

ORDINANCE 2009018
Town of Lewisville UDO L-133
Phase II Stormwater Management and Watershed Protection

WHEREAS the Lewisville Town Council has directed that the Stormwater and Watershed ordinances be combined; and

WHEREAS the Stormwater Administrator and Lewisville Planning Board have worked to combine the two sections; and

WHEREAS the Town of Lewisville has amended the ordinance to establish local watershed and stormwater standards that exceed minimum state requirements;

NOW THEREFORE BE IT ORDAINED THAT:

Section 1: Chapter C, Article 3 is to be renamed Phase II Stormwater Management and Watershed Protection.

Section 2: Replace Chapter C, Article 3 with the following:

Chapter C - Environmental Ordinance
Article III – Phase II Stormwater Management and Watershed Protection

3-1 AUTHORITY AND GENERAL PROVISIONS

3-1.1 SHORT TITLE

This Ordinance shall be known and may be cited as the *Phase II Stormwater Management and Watershed Protection Ordinance*, except as referred to herein, where it shall be known as *this Ordinance*.

3-1.2 PURPOSE

The purpose of this Ordinance is to promote the health, safety and general welfare of the citizens and residents of the State of North Carolina, including residents of the Forsyth County, and residents who live within areas designated as public water supply watersheds, as established by the North Carolina Environmental Management Commission. This ordinance is also intended to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with

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new *development* and *redevelopment* as well as illicit discharges into municipal stormwater systems. It has been determined that proper management of construction-related and post-*development* stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

An additional purpose of this Ordinance is to establish regulations which protect drinking water quality in Forsyth County and which meet the minimum regulations established by the North Carolina Environmental Management Commission under the provisions of the Water Supply Watershed Protection Act of 1989.

A further purpose of this Ordinance is to implement the goals, objectives, and policies of *Legacy, A Comprehensive Plan for Forsyth County, North Carolina*, and the *Lewisville Comprehensive Plan*, as amended, including any specifically related land use plans, development guides, and the *Transportation Plan*.

3-1.3 JURISDICTION AND APPLICABILITY

This Ordinance in total is applicable to all property located within the municipal limits of the Town of Lewisville, and within the Town's Extraterritorial Jurisdiction if appropriate, as designated on the map titled Lewisville Stormwater Map, which is adopted simultaneously herewith.

Additionally, portions of this Ordinance shall apply only to those areas in the Town of Lewisville which are Public Water Supply Watersheds as designated and classified by the North Carolina Environmental Management Commission. These areas shall be defined and established on a map entitled, *Watershed Protection Map of Lewisville, North Carolina*, herein after referred to as the *Watershed Map*, which is adopted simultaneously herewith. The Lewisville Stormwater Map and the *Watershed Map*, and all explanatory matter set out thereon, is hereby made a part of this Ordinance, and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all *structural BMPs* permitted under this ordinance. This Ordinance and the *Watershed Map* shall be permanently kept on file with the Planning Staff. Those 'watershed only' portions of this Ordinance are not applicable to portions of Lewisville located outside of the watershed area.

In the event of a dispute, the applicability of this Ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina General Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

3-1.4 AUTHORITY

The Legislature of the State of North Carolina has, in Chapter 160A, Article 8, Section 174 General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local government units to adopt regulations designed to promote the public health and safety, and general welfare of its citizenry. Additionally, The

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North Carolina Department of Environmental and Natural Resources (NCDENR) has directed specified entities to adopt Post-Construction Runoff Controls to satisfy requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System stormwater regulatory program. The Elected Body does hereby adopt into law the following articles as the Phase II Stormwater Management and Watershed Protection Ordinance.

3-1.5 COMPLIANCE WITH PROVISIONS

No building, premises, or structure shall be used, constructed, erected, modified, altered, converted, occupied, placed, maintained, removed or moved, and no land use shall be commenced, maintained, or modified except in compliance with the provisions, restrictions, and procedures set forth herein.

3-1.6 EXEMPTIONS TO APPLICABILITY

- (A) Development and *redevelopment* that cumulatively disturbs less than 20,000 square feet, and is not part of a *larger common plan of development or sale* is exempt from the provisions of this ordinance.
- (B) Development or *redevelopment* that cumulatively disturbs less than 20,000 square feet, is not exempt if such activities are part of a *larger common plan of development or sale*, even though multiple, separate or distinct activities take place at different times on different schedules.
- (C) *Single Family Residential on a single lot* that disturbs 20,000 square feet or more but not exceeding one (1) acre and is not part of a *larger common plan of development or sale* may be exempt from sections 3-5 (Development Standards) and 3-6 (Stormwater Management Plan) of this ordinance if the proposed building site does not have a significant impact on water quality and quantity based on topography and proximity to any surface waters as determined by the Stormwater Administrator.
- (D) Activities exempt from permit requirements of Section 404 of the Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.
- (E) Existing development as well as expansions to individual single family homes or manufactured homes as of January 1, 2008 is not subject to the requirements of this Ordinance. All other expansions to structures and other built-upon areas classified as existing development must meet the requirements of this Ordinance. The built-upon area of the existing development is not required to be included in the additional built-upon area calculations for any proposed *structural BMPs*.
- (F) **Multiple Uses**

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In cases of two (2) or more principal uses on the same zoning lot, the regulation requiring the more restrictive regulations shall apply to the entire lot.

3-1.7 SEVERABILITY

(A) Invalidation of Portions of Ordinance

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid by a court of final competent jurisdiction, such decision shall not affect, impair, or invalidate the remaining parts of this Ordinance. The remaining parts shall remain in effect without the invalid provision, to that extent they are severable.

(B) Invalidation of Application

The invalidation of the application of any provision of this Ordinance to any particular property or structure, or to any particular properties or structures, by any court of final competent jurisdiction, shall not affect the application of such provision to any other property or structure not specifically included in such invalidation.

3-1.8 CONFLICTING PROVISIONS

(A) Conflict Within Ordinance

Where a conflict exists between any limitations or requirements within this Ordinance, the more restrictive limitation or requirements shall prevail.

(B) Conflict With Other Ordinance or Law

Where a conflict exists between the provisions of this Ordinance and any other ordinance, law, or regulation, or where the provisions of this Ordinance impose overlapping or contradictory regulations with respect to another ordinance, law, or regulation, the most restrictive provision or the one which imposes the highest standards or requirements shall prevail.

3-1.9 DEFINITIONS

(A) General

Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of this Ordinance, have the meanings indicated. All words and phrases not defined in this Ordinance shall have their common meaning. When used in this Ordinance, the present tense includes the future, the singular includes the plural, and words of one gender include the other, as may be applicable. The word *shall* is mandatory, not directory. The word *use* includes *designed for use*. In the event of conflict with Chapter A Article II (Definitions), the definitions below shall control.

(B) List

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BEST MANAGEMENT PRACTICES (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

BUILDABLE AREA ENVELOPE. The area on a site or lot that can have built upon area. For calculation of built upon area percentages, the entire area of the designated buildable area envelope shall be considered built upon area.

BUILT-UPON AREA. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including, but not limited to, buildings, pavement, gravel roads or parking areas, recreation facilities (e.g. tennis courts.) (Note: Wooden slatted decks and the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material are considered pervious.)

COMPOSTING FACILITY. A facility in which only stumps, limbs, leaves, grass, and untreated wood collected from land clearing or landscaping operations is deposited.

DEPARTMENT. The North Carolina Department of Environment and Natural Resources.

DESIGN MANUAL. The stormwater design manual approved for use in Phase II jurisdictions by the *Department* for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the *Design Manual* are to the latest published edition or revision.

DEVELOPMENT. Any land disturbing activity which decreases the infiltration of precipitation into the soil, including but not limited to, adding to or changing the amount of impervious or partially impervious cover on a land area.

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

DWELLING UNIT. One or more rooms used as a place of residence for one family, in which there is no area completely closed off for separate living quarters, and there is common access, kitchen and bathroom facilities, and a single electrical meter.

ENGINEER. A person licensed to practice engineering in the State of North Carolina.

EROSION. The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

EXPANSION. Any change or alteration to existing structures or other built-upon areas which decreases the infiltration of precipitation into the soil, including but not limited to,

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adding to or changing the amount of impervious or partially impervious cover on a land area.

EXISTING DEVELOPMENT. Those projects that are built or those projects that at a minimum have established a vested right by law as of as of January 1, 2008 based on at least one of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, so long as that approval is complied with. Local governmental approvals shall include, but are not limited to: preliminary subdivisions approval and conditional or special use permits; or
- (2) Having an outstanding valid building permit as authorized by the NCGS 153A-344.1; or,
- (3) Having expended substantial resources (time, labor, money) and having an approved site specific development plan as provided in Section B.1-5.2(B)(2).

HAZARDOUS MATERIAL. Any substance listed as such in Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances; Comprehensive Environmental Responsibility and Cleanup Liability Act (CERCLA) Hazardous Substances; or Section 311 of Clean Water Act (oil and hazardous substances).

HIGH-DENSITY PROJECT. Any project that exceeds the low density threshold for dwelling units per acre or built-upon area.

IMPERVIOUS COVER. Any material which significantly reduces or prevents natural absorption of stormwater into the soil. Impervious covers include, but are not limited to, buildings or other structures with roofs, sidewalks, driveways, parking lots, and any concrete, stone, brick, asphalt, or gravel surface. For the purpose of this Ordinance, partially impervious cover shall be considered impervious cover.

LAND DISTURBING ACTIVITY. Any use of the land by any person including residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance, that results in a change in the natural cover or topography that may cause or contribute to sedimentation.

LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the North Carolina General Statutes. For the purpose of this Ordinance the term *Landfill* includes *Discharging Landfill* and does not include *Composting Facility*.

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LANDFILL, DISCHARGING. A landfill with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

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

LEGACY. *Legacy, A Comprehensive Plan for Forsyth County, North Carolina* adopted in 1988, including subsequent amendments, is the general, long-range policy guide for decisions concerning the physical, economic, and social development of Forsyth County and its municipalities.

LEWISVILLE PLANNING BOARD. See Planning Board.

LOW-DENSITY PROJECT. A project that has no more than two dwelling units per acre or twenty-four percent *built-upon area* (BUA) for all residential and non-residential *development*.

LOW-IMPACT DEVELOPMENT. The process of minimizing or eliminating pollutants in stormwater through natural processes and maintaining pre-development hydrologic characteristics, such as flow patterns, surface retention, and recharge rates.

LOT. A parcel of land designated by number or other symbol as part of a legally approved and recorded subdivision, or as described by metes and bounds in a legally approved and recorded deed.

LOT, EXISTING (LOT OF RECORD). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds as of the effective date of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded in the Office of the Register of Deeds and, if required, approved by the Planning Staff, as of the effective date of this Ordinance.

NON-RESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

OWNER. The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the

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property or having legal power of management and control of the property. “Owner” shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of “owner” under another description in this definition, such as a management entity.

PLANNED RESIDENTIAL DEVELOPMENT. A residentially zoned area, planned and developed as a unit, which is characterized by environmentally sensitive design through the use of flexible development standards, as regulated in the *Zoning Ordinance*.

PLANNING BOARD, LEWISVILLE. The appointed body whose purpose is to make recommendations to the Elected Body regarding land use matters.

PLANNING STAFF. The Staff to the Planning Board.

PLAT. A surveyed map or plan or a parcel of land which is to be, or has been subdivided.

PLAT, FINAL. The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, streets, easements and any other requirements of the *Subdivision Regulations*, which is presented for local government approval and subsequent recordation with the Register of Deeds.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site showing lots, streets, water, sewer, storm drainage, and any other requirements of the *Subdivision Regulations*, which is presented for preliminary approval.

PROTECTED AREA. The area adjoining and upstream of a public water supply intake in a WS-IV watershed in which protection measures are required by the State of North Carolina. The boundaries of the protected area are generally defined as extending 5 miles upstream and draining to a water supply reservoir; or 10 miles upstream and draining to the intake located directly in the stream or river. Protected areas for WS-IV classified watershed in Forsyth County are defined and established on the *Watershed Map*.

REDEVELOPMENT. Any rebuilding activity other than a rebuilding activity that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous *development*.

RESIDENTIAL, SINGLE FAMILY. A residential building which contains one dwelling unit and which occupies its own zoning lot.

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RESIDENTIAL DEVELOPMENT. Buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, etc. and their associated accessory uses and outbuildings such as garages, storage buildings, gazebos, etc.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

SEDIMENTATION. Solid particulate matter, both mineral and organic, that has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse.

SINGLE FAMILY RESIDENTIAL ON A SINGLE LOT. A parcel of land occupied or capable of being occupied by no more than one building containing no more than one principle dwelling unit.

STORM DRAINAGE FACILITY. The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

STORMWATER ADMINISTRATOR. An official or designated person of the Town of Lewisville responsible for administration and enforcement of this Ordinance.

STORMWATER CONVEYANCE. Private and public drainage facilities by which stormwater may be conveyed to waters of the United States, including but not limited to, streets, roads, catch basins, natural and artificial channels, natural and artificial drainage features, stream beds, gullies, curbs, gutters, ditches, and storm drains.

STORMWATER RUNOFF. The direct runoff of water resulting from precipitation in any form.

STREAM BUFFER. A natural or vegetated area through which stormwater runoff flows in a diffuse manner and which provides for infiltration of runoff and filtering of pollutants. The buffer is measured landward from the top of the bank defining the edge of the channel of each side of streams.

STREAM, PERENNIAL. A watercourse, including rivers, streams, lakes, and ponds, that flows year-round and is indicated as a solid blue line on the most recent version of the USGS 7.5 minute series (1:24,000 scale) topographic maps.

STREET. A public right-of-way or private easement which affords traffic circulation and a means of access to abutting property. The term *street* includes road, avenue, place,

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way, drive, lane, boulevard, highway, and any facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians.

STRUCTURAL BMP. A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the *pre-development* hydrology on a developed site; or to achieve any combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. “Structural BMP” is synonymous with “structural practice,” “stormwater control facility,” “stormwater control practice,” “stormwater treatment practice,” “stormwater management practice,” “stormwater control measures,” “structural stormwater treatment systems,” and similar terms used in this ordinance.

STRUCTURE. Anything constructed or erected which is above grade including a manufactured home. For purposes of this Ordinance *structure* does not include landscape features, such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, walls or fences, shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, privies, outdoor fireplaces, gate houses, burial vaults, cemetery markers or monuments, bus shelters, or wharves.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development (whether immediate or future), including all divisions of land involving the dedication of a new street or a change in existing streets. Included in this general definition are subdivisions exempt by State law or court judgments, industrial or commercial subdivisions, minor subdivisions, and major subdivisions, as defined in the *Subdivision Ordinance* for Lewisville.

SUBDIVISION, MAJOR. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development where new public streets will be constructed.

SUBDIVISION, MINOR. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale or building development and which meets one of the criteria of Section D.3.

SUBSTANTIAL PROGRESS. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction

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activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. “Substantial progress” for purposes of determining whether an approved plan is null and void is not necessarily the same as “substantial expenditures” used for determining vested rights pursuant to applicable law.

TRANSPORTATION PLAN. A map adopted by each municipality, Forsyth County, the Transportation Advisory Committee, and the North Carolina Department of Transportation, contained in *Legacy* as subsequently amended and showing the location of existing and proposed freeways/expressways, major thoroughfares and minor thoroughfares. The *Transportation Plan* map is on file in the office of the Planning Board.

UTILITIES. Facilities of any agency which, under public franchise or ownership, provide the general public with electricity, gas, oil, water, sewage, electronic signals, or rail transportation. The term utility shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers; or postal facilities.

VARIANCE. An action by the Watershed Review Board to relax or waive a water supply watershed management requirement that is established by this Ordinance, given in conjunction with permission to develop or use property.

VARIANCE, MAJOR. A variance relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that results in any one or more of the following:

- (1) The complete waiver of a management requirement; or
- (2) The relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard.

VARIANCE, MINOR. A variance that does not qualify as a major variance.

VESTED RIGHT. A right pursuant to NCGS 153A-344.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan as provided in Section B.1-5.2(B)(2).

WATER DEPENDENT STRUCTURE. Any structure for which the use requires access to or proximity to or location within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as

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restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

WATER SUPPLY WATERSHED, PUBLIC. An area from which water drains to a point of impoundment, where the water is then used principally as a source for a public water supply, designated and classified by the North Carolina Environmental Management Commission.

3-1.10 CUMULATIVE REQUIREMENTS

The requirements of this Ordinance are cumulative.

3-1.11 VIOLATIONS AND ENFORCEMENT

(A) General

- (1) Authority to Enforce.** The provisions of this ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the Town of Lewisville. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the Town of Lewisville.
- (2) Violation Unlawful.** Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.
- (3) Each Day a Separate Offense.** Each day that a violation continues shall constitute a separate and distinct violation or offense.
- (4) Responsible Persons/Entities.** Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

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

- (a) Person Maintaining Condition Resulting In or Constituting Violation. An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.
- (b) Responsibility For Land or Use of Land. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(B) Remedies and Penalties

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

(1) Remedies

- (a) Withholding of Certificate of Occupancy. The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (b) Disapproval of Subsequent Permits and Development Approvals. As long as a violation of this ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold or disapprove any request for permit or development approval or authorization provided for by this ordinance. Appeal of rulings by the Stormwater Administrator or his or her designee shall be heard by the Zoning Board of Adjustment.
- (c) Injunction, Abatements, etc.. The Stormwater Administrator may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of

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this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

- (d) Correction as Public Health Nuisance, Costs as Lien, etc.. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Stormwater Administrator, with the written authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.
- (e) Stop Work Order. The Stormwater Administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(2) **Civil Penalties.** Violation of this ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which the Town of Lewisville is subject for violations of its Phase II Stormwater permit, but not less than one hundred dollars (\$100) per day for each violation.

(3) **Criminal Penalties.** Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

(C) Procedures

(1) **Initiation/Complaint.** Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The Stormwater Administrator shall investigate the complaint promptly.

(2) **Inspection.** The Stormwater Administrator or authorized agent shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

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- (3) **Notice of Violation and Order to Correct.** When the Stormwater Administrator finds that any building, structure, or land is in violation of this ordinance, the Stormwater Administrator shall notify, in writing, the property *owner* or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation not to exceed thirty (30) days. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Forsyth County Sheriffs Department, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time prior to the deadline, as provided in the notification, the Stormwater Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

- (4) **Extension of Time.** A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The Stormwater Administrator may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.
- (5) **Enforcement After Time to Correct.** After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act

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to impose one or more of the remedies and penalties authorized by this ordinance.

- (6) **Emergency Enforcement.** If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

3-1.12 CHANGES AND AMENDMENTS

(A) Amendments

The Elected Body may, on its own motion or on petition, amend, supplement, change or modify this Ordinance.

(B) Recommendation of the Planning Board

No amendment shall be made until the proposal has been submitted to the Planning Board for review and recommendations. If no recommendation has been received from the Planning Board within forty-five (45) days after submission of the proposal to the Planning Board, the Elected Body may proceed as though a favorable report had been received.

(C) Conformity with State Regulations

Under no circumstances shall the Lewisville Council adopt such amendments, supplements or changes that would cause this Ordinance to violate the water supply watershed protection rules adopted by the North Carolina Environmental Management Commission. All amendments must be filed with the North Carolina Division of Water Quality.

3-1.13 EFFECTIVE DATE

The effective date of this Ordinance shall be effective upon adoption, and the same shall take and be in full force and effect thereon and thereafter.

3-2 ADMINISTRATION, PERMITS AND APPEALS

3-2.1 STORMWATER ADMINISTRATOR AND DUTIES THEREOF

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(A) Enforcement Authority

The Stormwater Administrator is granted the authority to administer and enforce the provisions of this Ordinance. The Stormwater Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.

(1) Powers and Duties. In addition to the powers and duties that may be conferred by other provisions of the Town of Lewisville’s Unified Development Ordinance and other laws, the Stormwater Administrator shall have the following powers and duties under this ordinance:

- (a) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
- (b) To make determinations and render interpretations of this ordinance.
- (c) To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Town Council of the Town of Lewisville on applications for development or redevelopment approvals.
- (d) To enforce the provisions of this ordinance in accordance with its enforcement provisions.
- (e) To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this ordinance.
- (f) To provide expertise and technical assistance to the Town Council of the Town of Lewisville and its Stormwater Advisory Committee, upon request.
- (g) To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.
- (h) To take any other action necessary to administer the provisions of this ordinance.

(B) Issue Permits

The Stormwater Administrator shall issue Stormwater Management permits, Stormwater Management occupancy permits, as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Stormwater Administrator.

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- (C) Secretary to the Watershed Review Board**
The Stormwater Administrator shall serve as secretary to the Stormwater and Watershed Review Board.
- (D) Maintain Records of Amendments Related to the Provisions of this Ordinance**
The Planning Board shall keep records of all amendments to this Ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management, North Carolina Department of Environmental and Natural Resources (DENR).
- (E) Maintain Records of Variances**
The Stormwater Administrator shall keep a record of variances and exceptions granted in accordance with this Ordinance. This record shall be submitted to the North Carolina Division of Water Quality on or before January 1 of each year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

3-2.2 PERMITS

- (A) Stormwater Management Permits**

 - (1) Permit Required.** Unless exempt pursuant with Section 3-1.6, no building or built-upon area shall be erected or expanded, nor shall any building or zoning permit be issued, until a Stormwater Management permit has been issued by the Stormwater Administrator. No Stormwater Management permit shall be issued except in conformity with the provisions of this Ordinance.
 - (2) Application for Permit.** Stormwater Management permit applications shall be filed with the Stormwater Administrator. The application shall include a completed application form, supporting documentation deemed necessary by the Stormwater Administrator, and the application fee as established by Section C.3-2.3.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule.
 - (3) Review.** Within 30 working days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this ordinance.

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- (a) Approval. If the Stormwater Administrator finds that the application complies with the standards of this ordinance, the Stormwater Administrator shall approve the application and notify the applicant in writing. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.
- (b) Fails to Comply. If the Stormwater Administrator finds that the application fails to comply with the standards of this ordinance, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.
- (c) Revision and Subsequent Review. A complete revised application shall be reviewed by the Stormwater Administrator within 30 working days after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.

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

(4) Applications for Approval

- (a) Concept Plan and Consultation Meeting. Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed *development or redevelopment* project. This consultation meeting should take place prior to the time of the preliminary plan of subdivision or other early step in the *development* process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the Town of Lewisville's

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Comprehensive Plan, Chapter 5, and other relevant resource protection plans may be consulted in the discussion of the concept plan.

To accomplish this goal the following information should be included in the concept plan, which should be submitted in advance of the meeting:

- (i) Existing Conditions/Proposed Site Plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
 - (ii) Natural Resources Inventory. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.
 - (iii) Stormwater Management System Concept Plan. A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.
- (b) Stormwater Management Permit Application. The stormwater management permit application shall be accompanied by an operations and maintenance agreement and detailed Stormwater Management Plans showing how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of

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this ordinance, including Section 3-5, Development Standards. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall certify, under seal, that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the Design Manual, and that the designs and plans ensure compliance with this ordinance.

The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 3-2.2(b)(c).

- (4) **Consultation on Permit Issuance.** Prior to issuance of a Stormwater Management permit, the Stormwater Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.
- (5) **Effect of Approval.** Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.
- (6) **Permit Expiration.** An approved plan shall become null and void if the applicant has failed to make *substantial progress* on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

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

(B) Building Permit Required

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Stormwater Management permit is required until the latter permit has been issued.

(C) Stormwater Management Occupancy Permit

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- (1) **Permit Required.** No building or structure which has been erected, or part therefore which constitutes an expansion, may be occupied until the Stormwater Administrator has received and approved As-Built Plans and issued a Stormwater Management occupancy permit.
- (2) **As-Built Plans.** No permit shall be issued prior to the submitting of an As-Built plan. The plan shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved Stormwater Management Plans and designs and with the requirements of this ordinance. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.
- (3) **Permit Issuance.** Stormwater Administrator shall issue a Stormwater Management occupancy permit certifying that all requirements of this Ordinance have been met prior to the occupancy or use of a building hereafter erected or expanded.
- (4) **Change of Use.** When a change in use of land or existing building occurs, the Stormwater Administrator shall issue a Stormwater Management occupancy permit certifying that all requirements of this Ordinance have been met coincident with the Stormwater Management permit.
- (5) **Denial of Permit.** If the Stormwater Management occupancy permit is denied, the Stormwater Administrator shall notify the applicant in writing stating the reasons for denial.

3-2.3 APPLICATION AND INSPECTION FEES

- (A) **Payment of Fees**

Application fees shall be paid to the Town of Lewisville. Applications not accompanied by the required fee shall not be accepted. Application fees shall be valid for sixty (60) days.
- (B) **Fees Established**
 - (1) **Stormwater Management Permit.**
 - (a) **Administrative Fee.** A administrative fee of one hundred dollars (\$100) shall be required for all applications submitted for a Stormwater Permit.

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(b) Review Fee. A review fee of six hundred dollars (\$600), used to defray the cost of Professional Engineer review, shall be required for applications submitted for a Stormwater Permit if the Stormwater Management Plans determine the new or *redevelopment* be required to include *Structural BMPs*.

(2) **Stormwater and Watershed Variance.** A fee of seventy dollars (\$70) shall be required for application for a variance as required in Section C.3-2.5.

3-2.4 RULES GOVERNING THE INTERPRETATION OF WATERSHED AREA BOUNDARIES

Where uncertainty exists or where a person disputes the boundaries of the watershed or any watershed subareas, as shown on the *Watershed Map*, the following rules shall apply:

(A) Constructed Features

Where area boundaries are indicated as following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries. However, a topographic survey prepared by a registered land surveyor or engineer may be submitted to the Stormwater Administrator as evidence that one or more properties or portions of properties along these boundaries do not lie within the watershed.

(B) Lot Lines

Where boundaries are indicated as following lot lines, such lot lines shall be construed to be said boundaries. However, a topographic survey prepared by a registered land surveyor or engineer may be submitted to the Stormwater Administrator as evidence that one or more properties along these boundaries do not lie within the watershed area.

(C) Determination by the Stormwater Administrator

Where other uncertainty exists, the Stormwater Administrator shall interpret the *Watershed Map* as to location of such boundaries. This decision may be appealed to the Stormwater and Watershed Review Board.

(D) Revisions

All revisions to watershed boundaries must also be submitted to the North Carolina Division of Water Quality for approval.

3-2.5 ADMINISTRATIVE RELIEF AND VARIANCES

The Lewisville Zoning Board of Adjustment shall serve as the Stormwater and Watershed Review Board and provide administrative review of and variances to this Ordinance.

(A) Administrative Review

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- (1) **Appeals.** The Stormwater and Watershed Review Board shall hear and decide appeals from any decision or determination made by the Stormwater Administrator in the enforcement of this Ordinance.
- (2) **Appeal Procedure.** An appeal from a decision of the Stormwater Administrator must be submitted to the Stormwater and Watershed Review Board within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Stormwater Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (3) **Stays Based on Appeal.** An appeal from the Stormwater Administrator stays all proceedings in furtherance of the action appealed, unless the Stormwater Administrator certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this Ordinance. In such case, proceedings shall not be stayed otherwise than by an order which may be granted by the Board or by a court with jurisdiction as authorized by law.
- (4) **Hearing.** The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear and present evidence.

(B) Variances

- (1) **Minor and Major Variances.** The Stormwater and Watershed Review Board shall have the power to authorize, in specific cases, variances from the terms of this Ordinance when owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship. The Stormwater and Watershed Review Board shall have the authority to grant minor variances. Major variances must be approved by the Environmental Management Commission prior to being granted by the Stormwater and Watershed Review Board.
- (2) **Applications.** Applications for a variance shall be made on the proper form obtainable from the Stormwater Administrator and shall include the following information:
 - (a) **Site Plan.** A site plan, drawn to a scale not smaller than one (1) inch represents one hundred (100) feet, indicating the property lines of the

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parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; and, surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.

- (b) Variance Description. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Stormwater and Watershed Review Board in considering the application.
- (c) Application Fee. An application fee as established by Section 22-41C 3-2.3.

(3) Public Hearing and Notification.

- (a) Hearing. Applications for variances may be approved by the Stormwater and Watershed Review Board after the Stormwater and Watershed Review Board holds a duly advertised public hearing in each case. At the hearing, any party may appear and present evidence.
- (b) Advertisement. The Stormwater and Watershed Review Board shall advertise a public hearing not less than ten (10) days in advance of such hearing, by a single insertion in a daily or weekly newspaper of general circulation in Lewisville.
- (c) Posting of Notice. The applicant shall post on the property a notice of public hearing at least fifteen (15) days prior to the date of the hearing before the Stormwater and Watershed Review Board. Such notice shall be of sufficient size to contain, and shall contain, heavy black lettering not less than three (3) inches high on a white background and shall be posted in a conspicuous place on the premises. Where such posting is not clearly visible from the nearest public right-of-way, a second directional sign which is clearly visible from the nearest public right-of-way shall be posted. A sign shall be provided by the Stormwater Administrator consistent with these requirements. Such sign structure shall be removed by the applicant within thirty (30) days after said public hearing.
- (d) Notification of Other Local Governments and Entities Using the Water Supply for Consumption. The Stormwater Administrator shall notify in writing each local government having jurisdiction in the respective watershed and any entity using the water supply for consumption. Such

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notice shall include a description of the variance being requested and the scheduled hearing on the variance. Local governments having jurisdiction in the respective watershed and entities using the water supply for consumption may appear at the hearing and present evidence.

(4) Consideration of Variance Application.

- (a) Difficulty or Hardship. Applications for a variance may be approved only upon a finding of practical difficulty or unnecessary hardship in meeting the requirements of this Ordinance, which difficulties arise from the recorded platting or deeding of land prior to the adoption of this Ordinance, or from any act of a public agency, or from natural conditions beyond the control of the property owner.
- (b) Findings. The Stormwater and Watershed Review Board shall approve of a variance only where the Stormwater and Watershed Review Board makes an affirmative finding as follows:
 - (i) That the approval of the variance will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
 - (ii) That the use of the property otherwise meets all required conditions and specifications,
 - (iii) That the approval of the variance will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
 - (iv) That the location and character of the use, if developed according to the variance, will otherwise be in harmony with the area in which it is to be located and in general conformity with *Legacy*.
- (c) Review of Applications and Conditions. Any such variance shall observe the spirit and purpose of this Ordinance and shall be granted only with reference to conditions and circumstances peculiar to the property involved. In passing upon such requests the Stormwater and Watershed Review Board may specify additional reasonable and appropriate conditions and safeguards to protect the public health and safety, the value of neighboring properties and the health and safety of neighboring residents.

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(d) Denial of Application. If the Stormwater and Watershed Review Board denies the application for a variance, it shall enter the reasons for denial in the minutes of the meeting at which the action was taken.

(5) Approval of Major Variances by Environmental Management Commission.

(a) Record of the Hearing. If the application calls for the granting of a major variance, and if the Stormwater and Watershed Review Board decides in favor of granting the variance, the Board shall prepare a record of the hearing for transmission to the Environmental Management Commission. The record of the hearing shall include the variance application, evidence presented, the factual basis for granting the variance, and all conditions proposed to be added to the permit.

(b) Environmental Management Commission Review. The record shall be sent to the Environmental Management Commission for its review as follows:

(i) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(ii) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure a reasonable return from or make a practical use of the property without the variance or the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Stormwater and Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed

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- (6) **Variance Considered Stormwater Management Permit.** A variance issued in accordance with this section shall be considered a Stormwater Management permit and shall expire if a building permit for such use is not obtained by the applicant within twelve (12) months from the date of the decision.

- (7) **Reconsideration.** The Stormwater and Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

3-2.6 APPEALS FROM THE STORMWATER AND WATERSHED REVIEW BOARD

Every decision of the Stormwater and Watershed Review Board shall be subject to review by the Superior Court of Forsyth County by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the board is made.

3-3 WATERSHED CLASSIFICATIONS AND SUBAREAS ESTABLISHED

The following watershed classifications and subareas are established for designated Public Water Supply Watersheds in Lewisville. The boundaries of each subarea are shown on the *Watershed Map*.

3-3.1 WATERSHED CLASSIFICATIONS

The following watershed classifications are established for designated water supply watersheds and protected areas in Lewisville:

- (A) **WS-IV Watersheds**
The Yadkin River Watershed is subdivided into the Upper and Lower Watersheds and designated as protected areas for water supply intakes on the Yadkin River.

3-3.2 [WATERSHED SUBAREAS] RESERVED

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3-4 PROHIBITED AND RESTRICTED USES AND ACTIVITIES

3-4.1 PROHIBITED USES

(A) Protection Area of WS-IV Watersheds

In the Protection Areas of WS-IV watersheds, new landfills and new sites for land application of sludge residuals or petroleum contaminated soils shall be prohibited.

3-4.2 SPILL CONTAINMENT STRUCTURES REQUIRED

New nonresidential development must incorporate adequately designed, constructed, and maintained spill containment structures for the hazardous materials used, stored, or manufactured on the premises. Adequately designed, constructed, and maintained shall mean that measures are taken to contain any and all spilled materials to ensure no adverse environmental impacts occur. Certification from a registered professional engineer that adequate spill containment structures are in place is required prior to the issuance of a Stormwater Management occupancy permit.

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3-5 DEVELOPMENT STANDARDS

3-5.1 GENERAL PROVISIONS

All *development* and *redevelopment* to which this ordinance applies shall comply with the standards of this section.

(A) Best Available Technology/Information

When considering technology and information to be used for analysis and design of stormwater management features to meet the requirements of this ordinance, the best available technology and information shall be used for analysis and design.

(B) Operations and Maintenance Plan

Developer/owner shall provide an operations and maintenance plan, as well as an agreement and contractual lien for the approved site stormwater management plan for review and approval by the Town, and implementation by the *owner*.

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(C) Additional Requirements

The Town reserves the right to impose additional requirements related to stormwater management on a site to address such issues as maintenance, drainage, inspection and access easements, and restrictive covenants for stormwater management features; and inspection, operations, and maintenance of the stormwater management and drainage system.

(D) Low-Impact Development Practices

Owners of *development* and *re-development* projects are hereby encouraged to use *Low Impact Development (LID)* practices where practicable that will aid stormwater quality and quantity management by reducing impervious surfaces, increasing the use of natural conveyances, maintaining natural vegetation areas, increasing infiltration of surface waters to replenish ground waters, and conserving stormwater for alternative compatible uses.

(E) Regional Stormwater Control Facilities

The use of regional stormwater control facilities may be allowed when space is available, in order to treat multiple parcels of land which are subject to the provisions of this ordinance.

3-5.2 STORMWATER RUNOFF CONTROL REQUIREMENTS

Unless specifically exempted in Section C.3-1.6, all new *development* and redevelopment projects within the Town limits shall meet the provisions below. Stormwater shall be conveyed through the development in an adequately designed drainage system of natural drainage ways, swales, storm sewers, culverts, inlets, channels, BMPs, and stormwater management facilities. Drainage systems shall be designed, constructed, and maintained so as to provide natural infiltration, control velocity, control flooding, extend the time of concentration of stormwater runoff, and to control to the maximum extent practicable the impacts of development.

(A) Downstream Mitigation

All new or redevelopment is required to analyze the effects of the increased runoff up to the point where the post-construction discharge is 10% of the receiving stream base flow for the design storm. Efforts shall be taken to mitigate any adverse effects on downstream structures, culverts, and other potentially harmful effects.

(B) Upstream Conveyance

Stormwater Management Plans shall demonstrate adequacy to convey upstream stormwater runoff through the development as guided by this Ordinance and the Design Manual. All designs will assume build-out conditions for the drainage basin at the time of development and must take into account the runoff at the ultimate built-out potential from all surfaces draining to the system, including any off-site drainage.

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(C) Hydrologic-Hydraulic Analysis

For all Stormwater Management Plans, a hydrologic-hydraulic analysis of the site drainage system in the pre-development condition and the post-development condition for both the 1- and 10-year, 24 hour design storm events shall be submitted to the Stormwater Administrator. The analysis will demonstrate that the stormwater management requirements stated in this section will be achieved by the proposed facilities. The analysis will be subject to the review and approval of the Stormwater Administrator.

(D) Protection of Point of Discharge

Discharge from any on-site stormwater collection system or structural BMP into any natural or surface drainage channel or feature, shall be designed and constructed so that the discharge does not cause damage to the receiving stream.

(E) Design of Water Impounding Structures (Dams)

Any proposed water impounding structure (dam) shall be designed in accordance with North Carolina Dam Safety Standards, and if required, shall be reviewed and approved by the NC Dam Safety Engineer. Proof of compliance with this requirement shall be provided by the applicant.

(F) Low-Density Projects

Low-density projects shall comply with each of the following standards:

- (1)** Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.
- (2)** All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed in areas located outside the public water supply watershed area when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using by the North Carolina Division of Water Quality.
- (3)** The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

(G) High-Density Projects

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High-density projects shall implement stormwater control measures that comply with each of the following standards:

- (1) The peak discharge rates of stormwater runoff for the design storm events including the 2-year, 10-year and 25-year storm events shall be controlled with no greater runoff for the post-development conditions than pre-development conditions at the property boundary. The Owner shall submit a certification, by a currently licensed professional in accordance with North Carolina law, that the proposed development will not cause increased peak runoff rates for the design storm events. The same methodologies used to calculate stormwater runoff must be used for both pre- and post-development conditions.
- (2) All measures shall have a volume control and treatment for the difference in stormwater runoff volume leaving the project site between the pre- and post-development conditions for, at a minimum, the 25-year, 6-hour storm. The Runoff volume shall be detained on site with proper BMP's allowing for a drawdown time that shall be a minimum of 48 hours, but not more than 120 hours.
- (3) All structural stormwater treatment systems used to meet the requirements of the program shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids;
- (4) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Design Manual;
- (5) All built-upon area shall be at a minimum of 30 feet landward (100 feet landward for areas located within the designated public water supply watershed area) of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed in areas located outside the public water supply watershed area when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made by the North Carolina Division of Water Quality.
- (6) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

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(H) Impervious Coverage Limitations

All new or *redevelopment* located within the designated public water supply watershed area are limited to seventy percent (70%) built-upon area pursuant the North Carolina Water Supply Protection Rules.

(I) Onsite Wastewater

For all land uses that incorporate the use of on-site wastewater treatment systems for domestic wastewater, the sources of fecal coliform shall be controlled to the maximum extent practicable. This control is ensured through conformity to Chapter B, Article III, Section 3-10 of the Lewisville Unified Development Ordinances as administered and enforced by the Forsyth County Department of Public Health.

(1) The Lewisville Planning Board and Elected Board shall review all proposals for new development and re-development to verify that Section 3-10 of the UDO has been complied with.

(2) Fecal Coliform shall be also be controlled by adherence to UDO Sections B-2-5.38(E) for kennels, B-2-5.48(D)(3) for manufactured housing developments, B-2-5.49(C) for meat packaging plants, B-2-5.61(B)(6) for recreational vehicle parks, and B-2-5.75(F) for veterinary services.

3-6 STORMWATER MANAGEMENT PLAN

3-6.1 APPLICABILITY

The Owner of any new or *redevelopment* must submit a Stormwater Management Plan, hereinafter (“Plan”), demonstrating how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance. Stormwater facilities may consist of non-structural approaches such as natural swales, depressions in the land and other natural approaches; or structural approaches such as detention structures (wet and dry basins), extended detention facilities, and alternative Best Management Practices with provisions for stormwater quantity control. A combination of non-structural and structural approaches is encouraged. A Plan, in accordance with the requirements of this Ordinance, shall be submitted to the Stormwater Administrator.

(A) Requirements

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All submitted Stormwater Management Plans to be considered complete must include the following:

- (1) A Location Map
- (2) Site plans showing existing and proposed conditions, including: buildings, lots, streets, roads, contours, utilities, existing and proposed impervious surfaces, boundaries of existing predominant vegetation and proposed limits of clearing and grading. Site plans shall be dated, indicate the direction of North. Note: When the development includes street and utility construction, plans for public and private streets and plans for water, sanitary sewer, and storm sewer facilities shall be submitted to the Stormwater Administrator following approval by North Carolina DOT of plans for streets and roads. For each phase of the proposed construction, street and utility construction plans shall include all improvements lying within or adjacent to that phase and all water, sanitary sewer, and storm sewer lines lying outside that phase and being required to serve that phase.
- (3) Pre- and post-development drainage areas, including offsite drainage entering the development and flow paths.
- (4) Existing and proposed drainage components, such as streams, lakes, ponds, wetlands, culverts, ditches, swales, and soil conditions.
- (5) Riparian buffers with zones identified and conservation corridors, where required.
- (6) All drainage and stormwater management facility easements, where required.
- (7) 100-year flood elevations and boundary, where required, floodplain/floodway limits.
- (8) Hydrologic/Hydraulic Analyses of the specified storm events for the proposed stormwater management facilities.
- (9) Stormwater management facilities design data included:
 - (a) Engineering calculations,
 - (b) Total area of proposed impervious surfaces, in square feet,
 - (c) Total disturbed land area, in square feet,
 - (d) Total drainage area upstream of each facility, in acres.

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- (10) Analyses with descriptions of any potential effects of stormwater runoff quantity and/or quality from the development on any downstream or upstream properties.
- (11) Data demonstrating the ability of the drainage way(s) to handle stormwater runoff.
- (12) Additional requirements for the Stormwater Management Plan can be found in the Design Manual.

3-7 STREAM BUFFERS

3-7.2 APPLICABILITY

(A) Requirement

Stream Buffers shall be required for intermittent surface waters. Surface waters shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture 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).

(B) Exemptions

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An exception may be allowed in areas located outside the public water supply watershed area when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made by the North Carolina Division of Water Quality.

- (C) **Indicated on Site Plans and Plats**
Required stream buffers shall be indicated on all site plans and subdivision plats approved by the Stormwater Administrator.

3-7.3 STREAM BUFFER STANDARDS

- (A) **Width**
A thirty (30) foot vegetative buffer (100 foot vegetative buffer for high density developments located within the public water supply watershed area) measured landward from the top of the bank defining the edge of the stream channel is required on each side of a perennial stream and from the normal pool elevation of other watercourses.
- (B) **Development in the Stream Buffer**
No development is permitted in the buffer except for the following permitted activities where there is no practicable alternative to their location in the stream buffer. These permitted activities shall minimize built-upon area, direct stormwater runoff away from surface waters, and maximize the utilization of stormwater best management practices.
- (1) Water dependent structures;
 - (2) Utilities;
 - (3) Transportation facilities, such as bridges and roads; and,
 - (4) Passive recreation uses, such as greenways and open spaces.
- (C) **Streambank Stabilization**
Desirable artificial streambank or shoreline stabilization is permitted in the stream buffer.

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3-8 WATER QUALITY AND SUPPLY

3-8.1 IN GENERAL

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

3-8.2 ABATEMENT

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(A) Identification of Situations

The Stormwater Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(B) Report Concerning Situations

The Stormwater Administrator shall report all findings to the Planning Staff of the Planning Board. The Planning Staff may consult with any public agency or official and request recommendations. The Planning Staff shall prepare a report and make recommendations to the Planning Board.

(C) Planning Board and Elected Body Action

Where the Planning Board finds a threat to water quality, the Planning Board shall make recommendations to the elected body who may institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

3-9 MAINTENANCE

3-9.1 GENERAL STANDARDS FOR MAINTENANCE

(A) Function of BMPs as Intended

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

(B) Annual Maintenance Inspection and Report

The person responsible for maintenance of any structural BMP installed pursuant to this

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ordinance shall submit to the Stormwater Administrator an annual maintenance and inspection report from a qualified registered North Carolina professional engineer, or certified stormwater BMP inspection and maintenance professional. The inspection report shall contain all of the following:

- (1) The name and address of the land owner;
- (2) The recorded book and page number of the lot of each structural BMP;
- (3) A statement that an inspection was made of all structural BMPs;
- (4) The date the inspection was made;
- (5) A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- (6) The original signature and seal of the engineer, surveyor, or landscape architect.

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

3-9.2 OPERATIONS AND MAINTENANCE AGREEMENT

(A) In General

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

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

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

(B) Special Requirement for Homeowners' and Other Associations

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

- (1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
- (2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the Town of Lewisville, in its sole discretion, may remedy the situation, and in such instances the Town of Lewisville shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural BMPs, provided that the Town of Lewisville shall first consent to the expenditure.
- (3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15) per cent of the initial construction cost of the structural BMPs. The Homeowners Association will contribute into an escrow account, an amount satisfactory to support operations and maintenance of all stormwater treatment devices as well as annual inspections of stormwater facilities as determined by the developer's engineer. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the structural BMPs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

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- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Lewisville depending on the design and materials of the stormwater control and management facility.
- (5) Granting to the Town of Lewisville a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.
- (6) Allowing the Town of Lewisville to recover from the association and its members any and all costs the Town of Lewisville expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town of Lewisville all of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the agreement. The Town of Lewisville shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.
- (7) A statement that this agreement shall not obligate the Town of Lewisville to maintain or repair any structural BMPs, and the Town of Lewisville shall not be liable to any person for the condition or operation of structural BMPs.
- (8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town of Lewisville to enforce any of its ordinances as authorized by law.
- (9) A provision indemnifying and holding harmless the Town of Lewisville for any costs and injuries arising from or related to the structural BMP, unless the Town of Lewisville has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

3-9.3 INSPECTION PROGRAM

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

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

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Administrator or authorized agent while carrying out his or her official duties.

3-9.4 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

(A) May Be Required

The Town of Lewisville may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a stormwater permit in order to ensure that the structural BMPs are:

- (1) installed by the permit holder as required by the approved stormwater management plan, and/or
- (2) maintained by the owner as required by the operations and maintenance agreement.

(B) Amount

- (1) **Installation.** The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.
- (2) **Maintenance.** The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long term inflation.

(C) Uses of Performance Security

- (1) **Forfeiture Provisions.** The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operations and maintenance agreement established pursuant to this ordinance.
- (2) **Default.** Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural BMP in accordance with the applicable permit or operations and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or

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maintenance agreement. In the event of a default triggering the use of installation performance security, the Town of Lewisville shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

- (3) **Costs in Excess of Performance Security.** If the Town of Lewisville takes action upon such failure by the applicant or owner, the Town of Lewisville may collect from the applicant or owner for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.
- (4) **Refund.** Within sixty (60) days of the final approval, the installation performance security shall be refunded to the applicant or terminated, with the exception of any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

3-9.5 NOTICE TO OWNERS

(A) Deed Recordation and Indications on Plat

The applicable operations and maintenance agreement, conservation easement, or other document granting any interest in a structural BMP (whichever is applicable) pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or said documents, (whichever is applicable) shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. For projects located within the public water supply watershed area, the final plat shall make a notation as to being located within the public water supply watershed area.

(B) Signage

Where appropriate in the determination of the Stormwater Administrator to assure compliance with this ordinance, structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

3-9.6 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

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

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3-9.7 NUISANCE

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

3-10 ILLICIT DISCHARGES

3-10.1 ILLICIT DISCHARGES AND CONNECTIONS

(A) Illicit Discharges

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

- (1)** Water line flushing;

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- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising ground waters;
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensation;
- (10) Irrigation water;
- (11) Springs;
- (12) Water from crawl space pumps;
- (13) Footing drains;
- (14) Lawn watering;
- (15) Individual residential car washing;
- (16) Flows from riparian habitats and wetlands;
- (17) Dechlorinated swimming pool discharges;
- (18) Street wash water; and
- (19) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the Town of Lewisville

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

(B) Illicit Connections

- (1) Connections to a *stormwater conveyance* or *stormwater conveyance* system that allow the discharge of non-stormwater, other than the exclusions described in section (a) above, are unlawful. Prohibited connections include, but are not

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limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

- (2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this ordinance. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
- (3) Where it is determined that said connection:
- (a) May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or
 - (b) Was made in violation of any applicable regulation or ordinance, other than this section;

the Stormwater Administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

- (i) The quantity and complexity of the work,
- (ii) The consequences of delay,
- (iii) The potential harm to the environment, to the public health, and to public and private property, and
- (iiii) The cost of remedying the damage.

(C) Spills

Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the *stormwater conveyance* system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.

Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Stormwater Administrator and Lewisville Fire Chief of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the

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restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

(D) Impeding Stormwater Conveyances

No person shall cause or allow any *stormwater conveyance* or BMP to be impeded or diverted by any means, including but not limited to; stoppage or blockage of pipes; adding or placing materials of any kind to cause damming or erosion; or breaking, damaging or otherwise interfering with the function of any *stormwater conveyance* or BMP.

(E) Nuisance

Illicit discharges and illicit connections that exist within the Town of Lewisville limits are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances.

Adopted this the 11th day of June, 2009 by the Lewisville Town Council.

ATTEST

Joyce C. McWilliams Walker, Town Clerk

Dan R. Pugh, Mayor