otherwise required by this ordinance, meet all of the requirements of this part after such emergency.
- (B) Any of the activities listed within 15A NCAC 2B .0259 as exempt shall not be made to comply with the buffer requirements established herein.
- (C) Any project for which a variance has been granted by DWQ to the buffer requirements in accordance with 15A NCAC 2B .0259(9).
- (D) Any project for which vested rights have been determined to exist by DWQ in accordance with 15A NCAC 2B .0259.

2-2 Permit Procedures, Requirements, and Approvals.

- (A) Permit Required.

No person shall receive any permit for land development or land disturbing activity 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.
- (B) Application Requirements.
 - (1) Any person desiring a stormwater permit shall submit a permit application to the Stormwater Administrator on a form provided by the Town of Tarboro for that purpose.
 - (2) Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order for the permit application to be considered:
 - (a) Two copies of a stormwater management plan,
 - (b) Two copies of an operation and maintenance agreement, and
 - (c) A non-refundable permit review fee.
- (C) Application Procedure.

- (1) Applications for a stormwater permit may be filed with the Stormwater Administrator during regular business hours.
 - (2) 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 the Town of Tarboro.
 - (3) 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.
- (D) Stormwater Management Plan Requirements.
- (1) All plans shall be prepared and sealed by a qualified professional who also certifies under seal that the plan, including engineering detail, conforms to the minimum requirements established by this ordinance.
 - (2) All plans shall include a site plan, which at a minimum, clearly indicates the following features unless the Stormwater Administrator determines that certain elements are not appropriate or are unnecessary for a particular application:
 - (a) Ownership and use of the proposed site and all surrounding properties;
 - (b) The entire area of development and existing built-upon area on the site;
 - (c) Existing and proposed structures and impervious surfaces;
 - (d) The location of any watercourses or surface water bodies;
 - (e) The location, extent and dimensions of all existing and proposed stormwater conveyances on and immediately adjacent to the development site;
 - (f) Existing and proposed buffer areas;
 - (g) Existing and proposed open space;
 - (h) Existing and proposed topography using two foot contours;
 - (i) Existing and proposed structural BMPs;
 - (j) The extent of existing vegetation;
 - (k) Acreages of the various proposed land covers (e.g. pervious, impervious, managed open space, etc.); and
 - (l) Any other information that the Stormwater Administrator needs in order to determine compliance with these regulations.
 - (3) All plans shall clearly demonstrate of protection of and diffuse flow through buffer areas as established in section 2-4.

- (4) All plans shall include nutrient calculation worksheets and peak flow calculations as established in sections 2-2 and 2-3. Forms and formulas for calculating nutrient load and peak flow are available at the office of the Stormwater Administrator.
 - (5) All plans shall include data, site plans, and information necessary to support a proposed offsite approach, if applicable, as established in section 2-5.
 - (6) 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.
 - (7) All plans shall include engineering detail for each structural BMP, including calculations, sufficient to determine compliance with this ordinance.
- (E) Permit Review and Approval Procedure.
- (1) A copy of the permit application shall be forwarded to the Town of Tarboro Development Review Committee for review. The committee shall have thirty (30) days to review the application from the date of submittal and shall forward all comments to the Stormwater Administrator.
 - (2) The Stormwater Administrator shall approve, approve with conditions, or deny the permit application within ten (10) days of receipt of all comments from the Development Review Committee.
 - (3) If the permit application is denied, the Stormwater Administrator shall provide written comments to the applicant explaining the reason(s) for denial.
 - (4) If the Stormwater Administrator approves the permit application, a stormwater permit shall be issued.
 - (5) A previously denied permit application may not be resubmitted for consideration unless the Stormwater Administrator determines that material facts, either in the ordinance or the application, have changed significantly enough to warrant reconsideration.
- (F) Permit Duration.
- Permits issued under this section shall be valid for a period of six months from the date of issuance unless a valid building permit has been issued and maintained for the site or the Stormwater Administrator has revoked the permit. If after six months the permitted activity has not begun nor a valid building permit secured, the stormwater permit shall expire.

(G) Permit Amendments.

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

(H) Permit Recordation.

Permits issued under this section shall not be valid until they have been recorded in the office of the Register of Deeds of Edgecombe County. The recorded permit shall include a list of all conditions placed on the permit by the Town and shall include references to the location of critical supporting documentation not included with the permit which may include, but shall not be limited to, approved stormwater management plans, operation and maintenance agreements, variances, exemptions, and vested rights determinations.

2-3 Nutrient Reduction Requirements.

(A) The nitrogen export contributed by the proposed new development activity shall not exceed 4.0 pounds per acre per year.

(B) The phosphorus export contributed by the proposed new development activity shall not exceed 0.4 pounds per acre per year.

(C) For residential developments, if the computed nitrogen export is greater than 4.0 pounds per acre per year but less than 6.0 pounds per acre per year, then the applicant may either:

(1) Install BMPs onsite to remove the excess nitrogen to achieve the required maximum loading, or

(2) Provide treatment of an offsite-developed area that drains to the same stream to achieve the same nitrogen mass loading reduction that would have occurred onsite.

(i) If computed nitrogen export is 6.0 pounds per acre per year or greater, then the applicant must use on-site BMPs to reduce nitrogen export to below 6.0 pounds at which point he may choose either of the strategies listed above to further reduce it to 4.0 pounds or less per acre per year.

(3) 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).

(a) The formula to calculate nutrient offset payments will be adjusted by NC EEP on an annual basis (January of each year) based upon the construction cost index factor published every December in the Engineering News Record.

(b) In cases where reductions are needed for both nitrogen and phosphorous and the offset option is sought, only the greater value of the two offset payments calculated is required to satisfy the offset reductions for both limits.

(c) The Town of Tarboro shall determine or verify correct offset payment amount required and shall issue an approval letter to NC EEP and the developer. The approval letter shall include the project name and location including river basin, the offset payment calculations, and the amount of the offset payment.

(d) Prior to the Town of Tarboro issuing a permit, the developer shall provide receipt from NC EEP.

(D) For non-residential developments, if the computed nitrogen export is greater than 4.0 pounds per acre per year but less than 10.0 pounds per acre per year, then the applicant may either:

(1) Install BMPs onsite to remove the excess nitrogen to achieve the required maximum loading, or

(2) Provide treatment of an offsite-developed area that drains to the same stream to achieve the same nitrogen mass loading reduction that would have occurred onsite.

1) If computed nitrogen export is 10.0 pounds per acre per year or greater, then the applicant must use on-site BMPs to reduce nitrogen export to below 10.0 pounds at which point he may choose either of the strategies listed above to further reduce it to 4.0 pounds or less per acre per year.

(3) 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).

(a) The formula to calculate nutrient offset payments will be adjusted by NC EEP on an annual basis (January of each year) based upon the construction cost index factor published every December in the Engineering News Record.

(b) In cases where reductions are needed for both nitrogen and phosphorous and the offset option is sought, only the greater value of the two offset payments calculated is required to satisfy the offset reductions for both limits.

(c) The Town of Tarboro shall determine or verify correct offset payment amount required and shall issue an approval letter to NC EEP and the developer. The approval letter shall include the project name and location including river basin, the offset payment calculations, and the amount of the offset payment.

(d) Prior to the Town of Tarboro issuing a permit, the developer shall provide receipt from NC EEP.

(E) Nutrient loading shall be calculated on worksheets provided by the Town of Tarboro.

(F) Redevelopment projects that replace or expand existing structures or improvements and that result in a net increase in built-upon area shall achieve a 30% reduction in nitrogen loading and no increase in phosphorus loading relative to the previous development. Such projects may achieve these loads through onsite or offsite measures or some combination thereof.

2-4 Peak Runoff Control Requirements.

(A) All new development is required to control peak discharge rate from the site for the 1-year, 24-hour storm to predevelopment levels to avoid contributing to erosion to the stream channel.

(B) Peak flow shall be calculated according to one of the approved methods listed and using all appropriate values assigned in the *Tarboro Tar-Pamlico Stormwater Program*.

- (C) Peak flow control is not required for developments that meet one or more of the following requirements:
 - (1) The increase in peak flow between pre- and post-development conditions does not exceed ten percent, or
 - (2) The proposed new development meets all of the following criteria: overall impervious surface is less than fifteen percent and the remaining pervious portions of the site are utilized to the maximum extent practical to convey and control the stormwater runoff.

2-5 Buffer Requirements.

- (A) All developments shall be in full compliance with the buffer requirements as established by 15A NCAC 2B .0259 prior to occupancy or use of land or structures.
- (B) In accordance with 15A NCAC 2B .0259, buffer areas shall be defined as consisting of two zones:
 - (1) Zone 1 shall consist of a vegetated area that is undisturbed except as allowed in 15A NCAC 2B .0259(6). The location of Zone 1 shall begin at the most landward limit of:
 - (a) The normal high water level;
 - (b) The normal water level; or
 - (c) The landward limit of coastal wetlands as defined by the Division of Coastal Management;and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water, whichever is more restrictive.
 - (2) Zone 2 shall consist of a stable, vegetated area that is undisturbed except as allowed in 15A NCAC 2B .0259(6). Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. 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.
 - (3) The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water.
- (C) Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation.
 - (1) Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters Zone 2 of the riparian buffer.

- (2) Periodic corrective action to restore diffuse flow shall be taken as necessary to impede the formation of erosion gullies.
- (D) No new development activity shall be approved within the first 50 feet adjacent to a waterbody that is shown on either the USGS 7.5 minute topographic map or the Natural Resources Conservation Service of the United States Department of Agriculture Soil Survey map unless the applicant can demonstrate that the activity has been approved by DWQ in accordance with the provisions of 15A NCAC 2B .0259(12)(b)(ii).

2-6 Offsite Partial Offset Option.

- (A) Proposals involving nitrogen export greater than 4 pounds per acre per year may partially offset their load increases as specified in 2-3 D (2) by treating existing developed areas offsite that drain to the same stream. If an offsite offset approach is proposed, the following information shall, at a minimum, be provided along with a stormwater permit application. The Stormwater Administrator may require additional information to determine the ability and/or intent of the proposal to meet the requirements of this ordinance.
 - (1) Technical information required.
 - (a) Clear demonstration that the proposed facility drains to the same stream as the proposed development site;
 - (b) The type and design of the proposed stormwater facility;
 - (c) The location, extent, type of use, and built-upon areas on the existing development site that will be treated by the stormwater facility;
 - (d) All calculations necessary to demonstrate compliance with the nutrient requirements of this ordinance; and
 - (e) All calculations and designs necessary to demonstrate compliance with attenuation requirements, if proposed. The offsite facility may not address the attenuation requirements for the proposed development unless a 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.
 - (2) Ownership and maintenance requirements.
 - (a) 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;

(b) A binding legal instrument to be recorded at the Edgecombe County Register of Deeds prior to the release of a certificate of occupancy for the new development site that:

- 1) Permits the applicant to construct and maintain the offsite facility on the property of the existing development;
- 2) Clearly describes the responsibilities and limitations of all parties;
- 3) That holds all owners and parties in interest in the existing development and the proposed new development corporately and separately liable to the county for the ongoing maintenance of the facility;
- 4) That clearly states that the offsite facility is dedicated to achieving the specified nutrient and flow reductions for the life of the new development;
- 5) Attaches to both properties and is automatically transferable to any and all new owners, parties in interest, future successors and assigns;
- 6) That will remain in full force and effect unless and until the county shall approve the closure of the offsite facility;
- 7) Clearly indicates by numerical standard(s) the nutrient reduction and, if applicable, stormwater attenuation ability of the facility (ies);
- 8) Acknowledges that as long as the agreement is in effect future change of use or land disturbing activity of either site shall be reviewed for its impact on the ability of the offsite facility to meet the nutrient and, if applicable, attenuation requirements of this ordinance and shall not be approved if the requirements cannot be maintained; and
- 9) Acknowledges the intent of the county to insure through any and all inspection and enforcement authorities it has that the offsite facility is maintained in perpetuity; and

- (c) A maintenance agreement and plan for the offsite facility that meets all of the requirements of this ordinance.
- (B) The offsite facility may serve multiple projects provided all of the requirements of this section are met.
- (C) An as-built survey of the existing development site along with the location and extent of the proposed offsite facility and clear indication of the area the facility is treating shall be required to be submitted, approved, and recorded prior to the release of a certificate of occupancy for the new development site. Such survey shall show on its face the following note signed by all owners:

NOTE: The stormwater facility(ies) shown on this site are provided as an offsite offset facility for the property known as [subdivision/development name] located at [physical address] with tax identification number(s) [##]. This (these) facility(ies) and such property(ies) are legally bound by a [name of binding legal instrument] recorded at the Edgecombe County Register of Deeds [reference number].

This note shall also be shown on the face of the recorded site plan and/or subdivision plat of the new development site, signed by all owners of that property, and shall appear along with the owner's signature on all future subdivision maps and/or documents of both properties as long as the agreement is in effect.

- (D) 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.

2-7 Certificate of Stormwater Compliance.

Whenever the work for which a stormwater permit has been issued is completed and approved by the Stormwater Administrator, a certificate of stormwater compliance shall be issued. Prior to issuance of such a certificate, no certificates of occupancy or other land development final approvals shall be issued which would permit the occupancy and/or use of land or structures. The occupancy and/or use of land or structures which are the subject of a stormwater permit prior to release of a certificate of stormwater compliance shall constitute a violation of this ordinance and shall subject the owner and occupants to any and all remedies provided herein.

2-8 General Performance Criteria for Post-Construction Stormwater Management Controls.

The following performance criteria shall be addressed for stormwater management at all sites:

- (A) Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable. The use of on-site stormwater treatment devices such as infiltration areas, bioretention areas, and level spreaders are recommended; and
- (B) All built-upon areas shall be at a minimum of 50 feet landward of all perennial and intermittent surface waters unless a variance is obtained from DWQ. For the purpose of this ordinance, a surface water shall be present if the feature is shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). Relief from this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0259 (3)(a).
- (C) Where the use of BMPs is necessary based on export calculations done under 2-6(D)(4), projects shall be required to implement post-construction stormwater management BMPs and shall conform to the following requirements:
 - (1) All site designs shall clearly indicate any proposed structural BMPs.
 - (2) All BMPs shall seek to use pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical.
- (D) New development shall not discharge untreated stormwater directly into a jurisdictional wetland or water body without adequate treatment as determined by the Stormwater Administrator. Where such discharges are proposed, the impact of the proposal on wetland functional values shall not be greater than allowed by the Army Corp of Engineers (ACE) or the North Carolina Division of Water Quality (NCDWQ).
- (E) Structural BMPs shall be designed to:
 - (1) Meet the general engineering design criteria as listed in 15A NCAC 2H .1008(c).
 - (2) Meet all design requirements and pollutant removal standards included in the Design Manual except that any standards explicitly stated within this ordinance that are more stringent than the manual shall prevail, and
 - (3) Address the physical characteristics of the site including but not limited to:

- (a) Topography (minimum 2 foot contours)
 - (b) Maximum Drainage Area
 - (c) Depth to Water Table
 - (d) Soils
 - (e) Slopes
 - (f) Terrain
 - (g) Vegetation, existing and planned
 - (h) Location in relation to environmentally sensitive features such as surface waters and wetlands.
- (F) All stormwater management practices shall have a landscaping plan detailing the vegetation to be used in conjunction with the BMP.
- (G) Any development proposing to operate or maintain an on-site wastewater treatment systems for domestic wastewater, including but not limited to septic tanks, shall submit evidence that such systems have been approved by the Edgecombe County Health Department prior to release of a certificate of stormwater compliance and shall be required to submit a certification under seal prepared by a qualified professional that the system has been designed and installed to prevent fecal coliform contamination of surface waters to the maximum extent practicable.
- (H) Prior to site design, applicants are encouraged to consult with the Stormwater Administrator to determine if their project is subject to additional stormwater or land development design requirements.

2-9 Operation and Maintenance Plan Required.

- (A) A written inspection and maintenance agreement shall be submitted by the applicant, approved by the Stormwater Administrator, and recorded in the Edgecombe County Register of Deeds prior to release of a certificate of stormwater compliance. Such agreement shall:
- (B) Be legally binding on all current and future parties in interest for all properties served by the BMP.
- (C) Identify and describe the maintenance and monitoring operations required to insure the proper function of the BMP. Such operations shall be specific to each of the BMPs on the site and shall include, as appropriate, but shall not be limited to the following:
- (1) Activities and frequencies identified by practice in the NC BMP Manual.
 - (2) Routine maintenance measures such as grass mowing and trash removal.

- (3) Routine inspections of required vegetation.
- (4) Routine maintenance thresholds such as maximum and minimum vegetation heights and coverages, maximum sediment storage capacity, proper drainage indicators, etc.
- (5) Routine inspection of BMPs for sediment, blockage, and other repair/maintenance needs.
- (6) Routine inspection of BMPs after large storm events for structural damage and other repair/maintenance.
- (7) A schedule of expected significant repair/maintenance activities indicating the frequency of the activity, the expected duration of the activity, and the expected cost of the activity in current dollars.
- (8) A requirement that the owner of the permitted BMP submit an annual maintenance inspection report to the Stormwater Administrator by January 15th of each year prepared and sealed by a qualified professional licensed in the state of North Carolina. Such report shall not be required for the first partial year if the initial certificate of stormwater compliance was issued for the BMP within six months of the required deadline for submittal. Subsequent repairs and alterations to the BMP requiring a stormwater permit and certificate of compliance shall not alter the submittal requirements for an annual maintenance inspection report.
- (9) A requirement for the establishment and maintenance of an escrow account that can be used solely for the routine maintenance, repair, restoration, reconstruction, removal, and/or replacement of a required BMP. In the case of multiple BMPs covered by an escrow account, the specifics for each BMP covered by the account shall be included. The agreement shall include the following:
 - (a) The amount of the escrow fund.
 - (b) A statement that if the county issues a notice of violation ordering the correction, repair, replacement, or maintenance of the system or structure and the owner fails to take all necessary actions to remove the violation or initiate an appeal within the time prescribed, the Town or its contractor may have full access to the property to complete any action necessary to correct the violation.
 - (c) A statement that the county may, upon order or other official action of the Town Council, seize all or part of the escrowed funds to pay for all costs associated with the correction of the violation including administrative costs borne by the Town.

- (d) A statement that all owners of the BMP shall be jointly and severally responsible to the Town for the proper maintenance and function of the structure, for the required annual maintenance inspection report, for any enforcement action taken by the Town, and for any costs incurred by the Town to correct a violation not covered by the amount or scope of the escrow account.
- (10) Records of Installation and Maintenance Activities.
- (D) The operation and maintenance agreement shall stipulate that parties responsible for the operation and maintenance of a stormwater management facility shall make and keep records of the installation and of all maintenance and repairs, and shall retain the records indefinitely. Whenever the party(ies) responsible for the operation and maintenance of a facility cease to exist, such records shall be transferred to the Town of Tarboro. As long as records are maintained privately, they shall be made available to the Town of Tarboro or its agents during inspection of the facility and at other reasonable times upon request.

2-10 As-built Survey Required.

- (A) Prior to release of a certificate of stormwater compliance, as-built surveys shall be required as follows:
- (B) The survey shall include the entire legal lot of record showing all impervious surfaces, building footprints, required buffers and any encroachments therein. Such survey shall include an information block totaling the percent of impervious coverage, the amount of impervious coverage on the site in square feet, building footprints, required buffers and any encroachments therein, and all constructed BMPs. Such survey shall include topography at two-foot contours.
- (C) The survey shall compare acreages of the various land covers as constructed to those permitted. If substantially different, the survey shall provide calculations demonstrating compliance with nutrient export requirements of Section 2-2. If this is not the case, the owner shall amend the permit and make on-site or offsite adjustments accordingly to achieve the required export
- (D) Stormwater conveyances. Any development that results in the construction or alteration of stormwater conveyance shall submit an as-built survey showing the location, extent, dimension and type of each conveyance.
- (E) Submission of the survey shall be in one of the following electronic formats and shall be NAD 1983 State Plane Coordinates, North Carolina Datum:

- (1) .dxf file
- (2) .dwg files
- (3) Arc view shape files
- (4) Arc Info coverages

2-11 As-built Plan Required.

Prior to release of a certificate of stormwater compliance, an as-built plan prepared and sealed by a qualified professional shall be filed with the Stormwater Administrator for each new structural BMP. Such plan shall clearly indicate the location and dimensions of the BMP, the vegetation planted in conjunction with it, and shall include a certification under seal that the BMP has been installed as designed and meets the minimum criteria required by this ordinance. Submission of the plan shall be in one of the following electronic formats:

- (A) .dxf file
- (B) .dwg files
- (C) Arc view shape files
- (D) Arc Info coverages

2-12 Maintenance Easement Required.

Prior to release of a certificate of stormwater compliance for any project that has a structural BMP as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Tarboro or their agent, and for regular inspection and review by property owners served by the BMP or their agents to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded in the office of the Register of Deeds of Edgecombe County.

2-13 Financial Sureties Required.

- (A) To provide reasonable assurance that BMPs are completed per permit specifications, a cash bond, letter of credit or other acceptable financial surety shall be required from the applicant to be held by the Town until all constructed BMPs have received final approval by the Town unless no other construction or land disturbing activity occurs on the site prior to the approval of the completed BMP(s) by the Town.

- (B) To provide reasonable assurance that BMPs function as permitted and required by this ordinance, a performance bond shall be required from the applicant prior to release of the certificate of occupancy. Such bond shall be held for a minimum of 12 months to insure that the BMP continues proper function through at least one full year of weather.

ARTICLE III

ILLEGAL DISCHARGE DETECTION AND ELIMINATION

3-1 Purpose and Intent.

The purpose of this part is to provide for the health, safety, and general welfare of the citizens of the Town of Tarboro through the identification and removal of certain non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by 15A NCAC 2B .0258. In particular, the objectives of this ordinance are:

- (A) To regulate certain non-stormwater discharges to the storm drainage system by any user,
- (B) To provide for the identification and removal of illegal discharges,
- (C) To prevent illegal discharges to the maximum extent practicable, and
- (D) To establish the legal authority to carry out all inspection, monitoring and enforcement procedures necessary to ensure compliance with this ordinance.

3-2 Discharges Prohibited.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, pollutants, waters, or other substance containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. Examples of illegal discharges include, but shall not be limited to:

- (A) Dumping of oil, anti-freeze, paint or cleaning fluids
- (B) Commercial car wash washwater
- (C) Industrial discharges
- (D) Contaminated foundation drains
- (E) Cooling waters, unless no chemicals added and has valid NPDES permit
- (F) Wash waters from commercial and industrial activities
- (G) Chlorinated backwash and drainage associated with swimming pools
- (H) Domestic wastewater
- (I) Septic system effluent
- (J) Washing machine discharges
- (K) Sanitary sewer discharges

3-3 Discharges Exempted.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except for the following:

- (A) Water line flushing or discharge from other potable water sources,
- (B) Landscape irrigation or lawn watering,
- (C) Diverted stream flows,
- (D) Rising ground water,
- (E) Ground water infiltration to storm drains,
- (F) Uncontaminated pumped ground water,
- (G) Foundation or footing drains (not including active groundwater dewatering systems),
- (H) Crawl space pumps,
- (I) Air conditioning condensation,
- (J) Natural ground or surface water springs,
- (K) Non-commercial washing of vehicles,
- (L) Natural riparian habitat or wetland flows,
- (M) Swimming pools (if dechlorinated - typically less than one PPM chlorine),
- (N) Fire fighting activities,
- (O) 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 order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
- (P) And, any other water source not containing pollutants, which have been approved by the Stormwater Administrator.

3-4 Prohibition of Illegal Connections.

- (A) The construction, use, maintenance or continued existence of illegal connections to storm drainage system is prohibited. 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 connection.

- (B) A person is considered to be in violation of this ordinance if the person connects a line conveying any type of sewage to the MS4, or allows such a connection to continue.

3-5 Illegal Discharge Detection.

- (A) The Town of Tarboro shall be permitted to enter and inspect existing facilities and uses as often as may be necessary to determine compliance with this ordinance. If security measures are in force, which require proper identification and clearance before entry onto premises, the owner/operator shall make the necessary arrangements to allow access to representatives of the Town of Tarboro.
- (B) In the event of a suspected violation, the Town of Tarboro has the right to install monitoring equipment on private property as necessary or, alternatively, to require the property owner/discharger to install monitoring equipment as necessary. If installed by the property owner/discharger, this equipment shall be maintained at all times in a safe and proper operating condition by the owner/discharger at his own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure accuracy.
- (C) Any temporary or permanent obstruction to safe and easy access to a facility or property to be inspected and/or sampled shall be promptly removed by the owner/operator at the written or oral request of the Town of Tarboro and shall not be replaced except upon Town approval. The costs of clearing such access shall be borne by the owner/operator.
- (D) Unreasonable delays in allowing the Town of Tarboro access to a permitted facility is a violation of a stormwater permit/stormwater discharge permit and of this ordinance. A person who denies the Town of Tarboro reasonable access to a site for the purpose of conducting any activity authorized or required by this part shall be in violation of this ordinance.
- (E) If the Town of Tarboro has been refused access to any part of a site from which stormwater is discharged and is able to demonstrate probable cause to believe that such discharge is in violation of this ordinance; or there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder; or to protect the overall public health, safety, and welfare of the community; then the Town of Tarboro may seek issuance of a search warrant from any court of competent jurisdiction.

3-6 Removal, Abatement and Prevention Required.

- (A) The Town of Tarboro shall review each building permit, change of use, or other permits for land disturbing activity where a stormwater permit application is not routinely required for uses and/or activities known or

suspected to have potential discharges prohibited by this ordinance. In the event such uses and/or activities occur, the applicant shall be required to obtain a stormwater permit from the Stormwater Administrator. Such permit shall include any and all conditions necessary to prevent illegal discharges.

- (B) The Town of Tarboro may adopt requirements identifying Best Management Practices for any activity, operation, or facility, which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S.
- (C) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the stormwater collection system or watercourses through the use of structural and/or non-structural BMPs.
- (D) Any person responsible for a property or premise, which is, or may be, the source of an illegal discharge, may be required by the Town of Tarboro to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the stormwater collection system or watercourses. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

3-7 Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

3-8 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a use, facility or operation, or responsible for emergency response for a use, 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 stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of

non-hazardous materials, said person shall notify the Stormwater Administrator in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Stormwater Administrator within three business days of the notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained indefinitely, except that whenever the facility or operation ceases to exist, such records shall be transferred to the Town of Tarboro. As long as records are maintained privately, they shall be made available to the Town of Tarboro or its agents at reasonable times upon request.

3-9 Notice of Violation.

In addition to the enforcement actions and penalties listed in Part 1, a notice of violation for an illegal discharge may require any one or all of the following without limitation:

- (A) The performance of monitoring, analyses, and reporting;
- (B) The elimination of illegal connections or discharges;
- (C) That violating discharges, practices, or operations shall cease and desist;
- (D) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (E) The implementation of source control or treatment BMPs and
- (F) Any other action the Stormwater Administrator determines to be required to remove an illegal discharge and/or restore the environment to its previous condition.