

**SECTION 1.** A new Article \_\_ is hereby added to Chapter \_\_\_ of the Brunswick County Code regarding Stormwater Quality Management and Discharge Control, which shall read in its entirety as follows:

"ARTICLE \_\_.

**STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL.**

**Division I.**

**Title, Purpose and General Provisions**

**Section 1.1 Title**

This Article shall be known as the "Stormwater Quality Management and Discharge Control Ordinance" of Brunswick County and may be so cited.

**Section 1.2 Authority**

Under Chapter 153A of the North Carolina General Statutes, Brunswick County has the responsibility and authority to regulate land use and development, enforce ordinances within its jurisdiction, and to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

**Section 1.3 Purpose and Intent**

The purpose and intent of this Article is to:

- (a) Ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq.) by reducing pollutants in stormwater discharges to the maximum extent practicable and by prohibiting non-stormwater discharges to the storm drain system.
- (b) Establish minimum criteria to control and minimize the quantitative and qualitative impacts of stormwater runoff from development within Brunswick County.
- (c) Encourage sustainable development. Prudent site planning should include special consideration for preserving natural drainage ways, maximizing infiltration, slowing stormwater runoff from individual sites in route to streams and rivers by use of effective runoff management, structural and non-structural best management practices, drainage structures, and stormwater facilities.

**Section 1.4 Applicability**

The provisions of the Ordinance shall apply to all areas within the planning jurisdictional limits of Brunswick County. This Ordinance shall be permanently on file in the office of the Brunswick County Engineering Department.

**Section 1.5 Exceptions to Applicability**

This stormwater management ordinance shall not apply to those land use activities identified in the specific sections of this Ordinance or as identified below:

- (a) Existing development may be continued and maintained. Expansion to existing structures classified, as existing development must meet the provisions of this Ordinance.

- (b) Activities on a bona fide farm unless the activity is for non-farm purpose.

### **Section 1.6 Definitions**

The terms used in this Article shall have the following meanings:

- (a) Applicant. An owner or developer of a site who executes the Stormwater Permit Application pursuant to this Ordinance.
- (b) Best Management Practices. Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the storm drain system and waters of the United States. Best Management Practices (BMPs) include but are not limited to: treatment facilities to remove pollutants from stormwater; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-stormwater, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the County determines appropriate for the control of pollutants. Please refer to the Brunswick County's Storm Water Management Manual for further information and for specific BMP requirements.
- (c) Bona Fide Farm. Any tract of land containing at least one acre which is used for activities relating to production, and activities incidental to production of crops, fruits, vegetables, ornamental and flowering plants, grasses and grains, forest products, dairy, livestock, fish and shellfish, poultry, and other agricultural products having a domestic or foreign market, and excludes commercial and industrial processing.

Built-upon area (BUA) means that portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

- (d) Channel Bank. The location of the upper edge of the active channel above which the water spreads into the overbanks on either side of the channel or the elevation of the two-year frequency storm. Where the channel bank is not well defined, the channel bank shall be considered the edge of the waterline during a two-year frequency storm.
- (e) County. Brunswick County, North Carolina.
- (f) Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (g) Construction Activity. Activities subject to NPDES Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (h) Storm Water Management Manual. The manual of design, performance, and review criteria adopted by Brunswick County Board of Commissioners for the administration of the Stormwater Program.
- (i) Design Storm. The specific frequency and, if necessary, duration of the rainfall event to be used in design to meet the criteria established in the Storm Water Management Manual.
- (j) Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

(k) Drainage Structures. Shall include swales, channels, storm sewers, curb inlets, yard inlets, culverts, and other structures designed to convey stormwater.

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

(m) Illegal Discharge. Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, or other discharge of any substance other than stormwater into a stormwater conveyance system, the waters of the State, or upon the land such that the substance is likely to reach a stormwater conveyance system or waters of the State constitutes an illegal discharge, except as exempted in Division II, Section 2.1 of this Ordinance.

(n) Illicit Connections. An illicit connection is defined as either of the following:

- i. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
- ii. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the County.

(o) Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

~~(p) Impervious Surface. Any surface which in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but not be limited to compacted earth (such as marl and coquina), gravel, concrete, asphalt, or other paving material, and all area covered by the footprint of buildings or structures. Uncovered wooden slatted decks and the water area of a swimming pool are considered pervious.~~

(q) Intermittent Streams. A natural drainage way, which shows up as a blue line on the USGS 7.5-minute quadrangle maps and has a contributing drainage area of 300 acres or less, shall be considered an intermittent stream for the purposes of this Ordinance.

(r) Land Disturbing Activities. The use of land by any person that results in a change in the natural cover or topography that may contribute to or alter the quantity and or quality of stormwater runoff.

(s) Major Subdivision. The division of a tract of land into six (6) or more lots.

(t) National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permits. General, group, and individual stormwater discharge permits that regulate facilities defined in Federal NPDES regulations pursuant to the Clean Water Act.

(u) Natural Drainage Way. Shall mean an incised channel with a defined channel bed and banks that are part of the natural topography. Construction channels such as drainage ditches shall not be considered a natural drainage way unless the constructed channel was a natural drainage way that has been relocated, widened, or otherwise improved.

(v) Non-Stormwater Discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

(w) Perennial Stream. Perennial streams are streams that have essentially continuous flows and are shown on the United States Geological Survey 1:24,000 (7.5 min.) scale topographic maps. Streams that have a contributing drainage area of more than 300 acres shall be considered a perennial stream for the purposes of this Ordinance.

(x) Structure. Structures include buildings, wells, screened enclosures, fences, advertising signs, billboards, poster panels, swimming pools, manufactured houses, modular houses, and underground shelters.

(y) Pollutant. Anything, that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; untreated commercial car wash water and industrial discharges, contaminated fountain drains and cooling waters; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

(z) Pollution. The human-made or human-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

(aa) Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(bb) Riparian Buffer. An area of trees, shrubs, or other vegetation that is adjacent to a natural drainage way. Riparian buffers reduce the impact of upland sources by trapping, filtering, and converting nutrients, sediments, and other chemicals, and maintain the integrity of the natural drainage way. For the purposes of this Ordinance, surface water shall be present if the feature is approximately shown on the most recent version of the 1:24,000 (7.5 min.) quadrangle topographic maps prepared by the United States Geological Survey (UGSG) or on the latest version of the Brunswick County Soil Map as prepared by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS).

(cc) Storm Drain System. Publicly-owned facilities operated by the County by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the County and are not part of a publicly-owned treatment works as defined in 40 CFR Section 122.2.

(dd) Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.

(ee) Stormwater Administrator. The person designated by the County Manager of Brunswick County to have authority to review and approve Stormwater Permits and stormwater management plans. The Stormwater Administrator shall also be responsible for inspecting development and making sure the provisions of this Ordinance are being followed.

(ff) Stormwater Facilities. Shall include devices designed specifically to detain or retain stormwater for water quantity or water quality control. These devices shall not include those drainage structures that provide incidental water quantity or water quality control. These devices include but are not limited to wet ponds, dry ponds, bioretention areas, filter strips, or infiltration trenches.

(gg) Vegetative Buffer. An area that has a dense ground cover of herbaceous or woody species, which provides for diffusion and infiltration of runoff and filtering of pollutants.

(hh) Vested Rights. Vested right shall be based upon the following criteria:

(ii) Having an outstanding valid building permit in compliance with GS 153A-344.1 or GS 160A-385.1, or

(jj) Having an approved site specific or phased development plan in compliance with GS 153A-344.1 or GS 160A-385.1.

- i. Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application or residuals and road construction activities, shall be considered to have vested rights if a State permit was issued prior to the effective date of the adoption of the Stormwater Ordinance.

(kk) Water Dependent Structures. Those structures which require the access or proximity to, or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not considered water-dependent structures.

(ll) Waters of the United States. Surface watercourses and water bodies as defined in 40 CFR § 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

(mm) Wetland. Means those areas regulated under Section 404 of the Clean Water Act as identified under guidelines employed by the United States Army Corps of Engineers in evaluating permit applications under 33 U.S.C. 1344 and applicable federal regulations.

**Section 1.7 Interpretation**

- (a) In interpreting and applying this Ordinance, the requirements are intended to be minimum requirements that are imposed and are to be conformed to, and are in addition to, and not in lieu of, all other legal requirements.
- (b) This Ordinance shall not be deemed to interfere with or annul or otherwise affect in any manner whatsoever any ordinance, rules, regulations, permits, or easements, covenants, or other agreements between parties, provided however that, where this Ordinance imposes greater restrictions and controls with respect to stormwater management, the provisions of this Ordinance shall prevail.

**Section 1.8 Permits**

- (a) Except where provided elsewhere, development shall not commence without obtaining a Stormwater Permit pursuant to the provisions of this Ordinance.
- (b) The Stormwater Permit Application shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which the permit is sought. The application shall be filed with the County on a form supplied by the County and shall be accompanied with the information identified in the Storm Water Management Manual.
- (c) A Stormwater Permit shall not be issued until the following conditions are met:
  - i. Approval by the Stormwater Administrator of the supporting information.
  - ii. Submission and approval of any required easements.
  - iii. Submission and approval of any required inspection and maintenance agreements.
  - iv. Payment of all fees.
- (d) If the development requires a Sediment and Erosion Control Permit, the Stormwater Permit will be conditional upon the owner receiving such sediment and erosion permit and upon the filing of a copy of the approved Sediment and Erosion Control Plan and associated Permit to the Stormwater Administrator.
- (e) The Stormwater Permit will be valid for one (1) year from the date of issuance or if significant changes in the development are made that change the intent of the permit. Significant changes shall be determined by the Stormwater Administrator. If significant changes are made, the original Stormwater Permit shall not be valid and a new permit shall be required.

**Section 1.9 Fees**

A list of fees associated with the Ordinance are available at the Brunswick County Stormwater Administrator's Office.

**Section 1.10 Applicability**

This Article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the County including any amendments or revisions thereto.

**Section 1.11 Responsibility for Administration**

The Stormwater Administrator of the County shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Stormwater Administrator may be delegated in writing by the Stormwater Administrator to persons or entities acting in the beneficial interest of or in the employ of the County.

**Section 1.12 Variances**

All applications for variance must be filed with, and will be considered by, the Brunswick County Board of Commissioners.

**Section 1.13 Severability**

The provisions of this Article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Article.

**Section 1.14 Regulatory Consistency**

This Article shall be construed to assure consistency with the requirements of the Clean Water Act and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

**Section 1.15 Ultimate Responsibility of Discharger**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into waters of the U.S. caused by said person. This Article shall not create liability on the part of the County, or any agent or employee thereof for any damages that result from any discharger's reliance on this Article or any administrative decision lawfully made thereunder.

**Section 1.16 Stormwater Management**

(a) Stormwater shall be conveyed through development in an adequately designed drainage system of natural drainage ways, grass swales, storm sewers, culverts, inlets, and channels. Drainage systems shall be designed, constructed, and maintained 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. Where the above conditions are met and where a development does not require the preparation of a Stormwater Management Plan, as provided in Section 1.16(b) of this ordinance, obtaining a Brunswick County Stormwater Permit is not required.

(b) Stormwater Management Plans must be prepared for, and shall be approved by, the Stormwater Administrator pursuant to the application for a Stormwater Permit for:

- i. All commercial and industrial and other non-residential development and any major subdivision as defined in the Brunswick County Subdivision Ordinance.

- ii. Any activity that disturbs land within 30 feet of the banks of a stream or other natural waterway within the County, except when such disturbance is designated as Exempt or Allowable in the Brunswick County Storm Water Management Manual.
  - iii. Any filling or excavation of a parcel that results in a change of land surface of four (4) inches or more; except instances when said filling or excavation is required for on-site sewage treatment systems that is necessary to meet the requirements of the Brunswick County Department of Health (BCDEH) and that is specifically approved and inspected by BCDEH.
  - iv. Any activity or development that will ultimately result in the disturbance of a total area of one or more acres, except for the following:
    - a) Activity on a bona fide farm, unless the activity is for non-farm purposes.
    - b) Activities on forestland for the production and harvesting of timber and timber products.
- c) Stormwater Management Plans shall:
- i. Include drawings, maps, supporting calculations, specifications, and summaries as outlined in the Storm Water Management Manual.
  - ii. Demonstrate through accepted engineering practices described in the Storm Water Management Manual the impacts of the proposed development. Impacts of the proposed developments may include:
    - a) Effects on existing upstream and/or downstream drainage systems and property.
    - b) Ability of the natural drainage way to handle additional stormwater runoff.
    - c) Site-specific criteria.
  - iii. Demonstrate through accepted engineering practices described in the Storm Water Management Manual that stormwater runoff is adequately conveyed through the development in a drainage system designed to meet the criteria described in the Storm Water Management Manual.
  - iv. Demonstrate through accepted engineering practices described in the Storm Water Management Manual that stormwater facilities control the impacts of the development to the Maximum Extend Practicable and that those facilities are designed to meet the criteria described in the Storm Water Management Manual.
- d) Stormwater Facilities Inspection and Maintenance Requirements
- i. A written inspection and maintenance agreement in a form acceptable to the County Attorney and executed by the applicant of the Stormwater Permit and the owners of the facility, if different than the applicant, shall be provided prior to receiving a Stormwater Permit. The agreement shall provide the following:
    - a) Shall bind the parties thereto and all subsequent owners, successors, and assigns.



- b) The required inspection maintenance and access of the facility as defined in the Storm Water Management Manual.
- c) That, if the County directs the correction, repair, replacement, or maintenance of the facility in writing and the actions are not satisfactorily performed within a reasonable time (but not greater than 60 days), the County may, after reasonable notice, enter the land and perform all the necessary work and may assess the owner(s) of the facility with the cost of the work performed. The owner(s) served by the facility shall be jointly responsible to the County for the maintenance of the facility and liable for any costs incurred by the County pursuant to the said agreement and all properties are jointly subject to the imposition of the liens for said costs.
- d) The Inspection and Maintenance Agreement shall be recorded in the Register of Deeds at the expense of the applicant.
- e) Stormwater facilities shall be included in an easement. The easement shall include the area of the facility, area of ponded water, and enough area for access and maintenance. The easement shall be recorded in the Register of Deeds at the expense of the applicant.

#### **Section 1.17 Riparian Buffers**

- (a) Riparian buffers shall be maintained on all sides of perennial and intermittent streams, lakes and other natural waterways as provided in the Storm Water Management Manual.
- (b) The following are exempt from this riparian buffer requirement:
  - i. Areas along streams or other waterways that are mapped on the USGS quadrangle map or NRCS soils map where such streams or waterways do not actually exist on the ground.
  - ii. Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way.
  - iii. Where application of these requirements would prevent all prospective use of a lot platted and recorded prior to the effective date of this Ordinance.
  - iv. Water dependent structures provided that those structures shall be designed, constructed, and maintained to provide the maximum practicable nutrient and bacterial removal, have the least practicable adverse effects on aquatic habitat, and to otherwise protect water quality.
  - v. Roads, bridges, stormwater management facilities, ponds, and utilities where no other practical alternative exists. These structures shall be located, designed, constructed, and maintained to have minimal disturbance, provide the maximum practicable nutrient and bacterial removal, have the least practicable adverse effects on aquatic habitat, and to otherwise protect water quality.
  - vi. Ditches and manmade conveyances other than modified natural streams.

(c) The riparian buffer shall be an undisturbed area extending from the top of channel bank landward a minimum distance of 30 feet measured horizontally on a line perpendicular to the water body.

(d) The following activities shall not be allowed in buffer areas:

- i. New on-site sewage systems, which utilize ground adsorption.
- ii. New structures, except as specifically provided in the Storm Water Management Manual.

(e) The riparian buffer shall be maintained by the landowner or homeowners association to maintain sheet flow to the maximum extent practical to provide for diffusion and infiltration of runoff and filtering pollutants into the affected stream and consistent with maintenance criteria as set out in the Storm Water Management Manual.

(f) Riparian buffer areas shall be designated on recorded plats as easements. The plat shall be included with the Stormwater Permit Application.

## **Division II.**

### **Discharge Prohibitions**

#### **Section 2.1 Prohibition of Illegal Discharges**

No person shall discharge or cause to be discharged into the County storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (a) Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the U.S. when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of this Ordinance: potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to the storm drain system; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non-industrial roof drains; springs; individual residential and occasional non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash waters; and flows from fire fighting.
- (b) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of North Carolina under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the County for any discharge to the storm drain system.

- (c) With written concurrence of the Board of Commissioners, Brunswick County may exempt in writing other non-stormwater discharges, which are not a source of pollutants to the storm drain system or waters of the U.S.

**Section 2.2 Prohibition of Illicit Connections**

- (a) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
- (b) This prohibition expressly includes, without limitation; illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

**Section 2.3 Waste Disposal Prohibitions**

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

**Section 2.4 Discharges in Violation of Industrial or Construction Activity NPDES Stormwater**

Discharge Permit. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Stormwater Administrator prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

**Division III.**

**Regulations and Requirements**

**Section 3.1 Requirement to Prevent, Control, and Reduce Stormwater Pollutants**

- (a) Authorization to Adopt and Impose Best Management Practices. The County will adopt requirements identifying Best Management Practices for any activity, operation, or facility, that may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. as documented in a separate Storm Water Management Manual. Where BMPs requirements are promulgated by the County or any Federal, State of North Carolina, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the storm drain system or water of the U.S., every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements. The Stormwater Administrator will report to the County Board of Commissioners annually on the status of implementation of BMPs, the pollutants of concern to be addressed the next year, and any new BMPs to be developed. BMPs developed under this program will be incorporated as part of the County's Storm Water Management Manual.
- (b) New Development and Redevelopment. The County may adopt requirements identifying appropriate BMPs to control the volume, rate, and potential pollutant load of stormwater runoff

from new development and redevelopment projects as may be appropriate to minimize the generation, transport, and discharge of pollutants. The County shall incorporate such requirements in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this Article.

- (c) **Responsibility to Implement Best Management Practices.** Notwithstanding the presence or absence of requirements promulgated pursuant to subsections (a) and (b), any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering stormwater, the storm drain system, or waters of the U.S. shall implement BMPs to the Maximum Extend Practicable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

BMPs required by the County can be obtained from the Stormwater Administrator's Office by requesting the BMP information appropriate to a commercial or industrial activity from the Storm Water Management Manual.

**Section 3.2 Requirement to Eliminate Illegal Discharges**

Notwithstanding the requirements of Division V, Section 5.1 herein, the Stormwater Administrator may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinues the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

**Section 3.3 Requirement to Eliminate or Secure Approval for Illicit Connections**

- (a) The Stormwater Administrator may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this Article to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this Article.
- (b) If, subsequent to eliminating a connection found to be in violation of this Article, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request County approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

**Section 3.4. Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for

maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

**Section 3.5 Requirement to Remediate**

Whenever the Stormwater Administrator finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of stormwater, the storm drain system, or water of the U.S., the Stormwater Administrator may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of Divisions 4 through 5 below.

**Section 3.6 Requirement to Monitor and Analyze**

The Stormwater Administrator may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the storm drain system or waters of the U.S., undertake at said person's expense such monitoring and analyses and furnish such reports to the County as deemed necessary to determine compliance with this Article.

**Section 3.7 Notification of Spills**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the U.S. from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material, said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the Stormwater Administrator's Office in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County's Engineering Services Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**Division IV.**

**Inspection and Monitoring**

**Section 4.1 Authority to Inspect**

Whenever necessary to make an inspection to enforce any provision of this Article, or whenever the Stormwater Administrator has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Article, the Director may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the County is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

**Section 4.2 Authority to Sample, Establish Sampling Devices, and Test**

During any inspection as provided herein, the Stormwater Administrator may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

**Division V.****Enforcement****Section 5.1 Violations**

- (a) Whenever there is a failure to follow an approved stormwater management plan or permit, or whenever, by the provisions of this Article, the performance of any act is required or prohibited, or any regulation or limitation is imposed on the use of any land, or the erection, alteration, use or change of use of any structure, a failure to comply with such provisions shall constitute a violation of this Article.
- (b) Any owner, tenant or occupant of any land, structure or part thereof, and any architect, engineer, designer, builder, contractor, consultant, agent or other person who, acting individually or in concert, designs or constructs any system, structure or part thereof, or otherwise directs, assists, allows or participates, either directly or indirectly, in any conduct or activity which creates or maintains a situation that is contrary to the requirements contained in this Article may be held responsible for the violation and therefore subject to the penalties and remedies contained herein.

**Section 5.2 Notice of Violation**

- (a) Upon determining that a violation of this Article has occurred, the Stormwater Administrator shall deliver a written notice to the person(s) responsible for the violation by personal service or by registered or certified mail, return receipt requested, indicating the nature of the violation and ordering the action necessary to correct it. Such notice may require, without limitation:
  - i. The performance of monitoring, analyses and reporting;
  - ii. The elimination of all illicit connections, practices, operations or discharges;
  - iii. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - iv. Payment of a fine or civil penalty; and/or
  - v. The implementation of source control or treatment BMPs.
- (b) The final notice of violation, which may also be the initial notice, shall in addition to the above, include the words FINAL NOTICE OF VIOLATION in the heading, state the action the County intends to take if the violation is not corrected, and shall advise that the Stormwater Administrator's order may be appealed as provided in Section 5.4 of this Article.
- (c) If abatement of a violation and/or remediation of affected property are required, the notice shall set forth a deadline by which such abatement and/or remediation must be completed.

**Section 5.3 Penalties, Fines and Remedies**

- (a) Any violation of any provision of this Stormwater Management Ordinance, including but not limited to illegal discharge, shall constitute a misdemeanor and subject the violator to a criminal fine of five hundred dollars (\$500.00) or imprisonment for up to twenty (20) days as provided in N.C.G.S. §§14-4 and 15A-1340.23.
- (b) Civil penalties imposed for illegal discharge will be as follows:
- i. First time offenders will be assessed a civil penalty of one hundred dollars (\$100.00) per violation or per day for a continuing violation if the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products. If the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances the offending party will be assessed a civil penalty of two hundred fifty dollars (\$250.00) per violation or per day for a continuing violation.
  - ii. Penalties imposed upon repeat offenders willfully committing violations which are identical or substantially similar to previous violations will be double the amount assessed for the prior violation, but will in no event exceed ten thousand dollars (\$10,000.00) per violation or per day for a continuing violation.
- (c) All other acts or conditions constituting a violation of this Article shall subject the offender to a civil penalty of two hundred dollars (\$200.00).
- (d) The assessment of a civil penalty may be appealed as provided in Section 5.4 of this Article.
- (e) Each day a violation continues beyond the deadline for voluntary compliance established in the final notice of violation shall constitute a separate and distinct offense for purposes of the penalties and remedies provided herein.
- (f) The County may recover, by way of a civil action in the nature of a debt, any civil penalty not paid within thirty (30) days of the violating party's receipt of written notice imposing such penalty, or within thirty (30) days of that party's receiving written notice of a decision of the Board of County Commissioners, or the County Manager if no appeal is taken therefrom, affirming the imposition of the penalty.
- (g) In addition to the penalties and fines set forth above, the County may enforce the provisions of this Ordinance by seeking appropriate equitable remedies from the General Court of Justice, including injunctions and orders of abatement.

**Section 5.4 Appeals**

This section applies to all appeals except those concerning abatement by the County of situations dangerous or prejudicial to the public health which are discussed in Section 5.5 below. Any person aggrieved by a final decision of the Stormwater Administrator, including but not limited to the issuance of a notice of violation, denial of a permit or the assessment of civil penalties, may appeal that decision to the County Manager for the County of Brunswick. Such appeals shall be in writing, signed by the appealing party(ies) and shall identify with specificity the final decision being appealed, the date they received notice of that decision, and contain a detailed statement of the reason or basis for the appeal. All appeals shall be filed with the office of the County Manager within fifteen (15) days of receiving final notice of the Stormwater Administrator's decision. The time period for appeal from a decision of the

Stormwater Administrator denying a permit will commence to run from the date of receipt of written notification of such denial. The time period for all other appeals from the Stormwater Administrator will commence to run from the date of receipt of the FINAL NOTICE OF VIOLATION. A hearing on an appeal to the County Manager will take place within ten (10) working days of the date of filing of the notice of appeal.

Any party(ies) not satisfied with the decision of the County Manager may appeal his/her decision to the Board of County Commissioners. Such appeals shall be filed with the Clerk to the Board of Commissioners within fifteen (15) days of receiving written notice of the County Manager's decision. All appeals must be in writing, signed by the appealing party(ies) and shall identify with specificity the final decision being appealed, the date they received notice of that decision, and contain a detailed statement of the reason or basis for the appeal.

**Section 5.5 Abatement by County of Situations Dangerous or Prejudicial to the Public Health**

Pursuant to the authority contained in N.C.G.S. §§153A-121 and 153A-140, the Stormwater Administrator is hereby authorized to require immediate abatement of any violation of this Article which is dangerous or prejudicial to the health, safety and welfare of the citizens of Brunswick County. If any person or entity feels that such order for immediate abatement is in error, they may appeal the order to the Board of County Commissioners within seven (7) days of receiving written notice of the order. Such appeals shall be in the form of a signed writing filed with the Clerk to the Board of Commissioners and shall include a detailed statement of the reason or basis for the appeal. Any person or entity aggrieved by a decision of the Board of Commissioners affirming an order of immediate abatement may appeal such decision to the General Court of Justice within thirty days of receiving written notification of such decision.

If at any point the time for an appeal lapses and the violating condition still exists, the County shall have authority to enter upon such premises to remove, abate, or remedy everything that is dangerous or prejudicial to the public health. The cost of such actions taken by the County shall be paid by the person or entity in default within thirty days of receiving written notice of such costs. If these costs are not so paid, they shall thereafter become and constitute a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes.

No relief obtained by the County under this Section shall prevent the County from seeking other and further relief as authorized under this Article.

**Section 5.6 Acts Potentially Resulting in a Violation of the Federal Clean Water Act**

Any person(s) whose acts or omissions constitute violations of this Article may also, by virtue of the same acts or omissions, be in violation of the Federal Clean Water Act and therefore subject to additional sanctions associated with that Act, including any civil and criminal penalties contained therein. Any enforcement action authorized under this Article shall also include written notice to the violator of such potential liability.

**SECTION 2.** This Ordinance shall be in full force and effect **on September 16, 2002.**