**STATE of NORTH CAROLINA**
**DEPARTMENT of ENVIRONMENTAL QUALITY**
**DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES**

# PERMIT NO. NCS000489
# TO DISCHARGE STORMWATER UNDER THE

# NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

City of Hendersonville

is hereby authorized to discharge stormwater from their municipal separate storm sewer system located:

within the City of Hendersonville corporate limits
Henderson County

to receiving waters, Mud Creek, Brittain Creek, and Wash Creek, within the French Broad River Basin in accordance with the discharge limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, VI, VII and VIII hereof.

This permit shall become effective [date].

This permit and the authorization to discharge shall expire at midnight on [date].

Signed this day [date].

_____

*for* Tracy E. Davis, P.E., CPM
Division of Energy, Mineral, and Land Natural Resources
By the Authority of the Environmental Management Commission

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# PART I PERMIT COVERAGE

A. During the period beginning on the effective date of the permit and lasting until expiration, the City of Hendersonville is authorized to discharge stormwater from the municipal separate storm sewer system (MS4) to receiving waters, Mud Creek, Brittain Creek, and Wash Creek, within the French Broad River Basin. Such discharge will be controlled, limited and monitored in accordance with the City's Stormwater Quality Management Program, herein referred to as the Stormwater Plan. The Stormwater Plan shall detail the City's stormwater management program for the five-year term of the stormwater permit including, for each measure identified in the permit, a narrative description of the program, a table that identifies each best management practice (BMP) used, the frequency of the BMP, the measurable goals for each BMP, the implementation schedule, funding and the responsible person or position for implementation.

B. All discharges authorized herein shall be managed in accordance with the terms and conditions of this permit. Any other point source discharge to surface waters of the state is prohibited unless it is an allowable non-stormwater discharge or is covered by another permit, authorization, or approval.

C. This permit does not relieve the City from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

D. This permit covers activities associated with the discharge of stormwater from the MS4 within the corporate limits of the permittee. The permit applies to corporate limits of the permittee, as well as areas that seek coverage under this permit through inter-local or other similar agreements with permittee. Agreements for coverage under this permit shall be approved by the Division of Energy, Mineral, and Land Resources, herein referred to as the Division.

E. The Division may deny or revoke coverage under this permit for separate entities and require independent permit coverage as deemed necessary. In addition, the permittee may petition the Division to revoke or deny coverage under this permit for specific entities.

F. All provisions contained and referenced in the Stormwater Plan along with all provisions and approved modifications of the Stormwater Plan are incorporated by reference and are enforceable parts of this permit.

G. The permit requires the proper implementation of the Stormwater Plan. To the extent allowable under State and local law, the permittee must develop and implement a Stormwater Plan in accordance with Section 402(p)(3)(B)(iii) of the Clean Water Act. The purpose of the Stormwater Plan is to establish the means by which the permittee will describe how it is in compliance with the permit and with the provisions of the Clean Water Act. Compliance with the six minimum measures in 40 CFR § 122.34(b) and with the requirements of this permit constitute compliance with the Clean Water Act to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the applicable water quality requirements of the Clean Water Act. Implementation of best management practices consistent with the provisions of the Stormwater Plan constitutes compliance with the standard of reducing pollutants to the maximum extent practicable.

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H. The permit authorizes the point source discharge of stormwater runoff from the MS4. In addition, discharges of non-stormwater are also authorized through the MS4 of the City if such discharges are:

1. Permitted by and in compliance with another permit, authorization, or approval, including discharges of process and non-process wastewater, and stormwater associated with industrial activity; or
2. Determined to be incidental non-stormwater flows that do not significantly impact water quality and may include:

   - water line and fire hydrant flushing;
   - landscape irrigation;
   - diverted stream flows;
   - rising groundwater;
   - uncontaminated groundwater infiltration;
   - uncontaminated pumped groundwater;
   - discharges from uncontaminated potable water sources;
   - foundation drains;
   - air conditioning condensate (commercial/residential);
   - irrigation waters;
   - springs;
   - water from crawl space pumps;
   - footing drains;
   - lawn watering;
   - residential and charity car washing;
   - flows from riparian habitats and wetlands;
   - dechlorinated swimming pool discharges;
   - street wash water;
   - flows from emergency firefighting.

3. The Division may require that non-stormwater flows of this type be controlled by the City's Stormwater Plan.

I. Unless otherwise stated, full compliance with the requirements of the permit is expected upon the effective date of the permit.

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# PART II FINAL LIMITATIONS AND CONTROLS FOR PERMITTED DISCHARGES

## SECTION A: PROGRAM IMPLEMENTATION

The City will implement, manage and oversee all provisions of its Stormwater Plan to control to the maximum extent practical the discharge of pollutants from its municipal storm sewer system associated with stormwater runoff and illicit discharges, including spills and illegal dumping. The overall program implementation however, will be subject to, at a minimum, an annual review by the Division to determine implementation status and progression toward meeting the pollutant control intent of the Stormwater Plan or a sustainability assessment that has been reviewed and approved by the Division. The sustainability assessment may be conducted by the local government, another local government with and NPDES MS4 permit, or an independent third party. This includes, but is not limited to, the following areas:

1. The permittee shall maintain adequate legal mechanisms, such as regulations, ordinances, policies and procedures to implement all provisions of the Stormwater Plan. The Division will be notified of major modifications of these authorities, the reasons and justifications for these changes. The Division may comment on these modifications as deemed necessary to assure appropriate implementation of the Stormwater Plan.

2. The permittee must evaluate program compliance, the appropriateness of best management practices, and progress towards achieving measurable goals at least annually.

3. The permittee will maintain adequate funding and staffing to implement and manage the provisions of the Stormwater Plan and meet all requirements of this permit. The Stormwater Plan shall identify a specific position(s) responsible for the overall coordination, implementation, and revision to the Plan. Responsibilities for all components of the Plan shall be documented and position(s) assignments provided.

4. The permittee will implement provisions of the Stormwater Plan and evaluate the performance and effectiveness of the program components at least annually. Results will be used by the permittee to modify the program components as necessary to accomplish the intent of the Stormwater Program. If the permittee implements the six minimum control measures and the discharges are determined to cause or contribute to non-attainment of an applicable water quality standard, to address the non-attainment, the permittee shall expand or better tailor its BMPs within the scope of the six minimum control measures.

5. The permittee is required to keep the Stormwater Plan up to date. Where the permittee determines that modifications are needed to address any procedural, protocol, or programmatic change, such changes shall be made as soon as practicable, but not later than 90 days, unless an extension is approved by the Division. Major modifications to the Stormwater Plan shall be submitted to the Director for approval. The permittee is required to make available its Stormwater Plan to the Division upon request. At a minimum, the permittee shall include ordinances, or other regulatory mechanisms or a list identifying the ordinances, or other regulatory mechanisms providing the legal authority necessary to implement and enforce the requirements of the permit. The Division may review reports submitted by the Permittee to assure that the Stormwater Plan is implemented appropriately to address the requirements of the permit. The Division may require modifications to any part of the Permittee's Stormwater Plan where deficiencies are found. If modifications to the Stormwater Plan are necessary, the Division will notify the permittee of the need to modify the Stormwater Plan to be consistent with the permit and will establish a deadline to finalize such changes to the program.

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6. Pursuant to 40 CFR 122.35, an operator of a regulated small MS4 may share the responsibility to implement the minimum control measures with other entities provided:

   a. The other entity, in fact, implements the control measure;
   b. The particular control measure, or component thereof, is at least as stringent as the corresponding NPDES permit requirement; and
   c. The other entity agrees to implements the control measure on behalf of the MS4.

   Unless implemented by the State or where delegated by the state, the permittee remains responsible for compliance if the other entity fails to perform the permit obligation and may be subject to enforcement action if neither the permittee nor the other entity fully performs the permit obligation.

7. The Permittee shall maintain, and make available to the Division upon request, written procedures for implementing the six minimum control measures. Written procedures shall identify specific action steps, schedules, resources and responsibilities for implementing the six minimum measures. Written procedures can be free standing, or where appropriate, integrated into the Storm Water Management Plan.

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## SECTION B: PUBLIC EDUCATION AND OUTREACH

### 1. Objectives for Public Education and Outreach

Distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

### 2. BMPs for Public Education and Outreach

The City shall implement the following BMPs to meet the objectives of the Public Education and Outreach Program and shall notify the Division prior to modification of any goals.

| BMP | Measurable Goals |
|---|---|
| a. Goals and Objectives | Defined goals and objectives of the Local Public Education and Outreach Program based on community wide issues. |
| b. Describe target pollutants and/or stressors | The City shall maintain a description of the target pollutants and/or stressors and likely sources. |
| c. Describe target audiences | The City shall maintain a description of the target audiences likely to have significant storm water impacts and why they were selected. |
| d. Describe residential and industrial/commercial issues | The City shall describe issues, such as pollutants, the likely sources of those pollutants, impacts, and the physical attributes of stormwater runoff, in their education/outreach program. |
| e. Informational Web Site | The City shall promote and maintain, assess and update as necessary an internet web site designed to convey the program's message. |
| f. Distribute public education materials to identified target audiences and user groups. For example, schools, homeowners, and/or businesses. | The City shall distribute stormwater educational material to appropriate target groups. Instead of developing its own materials, the City may rely on Public Education and Outreach materials supplied by the state, and/or other entities through a cooperative agreement, as available, when implementing its own program. |
| g. Maintain Hotline/Help line | The City shall promote and maintain a stormwater hotline/helpline for the purpose of public education and outreach. |
| h. Implement a Public Education and Outreach Program. | The City's outreach program, including those elements implemented locally or through a cooperative agreement, shall include a combination of approaches designed toreach the tarrget audiences. For each media, event or activity, including those elements implemented locally or through a cooperative agreement the City shall estimate and record the extent of exposure. |

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## SECTION C: PUBLIC INVOLVEMENT AND PARTICIPATION

### 1. Objectives for Public Involvement and Participation

Comply with State and local public notice requirements when implementing a public involvement and participation program.

### 2. BMPs for Public Involvement and Participation

The City shall implement the following BMPs to meet the objectives of the Public Involvement and Participation Program and shall notify the Division prior to modification of any goals.

| BMP | Measurable Goals |
|---|---|
| a. Volunteer community involvement program | The City shall include and promote volunteer opportunities designed to promote ongoing citizen participation. |
| b. Mechanism for Public involvement | The City shall provide and promote a mechanism for public involvement that provides for input on stormwater issues and the stormwater program. |
| c. Hotline/Help line | The City shall promote and maintain hotline/helpline for the purpose of public involvement and participation. |

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## SECTION D: ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE)

### 1. Objectives for Illicit Discharge Detection and Elimination

a. Implement and enforce a program to detect and eliminate illicit discharges into the MS4.
b. Maintain a storm sewer system map, showing the location of all major outfalls and the names and location of all waters of the United States that receive discharges from those outfalls;
c. Prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges except as allowed in this permit and implement appropriate enforcement procedures and actions;
d. Implement a plan to detect and address non-storm water discharges, including illegal dumping, to the MS4;
e. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
f. Address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if you identify them as significant contributors of pollutants to the MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from firefighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the United States).

### 2. BMPs for Illicit Discharge Detection and Elimination

The City shall implement the following BMPs to meet the objectives of the Illicit Discharge Detection and Elimination Program and shall notify the Division prior to modification of any goals.

| BMP | Measurable Goals |
|---|---|
| a. Maintain an Illicit Discharge Detection and Elimination Program | Maintain a written Illicit Discharge Detection and Elimination Program, including provisions for program assessment and evaluation and integrating program. |
| b. Maintain adequate legal authorities | The permittee shall maintain an IDDE ordinances or other regulatory mechanisms that provides the legal authority to prohibit illicit connections and discharges. |
| c. Maintain a Storm Sewer System Map of Major Outfalls. | The permittee shall maintain a current a map showing major outfalls and receiving streams. |
| d. Implement a program to detect dry weather flows | The permittee shall maintain a program for conducting dry weather flow field observations in accordance with written procedures. |

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| BMP | Measurable Goals |
|---|---|
| e. Investigate sources of ~~all~~ identified illicit discharges. | The permittee shall maintain written procedures for conducting investigations of identified illicit discharges. |
| f. Track and document investigations illicit discharges | For each case the permittee shall track and document 1) the date(s) the illicit discharge was observed; 2) the results of the investigation; 3) any follow-up of the investigation; and 4) the date the investigation was closed. |
| g. Provide Employee Training | The permittee shall implement and document a training program for appropriate municipal staff, who as part of their normal job responsibilities, may come into contact with or otherwise observe an illicit discharge or illicit. |
| h. Provide Public Education | The permittee shall inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste. |
| i. Provide a public reporting mechanism | The permittee shall promote, publicize, and facilitate a reporting mechanism for the public and staff to report illicit discharges and establish and implement citizen request response procedures. |
| j. Enforcement of the IDDE ordinance | The permittee shall implement a mechanism to track the issuance of notices of violation and enforcement actions as administered by the permittee. This mechanism shall include the ability to identify chronic violators for initiation of actions to reduce noncompliance. |

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**SECTION E: CONSTRUCTION SITE RUNOFF CONTROLS**

1. Pursuant to 40 CFR 122.35(b), the permittee may rely on the Henderson County Sediment and Erosion Control Program to comply with this minimum measure. The Henderson County Sediment and Erosion Control Program effectively meets the maximum extent practicable (MEP) standard for Construction Site Runoff Controls by permitting and controlling development activities disturbing one or more acres of land surface and those activities less than one acre that are part of a larger common plan of development as authorized under the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code. The Henderson County Sediment and Erosion Control Program continues to be monitored by the State to ensure the County effectively meets the MEP standard established by the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code.

2. The NCG010000 permit establishes requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.

3. The City shall provide and promote a means for the public to notify the appropriate authorities of observed erosion and sedimentation problems. The City may implement a plan promoting the existence of the North Carolina Department of Environmental Quality (NCDEQ or DEQ), Division of Energy, Mineral, and Land Resources “Stop Mud” hotline to meet the requirements of this paragraph.

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## SECTION F: POST-CONSTRUCTION SITE RUNOFF CONTROLS

### 1. Objectives for Post-Construction Site Runoff Controls

a. Implement and enforce a program to address storm water runoff from new development and redevelopment projects, including public transportation maintained by the permittee, that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the small MS4. The program shall ensure that controls are in place that would prevent or minimize water quality impacts.

b. Implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for the community;

c. Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects; and

d. Ensure adequate long-term operation and maintenance of BMPs.

### 2. BMPs for Post-Construction Site Runoff Controls

The City shall implement the following BMPs to meet the objectives of the Post-Construction Stormwater Management Program. To the extent there is any conflict between this permit and the post-construction ordinances adopted by the City as approved by the Division, the post-construction ordinances shall apply with regard to permit compliance.

| BMP | Measurable Goals |
|---|---|
| a. Adequate legal authorities | Maintain through ordinance, or other regulatory mechanism, adequate legal authorities designed to meet the objectives of the Post-Construction Site Runoff Controls Stormwater Management program, and to ensure that new development and redevelopment does not cause or contribute to the continued impairment of downstream waters.<br><br>The permittee shall have the authority to review designs and proposals for new development and redevelopment to determine whether adequate stormwater control measures will be installed, implemented, and maintained.<br><br>The permittee shall have the authority to request information such as stormwater plans, inspection reports, monitoring results, and other information deemed necessary to evaluate compliance with the Post-Construction Stormwater Management Program.<br><br>The permittee shall have the authority to enter private property for the purpose of inspecting at reasonable times any facilities, equipment, practices, or operations related to stormwater discharges to determine whether there is compliance the Post-Construction Stormwater Management Program. |

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| BMP | Measurable Goals |
|---|---|
| b. Strategies which include BMPs appropriate for the MS4 | Compliance with 15A NCAC 02H Section .1000 effectively meets the Post-construction Stormwater Runoff control requirements. |
| c. Plan reviews | The City shall conduct site plan reviews of all new development and redeveloped sites that disturb greater than or equal to one acre (including sites that disturb less than one acre that are part of a larger common plan of development or sale). The site plan review shall address how the project applicant meets the performance standards and how the project will ensure long-term maintenance. |
| d. Inventory of projects with post-construction structural stormwater control measures | The City shall maintain an inventory of projects with post-construction structural stormwater control measures installed and implemented at new development and redeveloped sites, including both public and private sector sites located within the City's corporate limits that are covered by its post-construction ordinance requirements. |
| e. Deed Restrictions and Protective Covenants | The City shall provide mechanisms such as recorded deed restrictions and protective covenants that ensure development activities will maintain the project consistent with approved plans. |
| f. Provide a mechanism to require long-term operation and maintenance of structural BMPs. | The City shall implement or require an operation and maintenance plan for the long-term operation of the structural BMPs required by the program. The operation and maintenance plan shall require the owner of each structural BMP to perform and maintain a record of annual inspections of each structural BMP. Annual inspection of permitted structural BMPs shall be performed by a qualified professional. |
| g. Inspections | To ensure that all stormwater control measures are being maintained pursuant to the maintenance agreement, the City shall conduct and document inspections of each project site covered under performance standards, at least one time during the permit term.<br><br>Before issuing a certificate of occupancy, or temporary certificate of occupancy, the City shall conduct a post-construction inspection to verify that the City's performance standards have been met or a bond is in place to guarantee completion.<br><br>The City shall document and maintain records of inspection findings and enforcement actions and make them available for review by the permitting authority. |

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| BMP | Measurable Goals |
|---|---|
| h. Educational materials and training for developers | The City shall make available through paper or electronic means, ordinances, post-construction requirements, design standards checklist, and other materials appropriate for developers. New materials may be developed by the City, or the City may use materials adopted from other programs and adapted to the City's new development and redevelopment program. |
| i. Establish trout waters protection measures | Establish, implement and enforce an ordinance (or similar regulatory mechanism) to ensure that the best management practices selected do not result in a sustained increase in the receiving water temperature. |
| j. Enforcement | The City shall track the issuance of notices of violation and enforcement actions. This mechanism shall include the ability to identify chronic violators for initiation of actions to reduce noncompliance. |

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**3. Post-construction Stormwater Runoff Controls for New Development**

a. In order to fulfill the post-construction minimum measure program requirement the permittee may use the Department's model ordinance, design its own post-construction practices that meet or exceed the Department's Stormwater Best Management Practices Manual on scientific and engineering standards, or develop its own comprehensive watershed plan that is determined by the Department to meet the post-construction stormwater management measure required by 40 Code of Federal Regulations § 122.34(b)(5) (1 July 2003 Edition).

b. To protect water quality in North Carolina rivers, streams, lakes, estuaries and ocean, and the existing uses of such surface waters for their scenery, swimming, boating, as well as for commercial and recreational fishing and shellfishing and to stimulate development, pursuant to NCAC 2H .1003(6), the permittee may:

i. Approve variations in Stormwater Control measures that allow compensatory treatment of existing development to offset the effects of stormwater runoff from new development so as to nullify the effects of new development within the same watershed. Where it is impracticable or infeasible to treat all or some of the stormwater runoff on site the permittee may allow: (1) on-site compensatory stormwater treatment; and (2) off-site mitigation and stormwater management facilities within the same watershed to meet the requirements to manage stormwater. When off-site treatment of existing development for compensatory mitigation is used, the amount of stormwater treated must be twice the volume that would have been controlled on-site for new development. Off-site locations must be within the same watershed and within two miles of the project site. Off-site SCMs require the same type of operation and maintenance agreements as on-site BMPs, and the types of BMPs used must be designed to reduce the required volume of runoff rather than treat and discharge it.

ii. Adopt a comprehensive watershed management plan with an emphasis on controlling stormwater run-off rather than placing a cap or limit on impervious

surfaces, i.e., high and low density development limits. Under A comprehensive watershed management plan all development disturbing one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development, must meet the requirements in 15A NCAC 02H Section .1000. All effective stormwater control strategies must include some form of mandatory setback for impervious surfaces from the closest receiving waters.

c. The permittee shall meet the requirements of the post-construction program for construction projects that are performed by, or under contract for, the permittee. To meet this requirement, the permittee may either develop the necessary requirements for post-construction controls that will pertain to their own projects, or develop procedures to ensure that the permittee meets these requirements by complying with another entity's Phase II Stormwater Management Programs for post-construction. If the permittee decides to rely on another program for compliance with these program areas for their own projects, they shall indicate in their Stormwater Management Program that the permittee will fully comply with the requirements of the second party's post-construction programs.

d. Pursuant to 15A NCAC 02H .0150, for areas draining to Nutrient Sensitive Waters, permittees, delegated programs, and regulated entities must use stormwater control measures (SCMs) that reduce nutrient loading, while still incorporating the stormwater controls required for the project's density level. In areas where the Department has approved a Nutrient Sensitive Water Urban Stormwater Management Program, the provisions of that program fulfill the nutrient loading reduction requirement.

e. Pursuant to 15A NCAC 2H .1050 MDC FOR ALL STORMWATER CONTROL MEASUREs (SCM), the design volume of SCMs shall take into account the runoff at build out from all surfaces draining to the system. Where streets "convey" stormwater, all SCM shall be sized to treat and control stormwater runoff from all surfaces draining to the SCM including streets, driveways, and other impervious surfaces.

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## SECTION G: POLLUTION PREVENTION AND GOOD HOUSEKEEPING FOR MUNICIPAL OPERATIONS

### 1. Objective for Pollution Prevention and Good Housekeeping for Municipal Operations

a. Implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations.

b. Provide employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

### 2. BMPs for the Pollution Prevention and Good Housekeeping for Municipal Operations

The City shall implement the following BMPs to meet the objectives of the Pollution Prevention and Good Housekeeping Program and shall notify the Division prior to modification of any goals.

| BMP | Measurable Goals |
|---|---|
| a. Inventory of municipally owned or operated facilities | The City shall maintain a current inventory of facilities and operations owned and operated by the City with the potential for generating polluted stormwater runoff. |
| b. Operation and Maintenance (O&M) for municipally owned or operated facilities | The City shall maintain, implement, and evaluate annually and update as necessary an Operation and Maintenance (O&M) program for municipal owned and operated facilities with the potential for generating polluted stormwater runoff. The O&M program shall specify the frequency of inspections and routine maintenance requirements. |
| c. Spill Response Procedures | The City shall have written spill response procedures for municipal operations. |
| d. Streets, roads, and public parking lots maintenance | The permittee shall evaluate existing and new BMPs annually that reduce polluted stormwater runoff from municipally-owned streets, roads, and public parking lots within their corporate limits. The permitte must evaluate the effectiveness of these BMPs based on cost and the estimated quantity of pollutants removed. |
| f. Operation and Maintenance (O&M) for municipally - owned or maintained catch basins and conveyance systems | The permittee shall maintain and implement an O&M program for the stormwater sewer system including catch basins and conveyance systems that it owns and maintains. |
| g. Identify structural stormwater controls | The City shall identify municipally-owned or operated structural stormwater controls installed for compliance with the permittee's post-construction ordinance. |

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| BMP | Measurable Goals |
|---|---|
| h. O&M for municipally-owned or maintained structural stormwater controls | The City shall maintain and implement an O&M program for municipally-owned or maintained structural stormwater controls installed for compliance with the permittee's post-construction ordinance.<br><br>The O&M program shall specify the frequency of inspections and routine maintenance requirements.<br><br>The City shall inspect and maintain municipally-owned or maintained structural stormwater controls in accordance with the schedule developed by City. The City shall document inspections and maintenance of all municipally-owned or maintained structural stormwater controls. |
| i. Pesticide, Herbicide and Fertilizer Application Management. | The City shall ensure municipal employees and contractors are properly trained and all permits, certifications, and other measures for applicators are followed. |
| j. Staff training | The City shall implement an employee training program for employees involved in implementing pollution prevention and good housekeeping practices. |
| k. Prevent or Minimize Contamination of Stormwater Runoff from all areas used for Vehicle and Equipment Cleaning | The City shall describe measures that prevent or minimize contamination of the stormwater runoff from all areas used for vehicle and equipment cleaning. |

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**SECTION H: IMPAIRED WATERS**

For impaired waters the permittee shall evaluate strategies and tailor and/or expand BMPs within the scope of the six minimum measures to enhance water quality recovery strategies in the watershed(s) and describe the strategies and tailored and/or expanded BMPs in their annual reports.

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## SECTION I: TOTAL MAXIMUM DAILY LOADS (TMDLs)

**1. For the purpose of this Section, sensitive waters are waters**

a. With a TMDL developed and approved, or established by EPA,
b. Included in the most recent NC DEQ Section 303(d) list approved by EPA,
c. That pursuant to NCDEQ Water Classifications & Standards, waters that are classified as either Outstanding Resource Waters (ORW), Trout Waters (Natural (TN), or, Shellfish Waters (SA).

**2. Determination of receiving water conditions and impacts**

a. Permittees shall determine whether their MS4 discharges to receiving waters within a TMDL watershed or with a listing in the latest CWA §303(d) list of impaired waters that is associated with a water quality monitoring station (WQMS).
b. Permittees shall refer to the most recent CWA §303(d) list approved by EPA to determine WQMS impairment status and to identify the pollutant(s) of concern (POC). This information shall be updated and documented annually.
c. For all TMDLs, permittees shall determine whether POC have potential to occur in MS4 storm water discharges. This information shall be documented. If intended uses are fully supported for a particular TMDL, no further action on the permittee's part is needed for that TMDL.

**3. TMDL Monitoring and Assessment**

a. For MS4 discharges of the pollutant(s) of concern to TMDL waters, the permittee shall identify discharges located in the TMDL watershed draining to the impaired WQMS.
b. The permittee shall include a TMDL Monitoring and Assessment Plan. The Monitoring and Assessment Plan component shall be completed and submitted to the Department as follows;

   i. Within 12 months of the effective date of permit coverage for existing TMDL.
   ii. For newly designated permittee authorized to discharge storm water from their MS4 for the first time under this permit within 24 months of the effective date of permit coverage for the existing TMDL.
   iii. Monitoring and Assessment Plans, shall be submitted within 12 months of the EPA-approval or establishment of new TMDL (Effective Date of the TMDL), after the first year of permit coverage.

c. Describe the activities the permittee will conduct to address applicable WLA, including at a minimum a schedule for conducting monitoring to be initiated as follows;

   i. Not more than 18 months from the Effective Date of this permit for existing TMDL in the case of existing permittees,
   ii. Not more than 30 months from the Effective Date of the Certificate of Coverage for existing TMDL, and, for TMDL issued 24 months after the Effective Date of the permit in the case of newly designated permittees.
   iii. The monitoring plan for subsequently issued TMDL shall include a schedule for monitoring activities to be initiated no more than 18 months from the effective date of the TMDL for existing and newly designated permittees.

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d. Describe the activities the permittee will conduct to monitor the pollutants of concern, on a frequency necessary to determine statistically significant seasonal pollutant loads baseline, with duration of not less than two years.

e. Describe the minimum frequency and representativeness. Samples and measurements taken for the purpose of the TMDL Monitoring Plan shall:

   i. Be representative of the MS4 discharges,
   ii. Be reasonably distributed in time, while maintaining representative sampling,
   iii. Not be terminated for the purpose of preventing the analysis results from a permit or water quality violation,
   iv. Describe and consider frequency, mass and/or rate of discharge, as appropriate, and,
   v. Be expressed in terms of units or measurements consistent with the requirements contained in the WLA.

f. The information contained in the TMDL Monitoring Plan shall include:

   i. Monitoring locations, appropriate for representative data collection
   ii. Description of whether the location(s) are representative and contribute to pollutant loads,
   iii. An indication the seasons during which sampling is intended,
   iv. The pollutant of concern, or its surrogate(s), as a sampling parameter,
   v. Description of the sampling equipment, and,
   vi. A rationale supporting the proposed monitored location(s) as reflective of water quality concerns to the MEP.

g. The TMDL monitoring plan shall focus on the pollutant of concern, or its surrogates, to characterize the quality and quantity of the permitted discharges to evaluate the progress toward the WLA and / or Water Quality Standards (WQS) attainment by implementing one, or a combination, of the following strategies to the MEP:

   i. In-stream monitoring, and / or
   ii. Outfall monitoring.
   iii. Monitoring location(s) should be selected based on one, all, or a combination of the following basis, 1) Percent MS4 area draining to the WQMS, at least 25%, 2) Collection of a representative contributing watershed, or 3) inclusion of the entire TMDL watershed within the MS4.

h. Established field and sampling protocols shall be followed when characterizing MS4 discharges, such as, Guidance for collecting samples under the stormwater permitting program while fulfilling NPDES stormwater sampling needs is provided in the NPDES Stormwater Sampling Guidance Document (EPA 833-8-92-001) and it is incorporated by reference herein. It can be found by visiting,

http://www.epa.gov/npdes/pubs/owm0093.pdf

i. Technical assistance and support for MS4 subject to NPDES program regulations for storm water point source discharges can be found in the Guidance Manual for the Preparation of NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems (EPA-833-B-92-002) and it is incorporated by reference herein. Visit, http://www.epa.gov/npdes/pubs/owm0246.pdf

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j. Permittees may collect composite samples using different protocols than those indicated above with respect to the time duration subject to the approval of the Department.
k. Where field analysis does not involve analytical methods approved under 40 CFR 136, permittees shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test.
l. When no analytical method is approved, permittees may use any suitable method but must provide a description of the method.
m. For each monitoring location selected above, samples of storm water discharges shall be collected at a minimum of once per season per year.
n. Samples collected for laboratory analysis for all wet weather flows discharged from the MS4, shall be analyzed for the POC, or surrogates, in the TMDL.
o. For MS4 discharges to tidal influenced waters, alternative accepted sampling protocols may be used to collect the samples required above. A description of the methodology used shall be provided as required under 40 CFR 122.26(d)(1)(iv)(D) & (d)(2)(iii). Adherence to the MEP is expected. Documentation of any deviation is required.
p. Describe the activities the permittee will conduct to address applicable WLA, including the biological monitoring may be appropriate at some locations to demonstrate the recovery of biological communities after implementation of stormwater control measures. Monitoring locations in receiving waters must be at least both upstream and downstream of major MS4 discharges, with a frequency of at least annual basis for the permit term. Regardless, the monitoring type, representativeness of the location, pollutant(s) of concern and / or parameters to be sampled, description of sampling equipment and sampling frequency of ambient waters should be strategically designed to demonstrate the level of progress made towards meeting the applicable WLA and addressing impairments in the receiving and/or in downstream waters;
q. Describe the activities the permittee will conduct to address applicable WLA, including for each pollutant of concern, permittees shall report on the progress of the characterization of the relative pollutant levels from various MS4 discharges to TMDL waters. Resulting data shall be included in every annual report following the commencement of monitoring for TMDL pollutant characterization.

**4. Assessment of achieving the WLA / WQS**

a. The WLA / WQS shall consist of a process and schedule for assessing the monitoring data to prioritize areas of the SMS4 that will be targeted for implementation of SCM,
b. The WLA / WQS shall consist of a process and schedule for selection of appropriate SCM that will implement the WLA to the MEP, will protect water quality, and will satisfy the appropriate water quality requirements of the Clean Water Act, and,
c. The WLA / WQS shall include updates to TMDL Monitoring and Assessment Plans to be submitted in each annual report.
d. The WLA / WQS shall document progress on the TMDL Monitoring and Assessment Plan.

**5. TMDL Implementation and Analysis**

a. Permittees shall initiate the monitoring described in Section I above.
b. Any monitoring data and information generated from the previous year of the monitoring program to satisfy the provisions above must be made available to the Department upon request.

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c. Permittees shall complete and submit TMDL Implementation Plans for approved TMDL as follows;

   i. Within 48 months from the Effective Date of this permit, or 48 months from the new TMDL effective date, for existing permittees, and,
   ii. Within 60 months from the Effective Date of Coverage, or 60 months from the new TMDL effective date, for newly designated permittees.

d. TMDL Implementation Plans submitted to the Department and shall describe the following:

   i. Assessment of the monitoring data. Where long-term data is available, this assessment should include an analysis of the data to show trends;
   ii. Prioritization of areas targeted for implementation and underlying rationale;
   iii. Structural and nonstructural controls to address the WLA. Permittees should include a brief explanation of why the controls are selected (e.g., expected load reductions or percent of capture); and,
   iv. Schedule for completing controls implementation as soon as practicable. The schedule shall describe all of the controls implementation activities that are expected to occur during the current and the next permit term. In addition to the control implementation activities that are expected to occur during the current permit cycle, the TMDL Implementation Plan shall include proposed monitoring to be used to evaluate the effectiveness of the control and facilitate the iterative revision of the Control Implementation Plan to achieve progress towards addressing the TMDL's WLA as long as the intended uses are not supported.

e. Permittees shall implement those elements of the TMDL Implementation Plan that are scheduled to occur within the term of this permit. Schedules and plans herein are part of the re-application process.
f. Progress on the TMDL Implementation and Analysis shall be documented annually.
g. Should there be no water quality improvement of the discharges from the MS4 resulting from implementation, permittees may be required to implement additional control measures or to make changes to the TMDL implementation plan.
h. If there was no storm water waste load allocation in the TMDL, in lieu of developing a Water Quality Recovery Plan, the permittee shall evaluate strategies and tailor and/or expand BMPs within the scope of the six minimum measures to enhance water quality recovery strategies in the watershed(s) to which the TMDL applies. The permittee shall describe the strategies and tailored and/or expanded BMPs in their Stormwater Management Plan and annual reports.
i. Information regarding North Carolina TMDLs is available at:

http://portal.ncdenr.org/web/wq/ps/mtu/tmdl/tmdls

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**SECTION J: ELECTRONIC REPORTING OF REPORTS [G.S. 143-215.1(b)]**

1. The final NPDES Electronic Reporting Rule was adopted and became effective on December 21, 2015. These federal regulations require electronic submittal of all MS4 program reports by no later than December 21, 2020, and specify that, if a state does not establish a system to receive such submittals, then permittees must submit monitoring data and reports electronically to the U.S. Environmental Protection Agency (EPA).

2. This special condition supplements or supersedes the following sections within Part IV of this permit (*Reporting and Record Keeping Requirements*):

   - Paragraph 1. Records
   - Paragraph 3. Annual Reporting
   - Paragraph 8. Report Submittals

3. Reporting Requirements [Supersedes Part IV, Paragraph 3.(a.)-(b.)] Note depending on what EPA request in annual e-reporting [Supersedes Part IV, Paragraph 3.(a.)]

   Starting on December 21, 2020, the permittee shall electronically report the following compliance monitoring data and reports: Separate Storm Sewer System (MS4) Program Reports (See Part III 2., Program Assessment annual report)

   The permittee may seek an electronic reporting waiver from the Division (see "How to Request a Waiver from Electronic Reporting" section below).

4. Electronic Submissions [Supplements Part IV, Paragraph 8.]

   In accordance with 40 CFR 122.41(l)(9), the permittee must identify the initial recipient at the time of each electronic submission. The permittee should use EPA's website resources to identify the initial recipient for electronic submission.

   Initial recipient of electronic NPDES information from NPDES-regulated facilities (initial recipient) means the entity (EPA or the state, tribe, or territory authorized by EPA to implement the NPDES program) that is the designated entity for receiving electronic NPDES data [see 40 CFR 127.2(b)]. As of permit issuance, The NC DEQ anticipates that EPA will be the initial recipient for electronic MS4 Program Reports.

   EPA plans to establish a website that will also link to the appropriate electronic reporting tool for each type of electronic submission and for each state. Instructions on how to access and use the appropriate electronic reporting tool will be available as well. Currently, Electronic Reporting Rule information is found at: https://www.epa.gov/compliance/final-national-pollutant-discharge-elimination-system-npdes-electronic-reporting-rule

   Electronic submissions must start by the dates listed in the "Reporting Requirements" section above. The permittee must electronically submit MS4 annual program reports no later than the 15th of the month following the completed reporting period. The permittee must sign and certify all electronic submissions in accordance with the requirements of Part IV, Paragraph 8. (c.) of this permit.

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5. How to Request a Waiver from Electronic Reporting

The permittee may seek a temporary electronic reporting waiver from the Division. To obtain an electronic reporting waiver, a permittee must first submit an electronic reporting waiver request to the Division. Requests for temporary electronic reporting waivers must be submitted in writing to the Division for written approval at least sixty (60) days prior to the date the facility would be required under this permit to begin submitting monitoring data and reports. The duration of a temporary waiver shall not exceed 5 years and shall thereupon expire. At such time, monitoring data and reports shall be submitted electronically to the Division unless the permittee re-applies for and is granted a new temporary electronic reporting waiver by the Division. Approved electronic reporting waivers are not transferrable. Only permittees with an approved reporting waiver request may submit monitoring data and reports on paper to the Division for the period that the approved reporting waiver request is effective.

Information on eDMR and the application for a temporary electronic reporting waiver are found on the following web page:

http://deq.nc.gov/about/divisions/water-resources/edmr

6. Records Retention [Supplements Part IV, Paragraph 1.]

The permittee shall retain records of all Program Assessment annual reports, including electronic submissions. These records or copies shall be maintained for a period of at least 3 years from the date of the report. This period may be extended by request of the Director at any time [40 CFR 122.41].

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## PART III PROGRAM ASSESSMENT

The Division may request additional reporting and monitoring information as necessary to evaluate the progress and results of the Permittee's Stormwater Plan.

A. Implementation of the Stormwater Plan will include documentation of all program components that are being undertaken including, but not limited to, inspections, maintenance activities, educational programs, implementation of BMPs, enforcement actions, and other stormwater activities. Documentation will be kept on-file by the permittee for a period of five years and made available to the Director or his authorized representative upon request.

B. The permittee's Stormwater Plan will be reviewed and updated as necessary, but at least on an annual basis to identify modifications and improvements needed to maximize Stormwater Plan effectiveness to the maximum extent practicable. The permittee shall develop and implement a plan and schedule to address the identified modifications and improvements. The permittee must submit annual reports to the Department within twelve months from the effective date of this permit. Subsequent annual reports must be submitted every twelve months from the scheduled date of the first submittal. Annual reports that include appropriate information to accurately describe the progress, status, and results of the permittee's Stormwater Plan and will include, but is not limited to, the following components:

1. The permittee will give a detailed description of the status of implementation of the Stormwater Plan as a whole. This will include information on development and implementation of each major component of the Stormwater Plan for the past year and schedules and plans for the year following each report.
2. The permittee will adequately describe and justify any proposed changes to the Stormwater Plan. This will include descriptions and supporting information for the proposed changes and how these changes will impact the Stormwater Plan (results, effectiveness, implementation schedule, etc.).
3. The permittee will document any necessary changes to programs or practices for assessment of management measures implemented through the Stormwater Plan.
4. The permittee will include a summary of data accumulated as part of the Stormwater Plan throughout the year along with an assessment of what the data indicates in light of the Stormwater Plan.
5. The annual report shall include an assessment of compliance with the permit, information on the establishment of appropriate legal authorities, inspections, and enforcement actions.

C. The Director may notify the permittee when the Stormwater Plan does not meet one or more of the requirements of the permit. Within 90 days of such notice, the permittee will submit a plan and time schedule to the Director for modifying the Stormwater Plan to meet the requirements. The Director may approve the plan, approve a plan with modifications, or reject the proposed plan. The permittee will provide certification in writing in accordance with Part IV, Paragraph 7(c) to the Director that the changes have been made. Nothing in this paragraph shall be construed to limit the Director's ability to conduct enforcement actions for violations of this permit.

D. The Division may request additional reporting information as necessary to evaluate the progress and results of the permittee's Stormwater Plan.

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# PART IV REPORTING AND RECORD KEEPING REQUIREMENTS

## A. Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and copies of all reports required by this permit, for a period of at least 5 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director.

## B. Annual Reporting

1. Reports submitted to satisfy other State Stormwater Reporting requirements satisfy the annual reporting requirements of this permit to the extent that the reports satisfy Part III, paragraph 2 (a) through (e) and Part IV, paragraph 3 (c) of this permit.
2. The permittee will submit reporting and monitoring information on an annual basis. Completion and submittal of the reporting information contained within the online BIMS Stormwater Management Program Assessment (SMPA) meets the annual reporting requirements of this permit.

3. The annual report shall document:

    a. A summary of past year activities, including where available, specific quantities achieved and summaries of enforcement actions.
    b. A description of the effectiveness of each program component
    c. Planned activities and changes for the next reporting period, for each program component or activity.
    d. Fiscal analysis.

4. Posting the results of an annual program assessment on the permittee website as conducted by another local government, a third party, or a self-assessment, meets the annual reporting requirement.

## C. Twenty-four Hour Reporting

The permittee shall report to the Division any noncompliance that may constitute an imminent threat to health or the environment. Any information shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances.

The written submission shall contain a description of the noncompliance, and its causes, the period of noncompliance and if the noncompliance has not been corrected, the anticipated time compliance is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

## D. Additional Reporting

In order to properly characterize the permittee's MS4 discharges or to assess compliance with this permit, the Director may request reporting information on a more frequent basis as deemed necessary either for specific portions of the permittee's Stormwater Plan, or for the entire Program.

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**E. Other Information**

Where the permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

**F. Planned Changes**

The permittee shall notify the Director of any planned modifications to the Stormwater Plan. Notice shall be given as soon as possible when deleting a provision of the approved Stormwater Plan; or where the modification could significantly change the timeframe for implementation of parts of the program or negatively influence the effectiveness of the approved program. Notice of any changes is required at least through the annual report.

**G. Report Submittals**

a. All reports required herein, not submitted electronically shall be submitted to the following address:

Department of Environmental Quality
Division of Energy, Mineral, and Land Resources
1612 Mail Service Center
Raleigh, North Carolina 27699-1612

b. All applications, reports, or information, other than those submitted electronically, shall be signed by a principal executive officer, ranking elected official or duly authorized representative. A person is a duly authorized representative only if:

i. The authorization is made in writing by a principal executive officer or ranking elected official;
ii. The authorization specified either an individual or a position having responsibility for the overall operation of a regulated facility or activity or an individual or position having overall responsibility for environmental/stormwater matters; and
iii. The written authorization is submitted to the Director.

3. Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

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# PART V STANDARD CONDITIONS

## SECTION A: COMPLIANCE AND LIABILITY

### 1. Duty to Comply

The City shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of permit coverage upon renewal application.

a. The City shall comply with standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

b. The Clean Water Act provides that any person who violates a permit condition is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $37,500 per day for each violation). Any person who negligently violates any permit condition is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment for not more than 1 year, or both. Any person who knowingly violates permit conditions is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. Also, any person who violates a permit condition may be assessed an administrative penalty not to exceed $16,000 per violation with the maximum amount not to exceed $177,500. [Ref: Section 309 of the Federal Act 33 USC 1319 and 40 CFR 122.41(a).]

c. Under state law, a daily civil penalty of not more than twenty-five thousand dollars ($25,000) per violation may be assessed against any person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit. [Ref: North Carolina General Statutes 143-215.6A]

d. Any person may be assessed an administrative penalty by the Administrator for violating sections 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $27,500). Pursuant to 40 CFR Part 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $137,500).

### 2. Duty to Mitigate

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The City shall take reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

**3. Civil and Criminal Liability**

Nothing in this permit shall be construed to relieve the City from any responsibilities, liabilities, or penalties for noncompliance pursuant to NCGS l43-2l5.3, l43-2l5.6A, 143-215.6B, 143-215.6C or Section 309 of the Federal Act, 33 USC 1319. Furthermore, the City is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

**4. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the City from any responsibilities, liabilities, or penalties to which the City is or may be subject to under NCGS l43-2l5.75 et seq. or Section 311 of the Federal Act, 33 USC 1321. Furthermore, the City is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

**5. Property Rights**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

**6. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**7. Duty to Provide Information**

The City shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the coverage issued pursuant to this permit or to determine compliance with this permit. The City shall also furnish to the Director upon request, copies of records required by this permit.

**8. Penalties for Tampering**

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $l0,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

**9. Penalties for Falsification of Reports**

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The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than two years per violation, or by both.

**10. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the City for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**11. Duty to Reapply**

The City is not authorized to discharge after the expiration date. In order to receive automatic authorization to discharge beyond the expiration date, the City shall submit a permit renewal application and fees as are required no later than 180 days prior to the expiration date of this permit. Any City that has not requested renewal at least 180 days prior to expiration, or any discharge that does not have a permit after the expiration and has not requested renewal at least 180 days prior to expiration, will be subject to enforcement procedures as provided in NCGS 143-215.6 and 33 USC 1251 et seq. The renewal application shall include a review of the Stormwater Program development and implementation over the life of this permit, the status of programs and a description of further program development to be implemented over the future permitting time period.

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## SECTION B: OPERATION AND MAINTENANCE of POLLUTION CONTROLS

### 1. Proper Operation and Maintenance

The City shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are owned and/or operated by the City to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures, when necessary. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a City only when the operation is necessary to achieve compliance with the conditions of the permit.

### 2. Need to Halt or Reduce not a Defense

It shall not be a defense for a City in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the condition of this permit.

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## SECTION C: INSPECTION, ENTRY AND AVAILABILITY OF REPORTS

### l. Inspection and Entry

The City shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Director), or in the case of a facility which discharges through a municipal separate storm sewer system, an authorized representative of a municipal operator or the separate storm sewer system receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to;

a. Enter upon the City's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records of the City that shall be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations of the City regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location under the control of the City.

### 2. Availability of Reports

Except for data determined to be confidential under NCGS 143-215.3(a)(2) or Section 308 of the Federal Act, 33 USC 1318, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Energy, Mineral, and Land Resources. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NCGS 143-215.6B or in Section 309 of the Federal Act.

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## PART VI LIMITATIONS REOPENER

The issuance of this permit does not prohibit the Director from reopening and modifying the permit, revoking and reissuing the permit, or terminating the permit as allowed by the laws, rules, and regulations contained in Title 40, Code of Federal Regulations, Parts 122 and 123; Title 15A of the North Carolina Administrative Code, Subchapter 2H .0100; and North Carolina General Statute 143-215.1 et. al.

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## PART VII ADMINISTERING AND COMPLIANCE MONITORING FEE REQUIREMENTS

The City shall pay the administering and compliance monitoring fee within 30 (thirty) days after being billed by the Division. Failure to pay the fee in a timely manner in accordance with 15A NCAC 2H .0105(b)(4) may cause this Division to initiate action to revoke the permit.

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# PART VIII DEFINITIONS

1. Act

See Clean Water Act.

2. Best Management Practice (BMP)

Measures or practices used to reduce the amount of pollution entering surface waters. BMPs can be structural or non-structural and may take the form of a process, activity, physical structure or planning (see non-structural BMP).

3. Built-upon Area

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.

4. Clean Water Act

The Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 USC 1251, et. seq.

5. Common Plan of Development

A construction or land disturbing activity is part of a larger common plan of development if it is completed in one or more of the following ways:

- In separate stages
- In separate phases
- In combination with other construction activities

It is identified by the documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, plats, blueprints, marketing plans, contracts, 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.

It can include one operator or many operators.

6. Department

Department means the North Carolina Department of Environmental Quality

7. Division (DEMLR)

The Division of Energy, Mineral, and Land Resources, Department of Environmental.

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8. Director

The Director of the Division of Energy, Mineral, and Land Resources, the permit issuing authority.

7. EMC

The North Carolina Environmental Management Commission.

8. Illicit Discharge

Any discharge to a MS4 that is not composed entirely of stormwater except discharges pursuant to an NPDES permit (other than the NPDES MS4 permit), allowable non-stormwater discharges, and discharges resulting from fire-fighting activities.

9. Industrial Activity

For the purposes of this permit, industrial activities shall mean all industrial activities as defined in 40 CFR 122.26.

12. Large or Medium Municipal Separate Storm Sewer System

All municipal separate storm sewers that are either:

(a) Located in an incorporated place with a population of 100,000 or more as determined by the Decennial Census by the Bureau of Census; or

(b) Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(c) Owned or operated by a municipality other than those described in paragraph (a) or (b) and that are designated by the Director as part of the large or medium separate storm sewer system.

13. Major municipal separate storm sewer outfall (or ``major outfall")

Major municipal separate storm sewer outfall (or ``major outfall") means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

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14. Municipal Separate Storm Sewer System (MS4)

Pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

(a) Owned or operated by the United States, a State, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act (CWA) that discharges to waters of the United States or waters of the State.

(b) Designed or used for collecting or conveying stormwater;

(c) Which is not a combined sewer; and

(d) Which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2

15. Non-stormwater Discharge Categories

The following are categories of non-stormwater discharges that the permittee shall address if it identifies them as significant contributors of pollutants to the storm sewer system: water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, [as defined in 40 CFR 35.2005(20)], uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from firefighting activities are excluded from the definition of illicit discharge and only need to be addressed where they are identified as significant sources of pollutants to waters of the United States).

16. Non-structural BMP

Non-structural BMPs are preventive actions that involve management and source controls such as: (1) Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space, provide buffers along sensitive water bodies, minimize impervious surfaces, and/or minimize disturbance of soils and vegetation; (2) policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure; (3) education programs for developers and the public about minimizing water quality impacts; (4) other measures such as minimizing the percentage of impervious area after development, use of measures to minimize directly connected impervious areas, and source control measures often thought of as good housekeeping, preventive maintenance and spill prevention.

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17. Outfall

Outfall means a point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

18. Permittee

The owner or operator issued this permit.

19. Point Source Discharge of Stormwater

Any discernible, confined and discrete conveyance including, but not specifically limited to, any pipe, ditch, channel, tunnel, conduit, well, or discrete fissure from which stormwater is or may be discharged to waters of the state.

20. Redevelopment

Means any rebuilding activity unless that rebuilding activity;

(a) Results in no net increase in built-upon area, and

(b) Provides equal or greater stormwater control than the previous development.

21. Representative Storm Event

A storm event that measures greater than 0.1 inches of rainfall and that is preceded by at least 72 hours in which no storm event measuring greater than 0.1 inches has occurred. A single storm event may contain up to 10 consecutive hours of no precipitation. For example, if it rains for 2 hours without producing any collectable discharge, and then stops, a sample may be collected if a rain producing a discharge begins again within the next 10 hours.

22. Storm Sewer System

Is a conveyance or system of conveyances which are designed or used to collect or convey stormwater runoff that is not part of a combined sewer system or treatment works. This can include, but is not limited to, streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains that convey stormwater runoff.

23. Stormwater Associated with Industrial Activity

The discharge from any point source which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw material storage areas at an industrial site. Facilities considered to be engaged in "industrial activities" include those activities defined in 40 CFR 122.26(b)(14). The term does not include discharges from facilities or activities excluded from the NPDES program.

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24. Stormwater Management Program (SWMP)

The term Stormwater Management Program (SWMP) refers to the stormwater management program that is required by the Phase I and Phase II regulations to be developed by MS4 permittees.

25. Stormwater Plan

The Stormwater Plan is the written plan that is used to describe the various control measures and activities the permittee will undertake to implement the stormwater management program. The Stormwater Plan is a consolidation of all of the permittee's relevant ordinances or other regulatory requirements, the description of all programs and procedures (including standard forms to be used for reports and inspections) that will be implemented and enforced to comply with the permit and to document the selection, design, and installation of all stormwater control measures.

26. Stormwater Runoff

The flow of water which results from precipitation and which occurs immediately following rainfall or as a result of snowmelt.

27. Total Maximum Daily Load (TMDL)

A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL is a detailed water quality assessment that provides the scientific foundation for an implementation plan. The implementation plan outlines the steps necessary to reduce pollutant loads in a certain body of water to restore and maintain water quality standards in all seasons. The Clean Water Act, Section 303, establishes the water quality standards and TMDL programs.

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