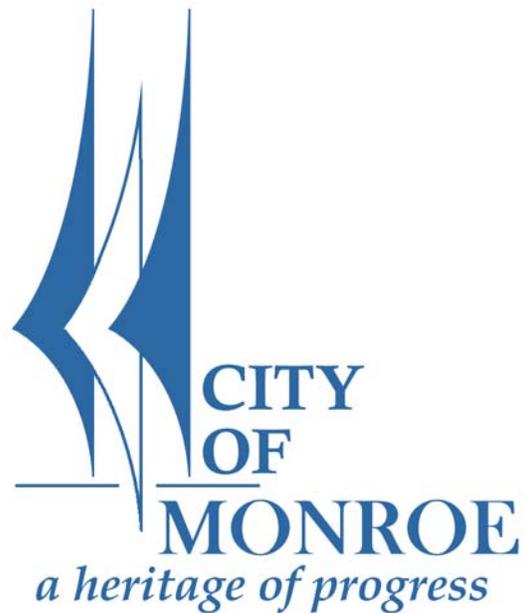


City of Monroe,  
North Carolina

**Stormwater Utility  
Credit and Adjustment Manual**

March 2009



*Final Manual*

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# Section 1

## Introduction

In 2005, the City was issued a National Pollutant Discharge Elimination System (NPDES) Phase II stormwater permit. This federally mandated program requires the City of Monroe to implement a comprehensive stormwater management program that includes, but is not limited to, six major program elements: 1) public education & outreach, 2) public involvement, 3) illicit discharge detection and elimination; 4) construction site runoff control, 5) post-construction site runoff control, and 6) pollution prevention and good housekeeping. More information about the NPDES program can be found on the North Carolina Division of Water Quality's Stormwater Unit webpage.

[http://dem.ehnr.state.nc.us/su/NPDES\\_Phase\\_II\\_Stormwater\\_Program.htm](http://dem.ehnr.state.nc.us/su/NPDES_Phase_II_Stormwater_Program.htm)

In response to this unfunded federal mandate and with the support of a citizen's stakeholder committee, the City of Monroe developed a stormwater program and established a stormwater utility funding mechanism with the passage of Ordinance No. 0-2008-46 (Stormwater Utility Ordinance) on November 18, 2008. The Utility provides the City with the authorization to establish and collect rates, fees, and charges for the stormwater services, programs and facilities provided by the City. Opportunities for Credits and Adjustments were also created in the Utility Ordinance.

As such, the purpose of this manual is to describe policies set forth by the City of Monroe concerning stormwater management service charge credits (Credits) and stormwater management service charge adjustments (Adjustments). The remainder of this section defines terms used throughout the manual and provides background on stormwater management. Section 2 details the process for Stormwater Fee Adjustments, while Section 3 describes the details of the Stormwater Fee Credit Policy. Appendices A through E contain applications, instructions, checklists, and relevant City Ordinances to assist Customers with Credits and Adjustments.

Please note that the rules and policies described in this manual are subject to change should the City modify any existing stormwater ordinances or if the State or Federal government alters the City's NPDES Phase II stormwater permit. The current permit is set to expire in 2010.

### 1.1 Definitions

All definitions as used in the credit manual, unless the context clearly indicates otherwise, shall have the meanings assigned in the following sections. In case of a definition provided herein is different than Ordinance No. 0-2008-46, the Ordinance presides. Words not defined in this section will have the meaning given by common and/or ordinary use as defined in the latest edition of Webster's Dictionary.

**Adjustment** - An Adjustment is a change made to a Fee to correct an overcharge or an undercharge of a customer's stormwater management service charge.

**Administrative Manual for Implementation of the Stormwater Management Ordinance (Administrative Manual)** - The Administrative Manual is a manual provided by the City, which gives guidance in designing and maintaining stormwater management facilities and may be downloaded from the City of Monroe at the following web address:

<ftp://ftp.monroenc.org/web/eng/Administrative Manual SWMO Download/>

**Built-upon area (BUA)** - That portion of a development project that is covered by impervious or partially impervious surface (see Impervious Surface for more information).

**City Standards** - City Standards includes those standards for design, construction and maintenance of stormwater facilities. These standards include the City's Standard Specifications and Detail Manual, the Administrative Manual for Implementation of the Stormwater Management Ordinance, the latest edition of N.C. Department of Environment and Natural Resources - Division of Water Quality (NCDENR-DWQ) "Stormwater Best Management Practices (BMP) Manual" and any relevant City of Monroe addenda and all applicable City Ordinances.

**Credit** - A Credit is a Fee reduction a customer receives for implementing practices that mitigates the peak discharge or runoff pollution or decreases the City's cost of maintaining the system beyond standard (base) requirements.

**Credit Application** - Credit Applications are those applications for New or Existing Stormwater Facilities.

**Customer** - Customer is the person or entity to which a Fee is sent. Customers may include the owner, occupant, or tenant of property, a homeowner's association with responsibility for property or for common areas associated with property, or a person or entity who has requested in writing to be the recipient of the Fee for a property.

**Developed Land** - Developed Land is real property that contains impervious surfaces including improved land without structures and land on which improvements are under construction.

**Equivalent Runoff Unit (ERU)** - An ERU is the median of impervious surface area on a single-family detached residential dwelling unit property in the City. The ERU is calculated to be two thousand six hundred and eighteen (2,618) square feet of impervious surface or fraction thereof.

***Existing Stormwater Facility*** - Existing Stormwater Facilities are Stormwater Facilities that were fully constructed and approved by the City before the inception of the fee (i.e. January 1, 2009).

***Fee*** - Fee is the Stormwater Management Service Charge applied to developed property. The charge is based upon the number of equivalent runoff units (ERUs) as calculated for the property.

***Impervious Area*** - Any surface which because of its material composition or compacted nature impedes or prevents natural infiltration of stormwater into the soil. Impervious surfaces include, but are not limited to, roofs, roof extensions, patios, balconies, decks (excluding wooden slatted decks), athletic courts, swimming pool areas (excluding the water area of the pool), streets, parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surfaces. Ungraveled natural footpaths, water surfaces of lakes, streams, and swimming pools and drain fields are not impervious surfaces.

***Maintain or Maintenance*** - This means any action necessary to keep stormwater best management practices and devices in proper working condition, so that such facilities will continue to comply with State law and City Standards to prevent safety hazards, to prevent public nuisances, and to prevent the failure of stormwater control measures and devices and to function as credited. Maintenance includes activities identified on approved stormwater control plans, any applicable stormwater operations and maintenance manual, any applicable agreements or certifications to the City, and those activities outlined in the City's Stormwater Administrative Manual for Implementation of the Stormwater Management Ordinance.

***New Stormwater Facility*** - New Stormwater Facilities are Stormwater Facilities that were fully constructed and approved by the City after the inception of the fee (i.e. January 1, 2009).

***National Pollutant Discharge Elimination System (NPDES)*** - As authorized by the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point source and non-point source discharges into waters of the United States. Phase I of the NPDES Storm Water Program began in 1990 and applied to large and medium municipal separate storm sewer systems (MS4) and 11 industrial categories including construction sites disturbing five acres of land or more. Phase II of the NPDES Storm Water Program began in 2005 and applies to additional MS4s and construction sites disturbing equal to or greater than one but less than five acres of land. Operators of MS4s covered by Phase I and II must obtain an NPDES permit for their storm water discharges. Once they receive their discharge permit, they must fully implement all storm water runoff control practices identified in the permit.

***Other Residential and Nonresidential Developed Land*** - This means any individual lot or parcel of developed land that is not single-family developed land. It includes,

but is not limited to, land upon which there are residential structures that contain more than one dwelling unit, such as multi-family dwellings (duplexes and greater), manufactured home parks, condominiums, apartments, boarding houses, rooming houses, fraternity houses, sorority houses, dormitories, churches; institutional buildings, whether public or private; hospitals, rest homes, public and private schools, colleges, and universities, commercial, office, hotels and motels, industrial buildings, storage areas, parking lots and land containing improvements under construction or impervious surfaces.

***Pre-Developed Conditions*** - The condition of a property before development on the parcel occurs (i.e. forested or open space).

***Post-Developed Conditions*** - The condition of a property following any development activity on the parcel. For upstream areas, this refers to complete build-out conditions, as determined from current zoning and the City's Planning and Development Department.

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

***Single-Family Equivalent Unit Rate*** - The unit rate is the unit charge for stormwater service established by City Council.

***Stormwater Facility (Facility)*** - A stormwater facility is any mechanism constructed to manage stormwater quantity and/or quality. Another term used for a Facility is Best Management Practice (BMP).

***Stormwater Management Service Charge (Fee)*** - The fee is the charge to provide stormwater services to developed property. The charge is based upon the single-family equivalent residential unit (ERU) as calculated for that property and multiplied by the single family equivalent residential unit rate.

***Stormwater Management System (System)*** - System means the system of natural and constructed devices for collecting and transporting stormwater. It includes, but is not limited to, structural drainage systems such as open swales and ditches, catch basins, pipes, inlets, storm sewers, drains, culverts, junction boxes, and other stormwater management facilities that affect the quality and quantity of stormwater located

within dedicated public street rights-of-way and City of Monroe permanent drainage easements accepted by the City and all natural stormwater drainage systems.

***Stormwater Management Utility Fund*** – Stormwater Management Utility Fund means the Stormwater Management Service Charge and the interest generated by those charges.

***Stormwater Management Ordinance*** - Stormwater Management Ordinance means Chapter 159 of the City of Monroe Code of Ordinance, as amended to date, which details the City’s stormwater runoff and policies. A copy of this ordinance is provided in Appendix E.

***Stormwater Services*** - Stormwater Services means City stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and City service of structural and natural stormwater and drainage systems of all types. Stormwater services include any cost necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations and rules, and costs related to the mapping, planning, construction, operation, maintenance, inspection, management and regulation of the stormwater management system and the regulation of impervious surface and stormwater.

***Stormwater Utility Ordinance*** – Stormwater Utility Ordinance means Chapter 58 Stormwater Utility of the City of Monroe Code of Ordinance, as amended to date. A copy of the ordinance is provided in Appendix D.

***Undeveloped Land*** – Undeveloped land means all land that is not altered from its natural state to extent that results in less than four hundred (400) total square feet of impervious surface area per individual lot.

***2-year, 24-hour storm*** - The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 2 years and with a duration of 24 hours.

***10-year, 24-hour storm*** - The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 10 years and with a duration of 24 hours.

## **1.2 Responsibility**

Stormwater services are provided to citizens by the City of Monroe Engineering Department. The Engineering Director has responsibility for the operation and maintenance of the Stormwater Utility. The Engineering Director also is responsible for the organization and operation and maintenance staff, the planning and assessment of the stormwater management system, enforcement of soil erosion and sedimentation control regulations, the Stormwater Ordinance, and the management

of capital improvement drainage programs. The responsibility for billing of stormwater management service charges will be that of Utility Billing, a division of the City's Finance and Administration Department.

### **1.3 Stormwater Management**

Development covers land with impervious cover, allowing less stormwater to infiltrate than could under pre-development (natural) conditions. Increased impervious cover leads to larger volumes and higher rates of stormwater runoff, which pose a threat to the public health, safety, and welfare because, if unmanaged, the increased runoff may flood emergency vehicle routes and properties, erode watercourses and channels, and pollute streams and rivers.

Stormwater Management is the practice of managing stormwater runoff in order to avoid water quantity and water quality problems. By mapping, planning, constructing, operating, cleaning, regulating and maintaining natural and constructed stormwater management facilities, the City reduces the adverse effects of stormwater and improves the quality of groundwater, streams, rivers, and lakes in and around the City.

### **1.4 Stormwater Utility**

In order to provide a stable source of funding for the City to provide Stormwater Services, which benefit owners and occupants of developed land in the City and other Monroe citizens, the City has established a stormwater utility. It is administered similar to a water or wastewater utility. As a water utility fee is proportional to the demand for water by a Customer, the Stormwater Management Service Charge (Fee) is proportional to the demand for Stormwater Services as measured by the amount of Impervious Area on a property. Impervious Area is the single most important factor affecting the peak rate of runoff, the total volume discharged, and pollutant loadings of stormwater that flows from a property. The Stormwater Utility Ordinance, which establishes the stormwater utility, is attached as Appendix E.

### **1.5 Credits and Adjustments**

The City has established opportunities for Customers to receive Credits and Adjustments in the Stormwater Utility Ordinance. Credits are associated with the construction, operation, and maintenance of privately owned Stormwater Facilities beyond the base standards and which benefit the City. Adjustments are Fee changes due to errors, omissions or corrections made in the Fee paid by a Customer.

Customers may qualify for Credit when they can demonstrate to the satisfaction of the Director of Engineering that their Existing or New Stormwater Facility provides cost savings the City would otherwise incur as part of City stormwater management efforts. Credits may only be applied to the property where the Stormwater Facility is located. The Facility must comply with Section 3 et seq. of this manual and exceed the

minimum City requirements for stormwater runoff control, which may be found in Chapter 159 of the City's Code of Ordinances and the Administrative Manual.

The City has also established an appeals process that allows Customers to appeal for Adjustment if they determine their Fee is applied in error as discussed in Section 58-111 of the Stormwater Utility Ordinance. Section 2 of this manual details the policy for Appeals for Adjustment while Section 3 details the Credit opportunities available to Customers.

# Section 2

## Appeals for Adjustment

Adjustments may be available to a Customer through the appeals process specified in the Stormwater Utility Ordinance (Chapter 58 - 111 Appeals). An Adjustment is a change made to a Fee to correct an overcharge or an undercharge of a customer's Stormwater Management Service Charge. Adjustments are not to be confused with Credits, which are intended reduce a Fee by a percentage reflecting the System benefit from Customer implemented stormwater management practices. Adjustment opportunities are detailed below. The reader should not view this document as a sole source but as a guide to assist in interpreting policies set forth in the Stormwater Utility Ordinance and the Stormwater Management Ordinance. Customers must receive a Fee for Stormwater Services provided by the City to be eligible for an Adjustment.

### 2.1 Impervious Area Measurement Adjustment

The City has applied County Tax Records and GIS technology to determine the Impervious Area for all properties within the City Limits, using both direct measurement for non-single family residential properties and statistical analysis for single-family residential properties. If a Customer has reason to believe that the Impervious Area for other residential or non-residential property as reported by the City is incorrect, the Customer may appeal to the City using the form in Appendix A of this manual.

### 2.2 Minimum Impervious Area Adjustment

A Fee will not be charged to Customers with less than 400 square Feet of Impervious Area. A Customer receiving a Fee for property with less than 400 square Feet of Impervious Area will be eligible for an Adjustment through the appeals process.

### 2.3 Property Classification Adjustment

Properties that have been incorrectly classified by use may be eligible for an Adjustment under the appeals process. For example, residential properties that have been classified as commercial property may seek a reclassification and a correction of the Fee charged to the property. This policy also addresses the classification of customers into the tiered residential rate structure.

### 2.4 Exemptions

Most developed land in the City, whether public or private, is subject to a stormwater Fee. However, the City will grant exemptions from stormwater Fees for specified properties. Exemptions shall not be allowed based on age, tax exemption, or other status of an individual or organization. The following exemptions from stormwater Fees are allowed:

**(1) Undeveloped Property** - As defined in Section 1.

**(2) Public Roads** - Improved public streets, not including internal roads within public facilities which have been conveyed to and accepted for maintenance by the City of Monroe and which are used by the general public for motor vehicle transportation.

**(3) Railroad tracks** - Rails, ties, and ballast are exempt from the Fee. However, railroad stations, maintenance buildings or other developed land shall not be exempted from stormwater Fees.

**(4) Public Airport Runways/Taxiways** - Airport runways and active taxiways are exempt. However, the remainder of the airport, including the terminal, tarmac, ramp, static aircraft or equipment parking areas, loading/unloading, vehicle parking, maintenance areas or other developed land shall not be exempted from stormwater Fees.

**(5) Greenways** - Pathways and walkways related to the development of public greenways shall be exempted from stormwater Fees. All other park features such as concrete slabs and covered picnic areas are not exempt from Fees.

## 2.5 Process of Appealing for an Adjustment

Adjustments are obtained by participating in the appeals process described above and in Section 58-111 of the Stormwater Utility Ordinance. Any Customer determining their Fee is not in proportion to the amount of impervious surface on their property may apply for an Adjustment by submitting the appeals form in Appendix A to the Director of Engineering. As part of the submission, the Customer must provide the City with evidence or justification for the correction of the Fee in question. In some cases, the Customer may also be required to submit, at his or her expense, a survey prepared by a registered land surveyor or other information as discussed in Chapter 58-111 of the Stormwater Utility Ordinance. The Director of Engineering may take the appeal to the Stormwater Management Advisory Committee for their review and/or comment. Once the Director of Engineering has made a determination on the matter, the Customer is allowed 30 days (after service of written notice) to file an appeal with the Board of Adjustment.

Customers awarded an Adjustment by the City may be eligible to receive the Adjustment retroactive to January 1, 2009 but in no case longer than one prior year. Adjustments will not be awarded for any period preceding Fee inception or preceding the date at which the City judges the stormwater runoff generated from the property is inconsistent with the Fee paid. Reimbursement for the one-year retroactive payment will be applied to future fees until the correction is made (i.e. zero-balance on future bills until the fee is reimbursed in full to the Customer).

This policy also applies to cases where the City determines that the Fee for a property is less than it should be based on the amount of impervious surface on the property. In instances in which City of Monroe has not or incorrectly billed a customer, the City may retroactively bill customers for the exact unbilled or incorrectly billed time period up to one prior year. In such instances, the customer will be entitled to make payments over the same length of time in which the billing error or omission occurred.

# Section 3

## Stormwater Fee Credit Opportunities

A customer may be eligible for a credit under the following circumstances: 1) the customer has installed a Stormwater Facility to the standards specified in this document, 2) the customer holds and is in compliance with an NPDES Industrial Permit, or 3) the customer agrees to provide stormwater education. The maximum allowable credit for any combination of three possible credits is 65 percent, which is approximately the percent of the fee allocated towards Operation and Maintenance Services and Capital Improvement Projects. Customers may not receive credits for the City's regulatory compliance activities and the City's program management and administration services.

Single-Family Residential Developed Lands are only eligible for Credits if the Stormwater Facility subject to the credit is wholly owned and operated by one entity (such as a Neighborhood Association or other legally-recognized organization) and it can be demonstrated that the activity reduces the stormwater management burden caused by each Customer. In such instances, each dwelling unit demonstrated to contribute runoff to the qualifying Stormwater Facility may be eligible for its equal pro-rata share of the credit unless other arrangements for billing the Stormwater Fee to the Homeowner's Association was made pursuant to Chapter 58-107(E) of the Stormwater Utility Ordinance.

The following sections describe the three types of Stormwater Fee Credit opportunities, eligibility requirements, credit enforcement, and the process of applying for the credit program. The reader should not view this document as a sole source but as a guide to assist in interpreting policies set forth in the Stormwater Utility Ordinance.

### 3.1 Stormwater Facility Credit

The City's Stormwater Management Ordinance mandates engineered stormwater controls to minimize the qualitative and quantitative impacts of runoff and ensure compliance with state and federal regulations. For installing Stormwater Facilities exceeding City requirements specified in the Stormwater Ordinance, Customers will be eligible for a maximum Credit of 50%.

To qualify, Customers must demonstrate that their Existing Stormwater or New Stormwater Facility manages stormwater generated from their immediate property and/or upstream tributary areas. In addition, the Facility must exceed design criteria outlined in the Administrative Manual and Stormwater Management Ordinance, effectively reducing City stormwater management costs by lowering capital costs. The Stormwater Facility must also meet all North Carolina State Dam Safety standards. For each of the design storms discussed in the following sections, the stormwater facility must be designed to control the storm event from the Post-

Developed conditions back to the Pre-Developed conditions, as defined in Section 1 of this manual. The structure of the Stormwater Facility Credit is explained below.

Table 1 shows the Credit opportunities for Customers with a Stormwater Facility that controls on-site stormwater runoff. A Customer that installs a Stormwater Facility to control on-site stormwater runoff may be eligible for a maximum credit of 20 percent. Credit may only be granted for facilities that exceed the existing City standard for controlling the runoff from the first inch of rain in addition to the 2-year and 10-year, 24-hour design storm events.

**Table 1 - Stormwater Facility Credit Opportunities (Onsite Controls)**

| Storm Event for which Onsite Stormwater is Controlled by Stormwater Facilities | Credit Opportunity |
|--|--------------------|
| 1" rain, 2- year, and 10-year Storm Event (Required)                           | 0%                 |
| 1" rain, 2- and 10- and 25-year or Larger Storm Events                         | 20%                |

Table 2 shows the Credit opportunities for Customers with a Stormwater Facility that controls runoff from an upstream tributary area, which means a customer is controlling runoff from offsite. A Customer controlling runoff from an upstream area is eligible for a maximum credit of 30 percent. Since the credits are additive, a Customer controlling both their onsite drainage area and an upstream tributary area greater than 10 acres for the 25-year, 24-hour or larger design storm event would be eligible for a maximum stormwater Fee credit of 50 percent. In the case of a facility controlling upstream drainage area, the Post-Developed Condition must be calculated based on ultimate build-out of the upstream drainage area as determined from current zoning.

**Table 2 - Stormwater Facility Credit Structure (Upstream Controls)**

| Upstream Tributary Area for which Stormwater is Controlled by Stormwater Facilities | Controlling 1" rain & 2-yr Storm | Controlling 1" rain, 2-yr & 10-yr Storm | Controlling 1" rain, 2-yr, 10-yr & 25-yr Storm |
|---|----------------------------------|---|--|
| Less than 1 acre  | 0%                               | 0%                                      | 0%   |
| Between 1 and 10 acres  | 5%                               | 10%                                     | 15%  |
| Greater than 10 acres   | 10%                              | 20%                                     | 30%  |

*Note: Stormwater Facilities controlling stormwater runoff greater than the design storm event receive the same credit as the specified year storm event in the table. For example, a Stormwater Facility controlling greater than the 25-year design storm receives the same credit as the 25-year storm event.*

### **3.2 NPDES Industrial Stormwater Permit Credit**

Customers holding NPDES Industrial Stormwater permits will be eligible for a Credit of an amount to be determined by the City on a case-by-case basis not to exceed 15 percent. The customer will only be eligible for the Credit if the customer is performing activities in excess of the basic requirements of the NPDES Industrial permit that help the City comply with specific requirements included in its NPDES MS4 Phase II Permit. The negotiated credit for the Customer's additional efforts will be based on the relative benefits offered to the City, based on the population served, protection provided, contributing drainage area, or other appropriate metrics. Customers meeting the minimum requirements of their NPDES Industrial Stormwater Permit will not be eligible for a Credit. The NPDES Industrial Permit Credit may also be received in addition to the Stormwater Facility Credit listed above for a credit of up to 65 percent (50 percent plus 15 percent).

### **3.3 Stormwater Education Credit**

A stormwater education credit is available to public or private schools, which have appropriate accreditation and develop a lesson plan that is consistent with the educational content deemed appropriate by the U.S. EPA for stormwater education (refer to: <http://www.epa.gov/owow/nps/eduinfo.html>) and is approved by the Director of Engineering. The credit for stormwater education with an approved curriculum is 15 percent. The Stormwater Education Credit may also be received in addition to the Stormwater Facility Credit listed above for a credit of up to 65 percent (50 percent plus 15 percent).

To qualify for the credit, teacher(s) must teach approved course material to all students of a grade level during the school year. The credit will go into effect after the material has been taught to at least one classroom and after this application for credit has been submitted to Director of Engineering and approved. Thereafter, provided the material is scheduled to be taught to all students of a grade level, the credit will remain in effect through the end of the school year up to June 30th. The credit will be continued into the upcoming school year if the principal or Superintendent submits a certification that the material will be taught in the upcoming school year. Once use of approved material has begun and credit applied, it will continue to be applied as long as the annual certification is submitted. The certification must be in writing; include total number of students in the school, in what grade level(s) approved material is taught, by how many teachers, and to how many students.

### **3.4 Eligibility for Credits**

Customers must receive a bill for Stormwater Services provided by the City and must meet requirements detailed in Section 3, *et seq.*, and must apply the credit to Developed Lands containing the credited Stormwater Facility to be eligible for a Credit. For developments with credited stormwater facilities in common areas such as a townhouse development, cluster unit developments, or condominiums, each

dwelling unit or condominium unit shall be eligible for its equal pro-rata share of the credit unless other arrangements for billing the Fee are made pursuant to §58-107(E) of the Stormwater Utility Ordinance. Customers may file an application for credit prior to final construction of a Stormwater Facility. If approved, the credit will be held until the Certificate of Occupancy for the site is granted. In this circumstance, Credits will not be awarded retroactively but will appear on the first utility bill.

### **3.4.1 Customers**

Chapter 58-107 of the Stormwater Utility Ordinance details the manner in which Customers will be billed. As defined in Section 1.1 of this manual, a Customer is the person or entity receiving a bill for Stormwater Services. Customers may include the owner, occupant, or tenant of property. A customer may also be a person or entity who has requested in writing to receive a bill for Stormwater Services for a property. Any Customer receiving a bill for Stormwater Services is eligible to receive a Credit if they meet requirements for a particular Credit specified in Section 3, et seq.

### **3.4.2 Maintenance Agreement**

An Owner of Stormwater Facilities must agree in writing to maintain the credited Stormwater Facility to City Standards and all other applicable standards (ex. North Carolina State Dam Safety standards) in order to be eligible for Credit. Maintenance activities to be performed are detailed in Section 4 of the Stormwater Management Ordinance (Chapter 159). Failure to maintain a Facility in strict compliance to City Standards will result in the loss of the Credit and possible surcharge to recapture improper credits. The owner of a credited Stormwater Facility is responsible for notifying the City if the facility is compromised or damaged in any way or is no longer complying with State law or City Standards. The owner of a credited Stormwater Facility must also notify the City if any repair work is performed that may alter the operation of the Facility.

### **3.4.3 Right of Entry**

In order to be eligible for a Stormwater Facility Credit, an owner of a credited Stormwater Facility must first agree in writing that appropriate City staff have permission to inspect Stormwater Facilities on the owner's property at any time. Inspection procedures are detailed in Section 3.6.2. Failure to permit City inspection shall terminate the Credit.

### **3.4.4 Existing Stormwater Facilities**

Existing Stormwater Facilities may be eligible for Credit if they meet requirements detailed in Sections 3 et seq. for a particular Credit. Similar to new facilities, Existing Stormwater Facilities must exceed current City stormwater runoff control requirements and must be maintained to be eligible for a Credit.

### 3.4.5 Stormwater Facility Upgrades

Recognizing that the City's stormwater requirements have evolved over the past three decades, the City will not require current recipients of a Credit to upgrade their facilities immediately to conform to future changes in City stormwater requirements. However, once a City standard is changed, the City will only guarantee existing credits for a period of five years after the change in City standards provided the Customer maintains the Facility to City Standards and the Facility otherwise complies with State law. In the event that a Facility has not been upgraded to the new standard at the end of the five-year period, the Credit will be terminated.

### 3.5 Stormwater Facility Maintenance

In order to receive a Credit, a Stormwater Facility must be privately maintained in strict compliance to City Standards and North Carolina Dam safety standards where applicable to ensure that the Facility functions as credited at all times. Furthermore, Customers must document all operation and maintenance activities and provide the City with a report annually, including an independent inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. Required maintenance activities are described briefly in the following sections. A complete summary of the maintenance requirements can be found in Sections 4 of the City's Stormwater Management Ordinance (Chapter 159).

#### 3.5.1 Required Stormwater BMP Maintenance

The following stormwater facility maintenance activities are required for a Customer to be eligible for a Stormwater Facility Credit. These activities are required to ensure that the Facility performs as credited, complies with City Standards and State law, meets safety standards, and is not a public nuisance. Maintenance activities are required on all drainage structures related to the facility, including the dam, inlets, headwalls, velocity dissipaters, spillways, pipes, feeder channels, discharge channels, etc. The owner of a credited Stormwater Facility must comply with all applicable maintenance practices below that are relevant to the credited facility.

- **Debris and Litter Removal** - This activity must be performed after storm events totaling approximately one-inch over 24-hour period or as needed in order to prevent the structure from clogging and failing and to prevent a public nuisance.
- **Erosion and Structural Repair** - Side slopes, emergency spillways, and embankments all may periodically suffer from slumping and erosion. Regrading, revegetating, compacting and/or installing or replenishing rip-rap may be required to correct erosion problems that develop.

- **Mowing** – Side slopes, embankments, emergency spillways, and other grassed areas of stormwater facilities should be periodically mowed to prohibit woody growth or the development of a nuisance condition. More frequent mowing may be required in residential areas by adjacent homeowners or to meet State Dam Safety standards. Native grasses, which are water-tolerant, pest-tolerant, and slow growing, are recommended.
- **No Blockages** - Remove sediment or any blockage from pipes, channels, spillways, inlets and outlets as needed to keep the facility in proper working condition.
- **Nuisance Control** – Standing water or soggy conditions within a “dry” stormwater facility can create nuisance conditions for nearby residents. A public nuisance is defined in the Monroe City Code. Common nuisance conditions may include odors, mosquitoes, litter and weeds. Regular maintenance to remove debris and ensure control structure functionality is required to control these potential problems. In addition, well-maintained and established wetland plants in wet detention ponds or bird nesting boxes around the pond can provide a habitat for birds and predacious insects and fish that can actively serve as a natural check on nuisance insects such as mosquitoes. Cyclical alteration of the water level in the pond or installation of aeration/agitation features will also disrupt most unwanted larval growth.
- **Outlet Control** – Maintain outlet control devices to ensure proper functioning in the control of stormwater velocities at the outlet of the stormwater facility. Re-vegetating and/or replenishing or installing rip-rap may be required to correct erosion problems at the outlet of stormwater facility pipes.
- **Removal of Log Jams and Debris** - All stream and ditches within the stormwater system should be inspected periodically for blockages. If identified, the blockages and debris should be removed as quickly as practicable.
- **Sediment Removal** – This activity is to be performed as needed or as required by the City to ensure proper working order of the facility and its related stormwater facility features (channels, pipes, etc.). Sediment removal is also required to maintain the required storage volume per the North Carolina design guidelines.
- **Structural Repairs and Replacement** – Eventually, stormwater control structures will deteriorate and must be replaced. Major structural damage to outlet structures (i.e. cracks, leaks, or failure) must be repaired as soon as possible.

### 3.6 Enforcement

Inspections and annual documentation are the primary methods employed to monitor Credits. Failure to maintain and operate the Stormwater Facility in strict compliance with City Standards will result in the loss of the credit and possible surcharge to

recapture improper credits. All credited Stormwater Facilities are subject to nuisance ordinances of the City as well.

### **3.6.1 Annual Documentation**

Annual documentation (as measured from the date the Credit application was approved by the City) must be submitted to the City to continue receiving a Credit. The required documentation consists of the following:

- Annual inspection report from an independent person that conforms to Section 4 of the Stormwater Management Ordinance (Chapter 159).
- Recently dated photographs showing the condition (including any known damage or disrepair) of a Stormwater Facility. For stormwater ponds, these photos should include views of the outlet structure, all side slopes, vegetated littoral zones, a view from the downstream channel looking upstream at the dam and emergency spillway, a view from the dam showing the condition of the downstream channel, and a view of areas designed to catch sediment (if possible).
- Records demonstrating that required maintenance activities have been completed.

### **3.6.2 Facility Inspections**

Each Customer that has applied for and received a Credit for a Stormwater Facility has the private responsibility to inspect and repair their Facility to ensure that it is functioning as credited. In addition, the City reserves the right to inspect Stormwater Facilities receiving a Credit at any time. If the field inspection proves that any of the annual documentation submitted for continuation of the Credit is not accurate, or the Facility is not maintained, or if the Facility is not operating as credited, the Credit will be forfeited, and the Customer must repay the City in the form of a surcharge the amount of Credit received during the period for which the City determines the Stormwater Facility was out of compliance.

Inspections will be performed at the discretion of the City to assure that a Facility is operating as credited (no blockage due to excessive silt, logs, or debris). Annual inspection is possible with additional inspections of problematic areas following large storm events (two inches of rainfall or more over a 24-hour period). Further information concerning City inspections may be found in Section 4 of the Stormwater Management Ordinance (Chapter 159).

## **3.7 Applying for a New Stormwater Facility Credit**

The following sections present the typical Credit application process for New and Existing Stormwater Facilities. The steps described in Section 3.7.1 are recommended to expedite the application process. Steps described in Sections 3.7.2 through 3.7.4 are required to be eligible for any Credit.

### **3.7.1 Preliminary Interaction with the City**

Since the calculations and hydrologic analyses involved in the design of a Stormwater Facility are complex, a professional engineer registered in the State of North Carolina must seal the design of a new Stormwater Facility, or must seal the review of any Existing Facilities or proposed Facility upgrades. Therefore, it is highly recommended that the applicant interact with City stormwater engineers first before an applicant hires an engineer to perform these services.

City stormwater engineers will evaluate how a property will fit into the drainage scheme of the City, allowing them to provide valuable insight to one designing a Facility or to one owning an Existing Facility to determine what Credit is available. For example, the City stormwater engineer might be able to tell a Customer what upstream drainage area a Stormwater Facility might control. This knowledge and the guidelines in Sections 3.1 through 3.3 allow one to determine the level of Credit for which they may be eligible. The City determines the final amount of Credit based on the policies of this manual.

### **3.7.2 Perform Hydrologic Analysis and Design Facility**

If a Customer decides to install a Stormwater Facility for which a Credit will be requested, a professional engineer licensed in the State of North Carolina must be hired to perform a hydrologic/hydraulic analysis and design a Stormwater Facility that will achieve the level of Credit desired by the Customer. Customers seeking Credit for an Existing Facility should refer to Section 3.8.

### **3.7.3 Complete Application**

Once an engineering analysis has been completed, the Customer should follow the instructions to fill out the application in Appendix B.1. This application along with an engineering report will be submitted to the City for final Credit determination. A checklist for submitting a complete application to the City is included in the application form. If approved by the City, any Credit awarded will appear on the billing cycle following 90 days or less from when the Stormwater Facility was fully constructed and approved by the City.

### **3.7.4 Construction of a New Stormwater Facility**

If an application is successful, the Customer must construct the new Stormwater Facility before the Credit takes effect. The Customer must also provide an “as-built” certification to the City which must be sealed by an engineer for all new structures for which a Credit is requested.

### **3.7.5 Inspection of a New or Existing Stormwater Facility**

The completed new Facility or an existing Facility may be subject to inspection by the City to ensure that it will perform as credited.

### **3.8 Applying for Credits for Existing Facilities**

Credit application procedures for Existing Stormwater Facilities are similar to those detailed in Section 3.7 for New Stormwater Facilities. The recommendation described in Section 3.7.1 to consult with a City stormwater engineer may still be useful for the owner of an Existing Stormwater Facility that is determining what Credit may be available to them. An engineering analysis as detailed in Section 3.7.2 must be performed for an Existing Stormwater Facility to prove that it exceeds current City runoff control standards and qualifies for Credit. The application in Appendix B.1 must be submitted along with an engineering report as discussed in Section 3.7.3 and the Facility may be subject to inspection as detailed in Section 3.6.2 and Section 3.7.5.

### **3.9 Applying for Credits for NPDES Industrial Stormwater Permit Holders**

Since the NPDES Industrial Stormwater Permit Holder's credit is determined on a case-by-case basis, all applicants are required to request a meeting with the City's stormwater staff to discuss the activities performed by the applicant. The applicant must provide a copy of the NPDES permit, the Stormwater Pollution Prevention Plan (if required), monitoring data (if required), verification of permit compliance and any other relevant information.

City staff will review the activities performed by the applicant in comparison to the activities required by the City's NPDES Phase II stormwater permit. The negotiated Credit for the Customer's additional efforts will be based on the relative benefits offered to the City, based on the population served, protection provided, contributing drainage area, or other appropriate metrics.

### **3.10 Applying for Credits for Stormwater Education**

The Stormwater Education Credit will be approved on an annual basis for education activities that were performed in the previous school year. Credit received for the prior year's educational activities will be shown on the monthly utility bill over a twelve-month period, starting on the September bill following the school year during which the activities were performed.

The Stormwater Education Credit requires submittal of both an application and an annual report to the Director of Engineering. The application need only be completed once, and requires a description of the educational program, list of educational tools used, estimated number of students that will/have receive the education, and the length of the educational program. Submittal of the application is necessary to indicate to the applicant that the proposed curriculum meets the criteria stated in item 3.3 above, and that a Credit will be received pending approval of an annual report to follow.

Credit approval must be renewed each year via approval of an annual report. The annual report must be submitted after the end of the school year, but prior to August

1. It must provide an accurate accounting of the education activity performed as described in the application, including the number of students that received the education.

### **3.11 Credit Renewal**

Credits granted to a Customer for any of the eligible credit programs are in effect for one-year. In order to continue receiving Credit in future years, a Customer must renew their application annually. Documentation as discussed in each corresponding section above must be submitted along with the renewal application in Appendix B.3. In addition, an inspection of the Stormwater Facility by appropriate personnel must be performed in accordance with Section 4 of the Stormwater Management Ordinance prior to renewing a Credit. If the annual documentation or inspection proves the applicant was not in compliance with City requirements, Credit will be subject to termination and Credit received during any period of non-compliance must be repaid to the City. Appendix B.4 contains detailed instructions for completing the renewal application. A checklist is also included with the form to assist the Customer.

### **3.12 Implementation of the Credit**

Depending on when an application for a Credit is submitted, whether a Stormwater Facility is new or existing and/or when a new Stormwater Facility is fully constructed and approved by the City, implementation may be handled differently as described in the following sections. Generally, it is estimated that applications will take three months to process. Successful applications will receive Credits as detailed below.

#### **3.12.1 Credit Applications for New Stormwater Facilities**

Customers submitting a Credit Application for a New Stormwater Facility will be eligible to receive the Credit upon approval of the application by the City. However, no Credit will be awarded until the Stormwater Facility is fully constructed and approved by the City.

#### **3.12.2 Credit Applications for Existing Stormwater Facilities**

Customers submitting Credit Applications for an Existing Stormwater Facility may be eligible to receive Credit retroactive to Fee inception or up to one prior year from approval of the application, whichever is shorter. Credit will not be awarded for applications for an Existing Stormwater Facility for any time period preceding Fee inception or for any time period proceeding the date at which the Stormwater Facility was fully constructed and approved by the City. However, Customers must be able to prove the Existing Stormwater Facility complies with North Carolina dam safety standards and other applicable State laws and has satisfied relevant Credit requirements detailed in Sections 3 *et seq.* for the time period(s) in question and has been maintained throughout that time period in order to receive the retroactive Credit.

### **3.12.3 Credit Applications for NPDES Industrial Stormwater Permit Holders**

Existing permit holders must provide proof of compliance for one-year prior to application of the credit. New NPDES permit holders may apply for the credit at any time, but the credit will not be awarded until the applicant has completed one-year of the permit and shows documentation of full permit compliance.

### **3.12.4 Credit Applications for Stormwater Education**

Similar to NPDES permit holders, applications requesting Credit for an existing stormwater education program must provide proof of service for a minimum of one-year prior to the Credit request. Applicants for Credit related to new stormwater education programs will not receive Credit until a minimum of one-year of the education program has been completed and documented.

# Appendix A Forms, Instructions and Checklists For Adjustments

## A.1 Appeal for Adjustment Form

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## Stormwater Fee Appeal for Adjustment Application

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### **Section A.**

#### *APPLICANT INFORMATION*

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**Property Owner:** \_\_\_\_\_

**Primary Location/Street Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

### **Section B.**

#### *APPLICANT'S ENGINEER or SURVEYOR (if applicable)*

---

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

### **Section C.**

#### *PROPERTY INFORMATION (attach a copy of your latest utility bill)*

---

**Name of Property (e.g. Development or Subdivision):** \_\_\_\_\_

**City of Monroe Billing Account Number:** \_\_\_\_\_

**Parcel Identification Number (PIN):** \_\_\_\_\_

**Property Address:** \_\_\_\_\_

### **Section D.**

#### *DETAILS OF THE APPEAL FOR ADJUSTMENT*

---

**Type of Property (circle):** single-family, townhouse, multi-family, other residential, non-residential

PLEASE CHECK THE BOX NEXT TO THE TYPE OF ADJUSTMENT:

Impervious Area Measurement Adjustment

Less than 400 Square Feet of Impervious Area Land Adjustment

Property Classification Adjustment

Property Fee Exemption

**Currently Billed Impervious Area:** \_\_\_\_\_ **square feet**

**Proposed Impervious Area:** \_\_\_\_\_ **square feet**

*Please include a detailed description of the reason for the adjustment as an attachment to this application. Also, please provide the City with any property maps or measurements that may be needed to determine your adjustment. A detailed topographic survey may be required in some cases at the expense of the Owner.*

---

**Section E.****APPLICATION CHECKLIST**

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PLEASE INCLUDE ALL OF THE FOLLOWING (CHECK OFF): If any information is missing from the request package, you will be asked to complete the request and re-submit. Please note that the City reserves the right to request additional information if necessary.

- A copy of your most recent City of Monroe Utility Bill
- Complete application form requesting an appeal for Adjustment
- Evidence supporting the basis for the adjustments including the opinion of a certified professional engineer or surveyor where applicable
- Current City of Monroe topographic map outlining the property and disputed impervious areas, where applicable
- Correct parcel identification number (PIN) - see Section F for instructions on obtaining the PIN for your property

---

**Section F.****Union County Geographic Information System (GIS) Instructions**

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You can access the Union County Geographic Information System through their website at:

<http://maps.co.union.nc.us/gomaps/>

1. **Select** the "**Click Here to Start GoMAPS**" link.
2. **Enter** your **last name** or **company name** in the "**Quick Search**" box in the upper right hand corner and **select** the appropriate name from the drop-down menu.
3. A list of parcels matching your search criteria is displayed at the bottom of the screen. The property PIN is located in the 5th column from the left, just next to the Owner Name.
4. A map displaying the selected property and it's associated information is displayed.
5. Set your printer to landscape. From your Browser tool bar, **Select File, Page Setup** and select **Landscape**.
6. From your Browser tool bar, **Select File, Print** to print the property map and information.

If you have difficulty in obtaining this information from the Union County web site, you may contact the Union County GIS Help Desk at [GISHelp@co.union.nc.us](mailto:GISHelp@co.union.nc.us).

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**Section G.****CERTIFICATION STATEMENTS**

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PLEASE INITIAL THE FOLLOWING STATEMENTS CERTIFYING THAT YOU HAVE READ AND UNDERSTAND EACH ONE:

\_\_\_\_\_ I hereby certify that the information in this application is truthful and accurate.

\_\_\_\_\_ I hereby grant the City of Monroe access to the property referenced in this document to confirm any of the information stated in this application to determine my adjustment.

---

Owner's Signature

Date

(for multiple owners, representative responsible for management shall sign)

---



## **A.1 Appeal for Adjustment Form Instructions**

Applicants must fill out the Appeal for Adjustment Form contained in Appendix A.1 and submit the items listed in the Checklist. Please note that the City reserves the right to request additional information if necessary to determine the adjustment.

Applicants should fill out the entire form as completely as possible. The following directions apply to each section of the form.

### **Section A**

Please submit the information requested by the Application including Property Owner, Physical Address, Contact Information and a copy of the most recent Utility Bill from the City of Monroe.

### **Section B**

Please submit the information requested concerning the Applicant's Engineer or Surveyor (if applicable) including the Name, Physical Address, and Contact Information.

### **Section C**

Please submit the information requested concerning the Applicant's Property. The City of Monroe Utility Billing Account Number may be found on the latest statement of the Applicant's bi-monthly utility bill from the City. The Parcel Identification Number (PIN) may be found using Union County's Geographic Information System (GIS). Instructions for the County's GIS system are contained in Section F of the application. If the property address is different from the Owner address in Section A, please include in Section C.

### **Section D**

Please check the box next to the type of adjustment for which you are applying and list your requested change of impervious area in the appropriate spaces. In addition, please attach all documentation needed to justify your claim for an adjustment. Additional information may include:

- a map of the property
- property measurements
- City of Monroe topographic data
- a complete site survey by a registered surveyor or engineer

### **Section E**

A checklist for completion of the application is included in Section E. Please check the boxes next to each item to signify that you have completed the entire form. If the form is

not complete, the City may request that you re-submit the form before making a determination on the adjustment.

## **Section F**

Section F includes instructions for the Union County's GIS system. The system can be used to obtain the property's parcel identification number (PIN). This number is VERY important for the City to track the adjustment of your fee. Please make sure to record your PIN accurately.

## **Section G**

Please place your initials in the appropriate spaces to signify that you will comply with the statements in this section. This section must be complete in order for your application to be processed.

## **Section H**

Please sign and date that you have completed the application for an adjustment. If multiple owners exist for the property, all owners must sign this form in order to grant the adjustment.

## **Section I**

Section I is for office use only by City of Monroe staff.

# Appendix B Forms, Instructions and Checklists For Credits

## **B.1 Initial Credit Application**

**Initial Application for Stormwater Utility Fee Credit**

**Section A.**

*APPLICANT INFORMATION*

Property Owner: \_\_\_\_\_

Primary Location/Street Address: \_\_\_\_\_  
 \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Section B.**

*APPLICANT'S ENGINEER or SURVEYOR (if applicable)*

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Section C.**

*PROPERTY INFORMATION (attach a copy of your latest utility bill)*

Name of Property (e.g. Development or Subdivision): \_\_\_\_\_

City of Monroe Billing Account Number: \_\_\_\_\_

Parcel Identification Number (PIN): \_\_\_\_\_

Property Address: \_\_\_\_\_  
 \_\_\_\_\_

**Section D.**

*STORMWATER CONTROL MEASURE CREDIT INFORMATION AND ELIGIBILITY*

| Drainage Area Controlled (acres) |  | Design Storms Controlled for Drainage Area Indicated to the Left (YES or NO) |  | Requested Credit (percent) |
|----------------------------------|--|--|--|----------------------------|
| Onsite Drainage Area (acres)     |  | Runoff from 1" rain  |  |                            |
|                                  |  | 1" rain & 2-yr   |  |                            |
|                                  |  | 1" rain, 2- & 10-yr  |  |                            |
| Upstream Tributary Area (acres)  |  | 1", 2-, 10- & 25-yr or greater   |  |                            |
|                                  |  | 1" rain & 2-yr   |  |                            |
|                                  |  | 1" rain, 2- & 10-yr  |  |                            |
|                                  |  | 1", 2-, 10- & 25-yr or greater   |  |                            |

Refer to Tables 1 and 2 in Section 3 to calculate allowable credit.

Total Requested Credit: \_\_\_\_\_

**Section E.**

*NPDES INDUSTRIAL STORMWATER PERMIT INFORMATION AND ELIGIBILITY*

Do you have an NPDES Industrial Stormwater Discharge Permit? (YES or NO) \_\_\_\_\_

If YES, please include a copy of your NPDES permit and application with this Credit application.

If you answered YES to the previous question, please list briefly the activities performed by your program. Attach additional sheets as necessary. Also, please include with your application any information the City would need to evaluate your program:

---

**Section F.****EDUCATION PROGRAM INFORMATION AND ELIGIBILITY**

---

School: \_\_\_\_\_

No. of Students in School: \_\_\_\_\_

Curriculum Description: \_\_\_\_\_

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No. of Students Taught Stormwater Education Materials: \_\_\_\_\_

No. of Teachers Involved: \_\_\_\_\_

In What Grade Level(s) Used: \_\_\_\_\_

Total Approx. Teaching Time (all classes): \_\_\_\_\_

---

Description of Education Materials (attach additional sheets if necessary):  

---

**Section G.****APPLICATION CHECKLIST**

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PLEASE INCLUDE ALL OF THE FOLLOWING (CHECK OFF): If any information is missing from the request package, you will be asked to complete the request and re-submit. Please note that the City reserves the right to request additional information if necessary.

- A copy of your most recent City of Monroe Utility Bill & parcel identification number (PIN)
  - Site plan as-built construction drawings (signed and sealed by a licensed surveyor or engineer) showing the site, topographic details, overland flow paths, all stormwater facilities, and surrounding area
  - Detailed hydrologic and hydraulic calculations using the most current available information and methodology approved by the City that accurately describes the runoff through the site.
  - Current topographic map outlining the on-site drainage area, the drainage area upstream and the location of the credited Stormwater Facility.
  - A proposed maintenance schedule submitted by the owner of the Stormwater Facility that describes in detail the maintenance activities for the Stormwater Facility
  - A copy of your NPDES Stormwater Permit and Stormwater Pollution Prevention Plan (where required)
- 

**Section H.****CERTIFICATION STATEMENTS**

---

PLEASE INITIAL THE APPLICABLE STATEMENTS CERTIFYING THAT YOU HAVE READ AND UNDERSTAND EACH ONE:

- \_\_\_\_\_ I hereby certify that the information in this application is truthful and accurate.
- \_\_\_\_\_ I hereby certify that I will maintain the Stormwater Facility referenced in this application, and I will adhere to the approved maintenance schedule attached to this application.
- \_\_\_\_\_ I hereby certify that the credited Stormwater Facility will continuously meet all City Standards.
- \_\_\_\_\_ I hereby grant the City of Monroe access to the property referenced in this document to inspect the facility or facilities proposed for a stormwater fee credit.
- \_\_\_\_\_ I hereby certify that I will notify the City of Monroe should any destruction or damage occur to the facility referenced in this credit application that prevents it from performing as credited.
- \_\_\_\_\_ I hereby certify that the education materials described in this application will be taught in the upcoming year.

---

Owner's Signature \_\_\_\_\_ Date \_\_\_\_\_  
(for multiple owners, representative responsible for management shall sign)

- \_\_\_\_\_ I hereby certify that the credited Stormwater Facility or Facilities meet all City Standards.

---

Engineer's Signature \_\_\_\_\_ Date \_\_\_\_\_

Affix Seal Here

---

**Section I.***SIGNATURE(S)*

---

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the owners of the property.

**OWNER'S SIGNATURE(S) - If multiple owners, all must sign.**

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**CUSTOMER'S SIGNATURE(S) - If not owner. If multiple customers, all must sign.**

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**PRINT OWNER NAME(S), ADDRESS(ES), PHONE NUMBER(S):**

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**PRINT CUSTOMER NAME(S), ADDRESS(ES), PHONE NUMBER(S) if not owner:**

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**Section J.***OFFICE USE ONLY*

---

Received by the City of Monroe, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Application reviewed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Application reviewed by: \_\_\_\_\_

Credit amount awarded to customer: **Onsite Drainage Area Credit (%)**: \_\_\_\_\_

**Upstream Tributary Area Credit (%)**: \_\_\_\_\_

**NPDES Permit Credit (%)**: \_\_\_\_\_

**Stormwater Education Credit (%)**: \_\_\_\_\_

**TOTAL STORMWATER FEE CREDIT**: \_\_\_\_\_

## **B.1 Initial Credit Application Instructions**

Applicants applying for a Stormwater Facility Credit for the first time must fill out the Credit Application contained in Appendix B.1 and submit the items listed in the Credit Application Checklist. Please note also that the City reserves the right to request additional information if necessary to determine the Credit. Applicants or a professional Engineer hired by the Applicant should fill out the entire form as completely as possible. The following directions apply to each section of the form.

### **Section A**

Please submit the information requested by the Application including Customer Name, Physical Address, Contact Information and a copy of the most recent Utility Bill from the City of Monroe.

### **Section B**

Please submit the information requested concerning the Applicant's Engineer including the Name, Physical Address, and Contact Information.

### **Section C**

Please submit the information requested concerning the Applicant's Property for which Credit will be applied. The City of Monroe Utility Billing Account Number may be found on the latest statement of the Applicant's utility bill from the City. The Parcel Identification Number (PIN) may be found using Union County's GIS. If the property address is different from the Customer's address in Section A, please include in Section C.

### **Section D**

Please indicate the number of acres of onsite and upstream tributary drainage area (if applicable) controlled by the Applicant's Stormwater Facility by entering the correct amount in the boxes provided. The Applicant shall receive this information from the professional engineer that was hired to design the new facility or who has performed the study of an existing facility. The applicant shall submit to the City a detailed topographic map outlining the drainage areas. In addition, the engineer should signify the appropriate design storm events controlled by the Stormwater Facility.

### **Section E**

Please signify with a YES or NO in the appropriate box whether an NPDES Industrial Stormwater permit has been obtained for this property. If so, please describe the elements of the program that help the City comply with the specific requirements included in its NPDES MS4 Phase II Permit in the given box and include a copy of your NPDES Permit and Application with your request for Credit to the City. In addition, please supply the City with any additional information needed to evaluate your program. This information may include documentation of the activities that you perform to stay in compliance with the permit, such as maintenance logs, monitoring

information, etc. The negotiated credit for the Customer's additional efforts will be based on the relative benefits offered to the City, based on population served, protection provided, contributing drainage area, or other appropriate metrics.

## **Section F**

Please identify the name and demographic information for the school(s) applying for the Stormwater Education Credit. Briefly describe the curriculum, the number of students taught, the number of teachers involved and the approximate number of class hours that the material will be taught in the upcoming year. Lastly, provide a description of the education materials to be used for the program. Additional information to support your application may be provided as attachments.

## **Section G**

A checklist for completion of the application is included in Section G. Please check the boxes next to each applicable item to signify that you have completed the entire form. If the form is not complete, the City may request that you re-submit the form before making a determination on the Credit.

## **Section H**

Please place your initials in the appropriate spaces to signify that you will comply with the statements in this section. For properties with multiple owners or customers, the owner having primary responsibility for the management of the facility, NPDES permit compliance, or education program should sign this section. A Professional Engineer registered in the State of North Carolina is also required to sign this section if certification of the performance of a Stormwater BMP is required. This section must be complete in order for your application to be processed.

## **Section I**

Please sign and date that you have completed the application for a Credit. If multiple customers exist for the property, all customers must sign this form in order to grant the Credit. For development with common area Stormwater Facilities such as condominiums, townhomes or cluster unit developments, where fees are pro-rated to the lot owners, the Association may sign and complete the application on behalf of its members.

## **Section J**

Section J is for office use only by City of Monroe staff.

## **B.2 Credit Renewal Application**

## Stormwater Fee Credit Renewal Application

**Section A.**

*APPLICANT INFORMATION*

Property Owner: \_\_\_\_\_

Primary Location/Street Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Section B.**

*APPLICANT'S ENGINEER or SURVEYOR (if applicable)*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Section C.**

*PROPERTY INFORMATION (attach a copy of your latest utility bill)*

Name of Property (e.g. Development or Subdivision): \_\_\_\_\_

City of Monroe Billing Account Number: \_\_\_\_\_

Parcel Identification Number (PIN): \_\_\_\_\_

Property Address: \_\_\_\_\_

**Section D.**

*STORMWATER CONTROL MEASURE CREDIT INFORMATION*

| Drainage Area Controlled (acres) |  | Design Storms Controlled for Drainage Area Indicated to the Left (YES or NO) |  | Approved Credit (percent) |
|----------------------------------|--|--|--|---------------------------|
| Onsite Drainage Area (acres)     |  | Runoff from 1" rain  |  |                           |
|                                  |  | 1" rain & 2-yr   |  |                           |
|                                  |  | 1" rain, 2- & 10-yr  |  |                           |
| Upstream Tributary Area (acres)  |  | 1", 2-, 10- & 25-yr or greater   |  |                           |
|                                  |  | 1" rain & 2-yr   |  |                           |
|                                  |  | 1" rain, 2- & 10-yr  |  |                           |
|                                  |  | 1", 2-, 10- & 25-yr or greater   |  |                           |

Total Current Credit: \_\_\_\_\_

**Section E.**

*STORMWATER NPDES INDUSTRIAL STORMWATER PERMIT INFORMATION AND ELIGIBILITY*

Do you have an NPDES Industrial Stormwater Discharge Permit? (YES or NO) \_\_\_\_\_

If YES, please include a copy of your NPDES permit and application with this Credit application.

If you answered YES to the previous question, please list briefly the activities performed by your program. Attach additional sheets as necessary. Also, please include with your application any information the City would need to evaluate your program:

---

**Section F.****EDUCATION PROGRAM INFORMATION AND ELIGIBILITY**

---

School: \_\_\_\_\_

No. of Students in School: \_\_\_\_\_

Curriculum Description (if altered from previous application): \_\_\_\_\_

---

No. of Students Taught Stormwater Education Materials: \_\_\_\_\_

No. of Teachers Involved: \_\_\_\_\_

In What Grade Level(s) Used: \_\_\_\_\_

Total Approx. Teaching Time (all classes): \_\_\_\_\_

---

Description of Education Materials (if altered from previous application):  

---

**Section F.****APPLICATION CHECKLIST**

---

PLEASE INCLUDE ALL OF THE FOLLOWING (CHECK OFF): If any information is missing from the request package, you will be asked to complete the request and re-submit.

A copy of your most recent City of Monroe Utility Bill

Records demonstrating that required maintenance activities have been completed.

Certified inspection report complying with the City of Monroe Stormwater Management Ordinance

Recently dated photographs showing the condition (including any known damage or disrepair) of a stormwater facility.

Documentation of compliance activities related to the NPDES Industrial Stormwater Permit

Documentation of compliance with requirements of the Stormwater Education Program

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**Section H.****CERTIFICATION STATEMENTS**

---

PLEASE INITIAL THE APPLICABLE STATEMENTS CERTIFYING THAT YOU HAVE READ AND UNDERSTAND EACH ONE:

\_\_\_\_ I hereby certify that the information in this application is truthful and accurate.

\_\_\_\_ I hereby certify that the Stormwater Facilities and the conditions of the facilities have not been altered since the submittal of the initial application for credit.

\_\_\_\_ I hereby certify that I will notify the City of Monroe should any destruction or damage occur to the facility referenced in this credit application that prevents it from performing as credited.

\_\_\_\_ I hereby certify that I have maintained the Stormwater Facility referenced in this application and have adhered to the approved maintenance schedule contained in the initial credit application.

\_\_\_\_ I hereby certify that I will continue to maintain the Stormwater Facility referenced in this application and will adhere to the approved maintenance schedule contained in the initial credit application.

\_\_\_\_ I hereby grant the City of Moncord access to the property referenced in this document to inspect the credited Stormwater Facility or Facilities proposed for a stormwater fee credit.

\_\_\_\_ I hereby certify that the education materials described in this application will be taught in the upcoming year.

---

\_\_\_\_\_  
Owner's Signature\_\_\_\_\_  
Date\_\_\_\_ I hereby certify that the credited Stormwater Facility or Facilities meet all City Standards.

---

\_\_\_\_\_  
Engineer's Signature\_\_\_\_\_  
DateAffix Seal Here

---



## **B.2 Credit Renewal Application Instructions**

Applicants applying for a Renewal of an existing credit must complete the Stormwater Fee Credit Renewal Application in Section B.2 and submit the items listed in the Credit Renewal Checklist on the application form. Applicants do not need a professional engineer to complete the application form if no changes or upgrades have been made to the facility within the past year. However, a certified professional does have to complete the certified inspection report which complies with the City of Monroe Code of Ordinances (Chapter 159, Section 4 of the City of Monroe Stormwater Management Ordinance). The following sections provide instructions for completing the Credit Renewal form. Most of this information can be copied from the Initial Credit Application Form.

### **Section A**

Please submit the information requested by the Application including Customer Name, Physical Address, Contact Information and a copy of the most recent Utility Bill from the City of Monroe.

### **Section B**

Please submit the information requested concerning the Applicant's Engineer including the Name, Physical Address, and Contact Information.

### **Section C**

Please submit the information requested concerning the Applicant's Property. The City of Monroe Utility Billing Account Number may be found on the latest statement of the Applicant's utility bill from the City. The Parcel Identification Number (PIN) may be found using Union County GIS. If the property address is different from the Customer's address in Section A, please include in Section C.

### **Section D**

Please indicate the number of acres of onsite and upstream tributary drainage area (if applicable) controlled by the Applicant's Stormwater Facility by entering the correct amount in the boxes provided. The Applicant may copy this information from the initial credit application if site conditions have not changed. Otherwise, the Applicant shall receive this information from the professional engineer that was hired to design the facility. The applicant shall submit to the City a detailed topographic map outlining the drainage areas. In addition, the engineer should signify the appropriate design storm events controlled by the Stormwater Facility.

### **Section E**

Please signify with a YES or NO in the appropriate box whether an NPDES Industrial Stormwater Permit continues to be active for this property. If so, please describe the elements of the program that help the City comply with the specific requirements included in its NPDES MS4 Phase II Permit in the given box. If your NPDES Permit has

changed within the past year, please attach a copy of your new permit. In addition, please supply the City with any additional information needed to evaluate your on-going program. This information may include documentation of the activities that you perform to stay in compliance with the permit, such as maintenance logs, monitoring information, etc. The negotiated credit for the Customer's additional efforts will be based on the relative benefits offered to the City, based on population served, protection provided, contributing drainage area, or other appropriate metrics.

## **Section F**

Please identify the name and demographic information for the school(s) applying for a continuation of the Stormwater Education Credit. Briefly describe any changes, if any, to the curriculum, the number of students taught, the number of teachers involved and the approximate number of class hours that the material will be taught in the upcoming year. Lastly, provide a description of the education materials to be used for the program if these materials have changed since your last application. Additional information to support your application may be provided as attachments.

## **Section G**

A checklist for completion of the application is included in Section G. Please check the boxes next to each applicable item to signify that you have completed the entire form. If the form is not complete, the City may request that you re-submit the form before making a determination on the Credit. The items in the Renewal Application Form are intended to certify that the conditions for which the initial credit was granted continue to remain in effect.

## **Section H**

Please place your initials in the appropriate spaces to signify that you will comply with the statements in this section. For properties with multiple owners or customers, the owner having primary responsibility for the management of the facility, NPDES permit compliance, or education program should sign this section. A Professional Engineer registered in the State of North Carolina is also required to sign this section if certification of the performance of a Stormwater BMP is required. This section must be complete in order for your application to be processed.

## **Section I**

Please sign and date that you have completed the renewal application. If multiple customers exist for the property, all customers must sign this form. For development with common area Stormwater Facilities such as condominiums, townhomes or cluster unit developments, where fees are pro-rated to the lot owners, the Association may sign and complete the application on behalf of its members.

## **Section J**

Section J is for office use only by City of Monroe staff.

# Appendix C

## Example Credit Calculations

# Example Credit Calculations

The method for calculating a Credit will depend on many factors, such as upstream drainage area, the existence of a primary drainage system component on a property, and the extent to which a Facility provides runoff control during storm events. Examples contained in this section are intended to familiarize Customers with concepts governing the Credits and the manner in which they are calculated so that they might be able to determine the approximate amount of Credit that may be available to them. This particular example applies to Other Residential and Nonresidential Developed Property as defined in Section 1.1.

## C.1 Relevant Equations

**Equation 1** 
$$Fee = \left( \frac{IA}{ERU} \right) * MR$$

Fee = Monthly Stormwater Management Service Charge

IA = Impervious Area

ERU = Equivalent Runoff Unit (2,618 ft<sup>2</sup>)

MR = Monthly Billing Rate for an ERU (\$4.00)

**Equation 2** 
$$AF = Fee * \left( 1 - \frac{C}{100\%} \right)$$

AF = Adjusted Fee

Fee = Monthly Stormwater Management Service Charge

C = Credit (%)

## C.2 Example 1

As detailed in the City Stormwater Management Ordinance, all new development is required to manage onsite stormwater resulting from the first inch of rain as well as control the 2-year and 10-year, 24-hour design storms to pre-developed conditions. If a property owner affected by this requirement chooses to implement a Facility that controls more than is required, they may be eligible for Credit as discussed in Section 3.1.

For example, assume that a property containing a shopping mall is to be built and has a total area of 6 acres, 5 of which are impervious cover. The property accepts stormwater

from an upstream drainage area of 12 acres. Using Equation 1, the Fee is computed as follows:

$$Fee = \left( \frac{5 \text{ acres} * 43,560 \frac{ft^2}{\text{acre}}}{2,618 ft^2} \right) * \$4.00$$

$$Fee = \$332.77 \text{ per month}$$

This amount is the Fee paid by an Owner or Customer that meets minimum requirements detailed in the Stormwater Ordinance. Currently, the City requires Owners to implement a Stormwater Facility that manages onsite stormwater resulting from the first inch of rain as well as control the 2-year and 10-year, 24-hour design storms events. A Facility designed to control onsite runoff for the first inch of rain, the 2-year, 24-hour design storm and the 10-year, 24-hour design storm is not eligible for Credit since it does not exceed City requirements. However, if the Owner decided to implement a pond that controls onsite stormwater runoff resulting for the 1" rain, 2-, 10, and 25-year 24-hour design storms, the Owner would be eligible to apply for a 20% Stormwater Facility Credit as detailed in Section 3.1. Assuming the Credit is approved by the City, Equation 2 yields the following adjusted fee:

$$AF = \$332.77 * \left( 1 - \frac{20\%}{100\%} \right)$$

$$AF = \$266.22 / \text{month}$$

In this case, installing a pond that exceeds City requirements provides a savings of \$66.55 per month off the Owner's original Fee. Over a period of time, this savings may offset the difference in capital cost for installing the larger pond needed to control the additional stormwater.

### C.3 Example 2

Consider the pond from the previous example, which qualifies for a 20% Credit for controlling onsite stormwater runoff resulting from the 1" rain, 2-, 10, and 25-year, 24-hour design storms. Now consider sizing the stormwater pond to control runoff resulting from five (5) acres of upstream drainage area in addition to existing onsite stormwater runoff. According to Table 1 and Table 2 in Section 3.1, a property with a Stormwater Facility that controls greater than one (1) and less than ten (10) acres of upstream drainage area is eligible for an additional 15% Credit. Since these Credits are additive, the total Credit (C) used in Equation 1.0 would be computed as follows:

$$C = 20\% + (15\%)$$

$$C = 35\%$$

Thus the owner would be eligible to apply for a 35% Credit off the Fee assigned to the property. This Credit results in a Fee of \$219.80, a savings of \$112.97 per month from the Fee required to satisfy minimum requirements. Again, over time this savings may offset the cost of installing the larger pond needed to control the increased volume of stormwater.

# Appendix D

## Stormwater Utility Ordinance

**AN ORDINANCE AMENDING  
TITLE V, CHAPTER 58 OF THE  
CODE OF ORDINANCES  
OF THE CITY OF MONROE  
0-2008-46**

**BE IT ORDAINED BY THE CITY OF MONROE COUNCIL THAT TITLE V, PUBLIC WORKS, OF THE CITY OF MONROE CODE OF ORDINANCES BE HEREBY AMENDED AS FOLLOWS:**

**ADD:**

CHAPTER 58: STORMWATER UTILITY

SECTION 1: GENERAL PROVISIONS

|               |  |
|---------------|--|
| <b>58-101</b> | Title  |
| <b>58-102</b> | Authority, purpose, jurisdictions  |
| <b>58-103</b> | Findings   |
| <b>58-104</b> | Definitions  |
| <b>58-105</b> | Creation of Stormwater Management accounting                               |
| <b>58-106</b> | Stormwater Management service charges                                      |
| <b>58-107</b> | Billing method, responsible parties  |
| <b>58-108</b> | Payment provision; utility termination                                     |
| <b>58-109</b> | Adjustment and credits applicable to stormwater management service charges |
| <b>58-110</b> | Stormwater Management Advisory Committee                                   |
| <b>58-111</b> | Appeals  |
| <b>58-112</b> | Limitations of responsibility  |

## SECTION 1: GENERAL PROVISIONS

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### 58-101. TITLE

This Ordinance shall be known as “The Stormwater Utility Ordinance,” hereinafter as “Ordinance,” and may be so cited.

### 58-102. AUTHORITY, PURPOSE, JURISDICTION

- (A) *Authority:* Pursuant to N.C.G.S. Article 16 of Chapter 160A, the City of Monroe is authorized to create a stormwater utility and enterprise fund and in so doing establish a schedule of rents, rates, fees, charges, and penalties for the use of or the services furnished by such public enterprise.
- (B) *Purpose:* It is the purpose of this section to establish a stormwater utility as an identified fiscal and accounting fund for the purpose of comprehensively addressing the stormwater management needs of the city through a program designed to improve, maintain, operate and repair stormwater conveyance systems and to protect and manage water quality and quantity by controlling the level of pollutants in stormwater runoff, and the quantity and rate of stormwater received and conveyed by structural and natural stormwater and drainage systems of all types. It provides a schedule of rents, rates, fees, charges and penalties necessary to assure that all aspects of the stormwater program are managed in accordance with Federal, State and Local laws, rules, and regulations.
- (C) *Jurisdiction:* The boundaries and jurisdiction of the stormwater utility shall extend to the corporate limits of the City, including all areas hereafter annexed thereto.

### 58-103. FINDINGS

- (A) Stormwater poses a threat to the public health, safety, and welfare because if unmanaged, it floods properties, erodes watercourses and channels, and pollutes streams and rivers.
- (B) By mapping, planning, constructing, operating, cleaning, regulating and maintaining the natural and constructed stormwater management system, the City reduces the adverse effects of stormwater and improves the quality of groundwater, streams, rivers, and lakes in and around the City.
- (C) Providing a stable source of funding for stormwater services, as hereafter defined, can best be accomplished through stormwater management utility funds. Such a utility will benefit owners and occupants of developed land in the City and Monroe citizens.
- (D) The amount of impervious surface on a property is the single most important factor affecting the peak rate of runoff, the total volume discharged, and pollutant loadings of stormwater that flows from property.
- (E) State law reference: Authority to adopt a Stormwater Management Utility, Chapter 160A, Article 16.

### 58-104. DEFINITIONS

For the purpose of the article, the following words, terms, and phrases shall have the meaning given to them in this section, except where the context clearly indicates a different meaning:

- (A) *Credit* means ongoing reductions in the stormwater management service charge applicable to a given zoning lot or tract in recognition of the on-site or off-site systems, facilities, measures, and/or actions undertaken to reduce or mitigate the stormwater quantity and/or quality impact(s) of the zoning lot or tract that would otherwise impact the public stormwater management system. Credit shall be conditioned on the

continuing performance of the mitigation systems, facilities, measures, or actions in reference to standards adopted by the stormwater management utility, and may be revised or rescinded for cause. In no case shall credits exceed the amount of the stormwater management service charge. The means and measures for identifying, issuing and obtaining credits will be provided in a credit policy approved by City Council.

- (B) *Customer* or *consumer* means the person or entity to which a bill for stormwater service charges is billed. The customer may be the owner or occupant of a property, but the owner is ultimately responsible for payment of the charge.
- (C) *Developed land* means real property that contains impervious surfaces, and includes improved land without structures and land on which improvements are under construction.
- (D) *Drainage system* means natural and man-made channels, pipes, ponds and other facilities that transfer, control, convey or otherwise influence the movement of stormwater runoff.
- (E) *Dwelling unit* means one (1) or more rooms physically arranged to create a housekeeping establishment with separate facilities for cooking, sleeping and toilet for occupancy by one (1) or more persons.
- (F) *Equivalent runoff unit (ERU)* means the median of impervious surface area on a single-family detached residential dwelling unit property in the City. The ERU is calculated to be two thousand six hundred and eighteen (2,618) square feet of impervious surface or fraction thereof.
- (G) *Impervious surface* means any surface which, because of its material composition or compacted nature, impedes or prevents natural infiltration of stormwater into the soil. Impervious surfaces include, but are not limited to, roofs, roof extensions, patios, balconies, decks, including wooden slatted decks, athletic courts, swimming pools, excluding the water area of swimming pools, streets, parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surfaces. Ungraveled natural footpaths, water surfaces of lakes, streams, and swimming pools and drain fields are not impervious surfaces.
- (H) *Lot* means land bounded by lines legally established for the purpose of property division.
- (I) *Non-residential developed land* means all properties except those utilized for residential habitation.
- (J) *Natural state* shall describe existing undeveloped land where the soil and vegetation characteristics has not been substantially modified or disturbed by human activities and the hydrologic function is in an unaltered or natural condition.
- (K) *Other residential developed land* means any individual lot or parcel of residential developed land that is not single-family detached residential property. It includes, but is not limited to, land upon which there are residential structures that contain more than one (1) dwelling unit, such as multi-family dwellings (duplexes and greater), manufactured home parks as defined in the ordinance regulating development, condominiums, apartments, boarding houses, rooming houses, privately-owned fraternity and sorority houses.
- (L) *Property owner or owner* means the owner of a real property as shown on the Union County tax records.
- (M) *Real property* means land, tenements, and hereditaments.

- (N) *Single-family equivalent residential unit rate* is the unit charge for stormwater service established by City Council.
- (O) *Single-family developed land* means an individual lot or parcel of land developed with only one (1) single-family (attached [townhome] or detached) dwelling unit, one (1) manufactured home, or one (1) mobile home, and the ownership interest of the land and of the *dwelling unit* are united and identical. *Single-family developed land* shall not include structures used primarily for nonresidential purposes or other residential and nonresidential developed property.
- (P) *Stormwater* means the runoff from precipitation that travels over natural state or developed land surfaces and enters a drainage system.
- (Q) *Stormwater management service charge* is the charge to provide stormwater services to developed property. The charge is based upon the single-family equivalent residential unit (ERU) as calculated for that property and multiplied by the single family equivalent residential unit rate.
- (R) *Stormwater management system or system* means the system of natural and constructed devices for collecting and transporting stormwater. It includes, but is not limited to, structural drainage systems such as open swales and ditches, catch basins, pipes, inlets, storm sewers, drains, culverts, junction boxes, and other stormwater management facilities that affect the quality and quantity of stormwater located within dedicated public street rights-of-way and City of Monroe permanent drainage easements accepted by the City and all natural stormwater drainage systems.
- (S) *Stormwater management utility funds* mean the stormwater management service charges and the interest generated by those charges.
- (T) *Stormwater services* means City stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and City service of structural and natural stormwater and drainage systems of all types. Stormwater services include any cost necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations and rules, and costs related to the mapping, planning, construction, operation, maintenance, inspection, management and regulation of the stormwater management system and the regulation of impervious surface and stormwater.
- (U) *Undeveloped land* means all land that is not altered from its natural state to extent that results in less than four hundred (400) total square feet of impervious surface area per individual lot.

#### **58-105. CREATION OF STORMWATER MANAGEMENT ACCOUNTING**

All stormwater management service charges and interest generated by such charges, and the stormwater management utility funds, shall be placed in a separate City account and shall be used by the City of Monroe solely for operation and administration of the stormwater management program. The City may use funds that are not stormwater management utility funds to provide stormwater services.

#### **58-106. STORMWATER MANAGEMENT SERVICE CHARGES**

- (A) All developed land in the City, whether public or private, shall be subject to a stormwater management service charge. Exemptions shall not be allowed based on age, tax exemption, or other status of an individual or organization. Stormwater

management service charges may be subject to a credit reduction in charges as further provided herein.

- (B) Stormwater management service charges on developed land shall be based on a schedule of rates, charges, tiers, and late fees fixed and established from time to time by the City Council and maintained on file in the offices of the Finance Director and Director of Engineering. Stormwater management service charges will be determined and modified from time to time by the City Council, so that the total revenues generated by said charges will be used to pay the principal and the interest on the debt incurred for stormwater purposes, and such expenses as are reasonably necessary for providing stormwater services within the City of Monroe.
- (C) Computation of stormwater management service charges.
  - a. For single-family developed residential land, the monthly stormwater management service charges shall be based on the median amount of impervious surface on a single-family residential lot in the city, which is known as an ERU. There shall be a tier system for single-family developed properties, based on the amount of impervious surface of single-family properties, as set forth in the City of Monroe fee schedule.
  - b. For other residential developed land, including townhouses, apartments, condominiums, and other multi-unit residential development, the monthly stormwater management service charges shall be as set forth in the City of Monroe fee schedule for other residential unit.
  - c. For nonresidential land, the monthly stormwater management service charges on developed land is calculated by dividing the total impervious surface area of the property divided by one (1) ERU, rounded to the nearest tenth, multiplied by the established monthly single-family equivalent unit rate as fixed by City Council.
  - d. For developments with common property containing impervious surfaces, such as townhouse developments, cluster unit developments, or condominiums, each dwelling unit shall be responsible for its equal pro rata share of the total impervious surfaces area of the common areas of the development not served by City of Monroe water or sewer or both unless other arrangements are made pursuant to Chapter 58-107(D).
- (D) The following exemptions from stormwater management service charges are allowed:
  - a. Undeveloped land.
  - b. Improved public transportation ways, including public streets, roads, greenways and trails, airport runways, and internal roads within public facilities, which have been conveyed to the North Carolina Department of Transportation or City of Monroe and which are used by the general public for motor vehicle transportation, and private streets constructed in accordance with the City of Monroe Code of Ordinances and the City of Monroe Standard Specifications and Detail Manual.
  - c. Railroad tracks. However, railroad stations, maintenance buildings or other developed land shall not be exempted from stormwater management service charges.
  - d. Developed land with less than four hundred (400) total square feet of impervious surface area per individual lot.

#### **58-107. BILLING METHOD, RESPONSIBLE PARTIES**

- (A) Bills for stormwater management service shall be sent at regular periodic intervals. Stormwater management service charges may be billed on a combined utility bill that also contains charges for electric, gas, water and sewer service and/or solid/waste management service.
- (B) Stormwater management service charges for a property that receives water, sewer service or combined sewer and water service will be sent to the customer receiving such service. However, where multiple water and sewer accounts exist for a single parcel, the bill for stormwater management service charges may for good cause shown at the discretion of the City be sent to the property owner.
- (C) In cases where a master meter is used for water service to a property with multiple tenants, Owners of the property may, with the consent of the City, designate each occupant of the property as the party to receive the bill for stormwater management service charges by completing and properly executing a form provided by the City. Such designation shall fairly allocate the impervious surfaces actually used by the billed party, and it shall be binding for the period of time specified by the City. No occupant may be designated as the party to receive the bill for stormwater management service charge unless the occupant is also receiving a utility bill for another city service such as electric, gas and or solid/waste. The applicant shall provide notice of the application to each effected utility customer. The City shall approve the per account billing for the parcel unless the billing plan (1) will result in a charge of less than one (1) ERU for one or more accounts, and/or (2) does not equitably allocate the fee between accounts. Such transfer does not relieve either the owner or occupant from liability for stormwater management service charges if they are not paid by the party billed. The approval of per account billing pursuant to this subsection does not relieve the owner from liability for stormwater management service fees if they are not paid by the party billed. The property owner is ultimately responsible for payment of the stormwater management service charge for property for which the party billed has not paid the stormwater management service charge.
- (D) All other aspects of billing shall be handled as set forth in the City Council adopted Customer Service Policy unless specifically described in this section, or the section immediately following.

#### **58-108. PAYMENT PROVISION, UTILITY TERMINATION**

- (A) Where stormwater management service charges appear on a combined utility bill or a master summary bill, and a customer does not pay the service charges for all the utilities on the bill, the partial payment will be applied to the respective service charges in the following order: delinquent stormwater management service charges and then to all other City utility service.
- (B) Stormwater management service charges are due at the collection office in City Hall within the time period stated on the bill. Bills not paid within this time shall be charged a late fee as set forth in the adopted fee schedule.
- (C) In the event that the stormwater management service charges and delinquent fee are not paid on or before the final due date, city utility services shall be discontinued on the order established in the City Customer Service Policy adopted by the City Council.

- (D) Customers with complaints about the accuracy of stormwater management service charges are entitled to a review as provided in section 58-111. No charge will be retroactively adjusted to resolve customer complaints for a period of more than one-year prior to the date the City received the complaint. Any bill charges requiring adjustment must be applied through the utility billing system.
- (E) If property is under-billed, or not billed, or a bill is sent to the wrong party, the City may back bill up to a one-year period.

**58-109. ADJUSTMENT AND CREDIT APPLICABLE TO STORMWATER MANAGEMENT SERVICE CHARGE**

- (A) Adjustment due to error or oversight: Request for adjustment of the stormwater service charge shall be submitted to the City in accordance with the policy adopted by City Council. Adjustments can also be made by the City should the City identify an error or oversight as long as the City notifies the customer in advance of the adjustment. Adjustments may be requested for errors or omissions on the customer's stormwater service charge. All requests shall be judged on the basis of the number of dwelling units or amount of impervious area on the property.
- (B) Credits:
  - a. The City may provide a system of credits to reduce stormwater management service charges for properties on which stormwater control measures substantially mitigates the peak discharge or runoff pollution flowing from such properties or substantially decreases the City's cost of maintaining the stormwater management system. The Engineering Department will develop written policies to implement the credit system. No credit will be authorized until the City Council approves written policies to implement the system of credits; a copy of the approved policies shall be on file with the Engineering Department. The City's policies may make credits retroactive to the date stormwater management service charges were initiated. Any bill charges requiring adjustments must be applied through the utility billing system but no credit will be granted for more than one (1) past year. Credits cannot exceed the stormwater utility charge for the customer. Nothing shall prevent the City Council from modifying the adopted system of credits, and such modifications may apply to holders of existing credits.
  - b. Each credit allowed against the stormwater management service charge is conditioned on the continuing operation and functioning of the stormwater control measure as designed; credited stormwater control measures must comply with all applicable laws, ordinances and regulations, and credits may be rescinded for noncompliance with these standards.
  - c. Each credit for which a customer applies shall be subject to review and approval by the Director of Engineering or his designee. The Director of Engineering may approve or reject any application for a credit in whole or in part.
  - d. Credits shall only be applied to developed lands containing the credited stormwater control measure. For developments with common property containing credited stormwater control measures such as townhouse developments, cluster unit developments, or condominiums, each dwelling unit shall be eligible for its equal pro rata share of the credit unless other arrangements for billing the stormwater management service charge are made pursuant to Chapter 58-107(E).

## **58-110. STORMWATER MANAGEMENT ADVISORY COMMITTEE**

### **(A) Establishment and Composition:**

The Stormwater Management Advisory Committee shall be composed of up to seven (7) members who shall reside or own property within the City limits. The City Council shall appoint the membership of the Committee. Each member shall be appointed for a period of three (3) years except that the City Council in appointing the original membership of the Committee may prescribe terms of fewer years to the end that the terms of the various members of the Stormwater Management Advisory Committee shall be staggered. Committee members may be re-appointed at the discretion of the City Council.

### **(B) Duties:**

The Stormwater Management Advisory Committee shall have the following charge and duties:

- a. The Committee shall review and/or recommend to the Environment and Water Resources Committee stormwater management policies, policy changes, and long range plans and estimate their budgetary and rate impacts.
- b. The Committee shall review and comment to the Environment and Water Resources Committee on the annual stormwater management capital improvements program.
- c. The Committee shall respond to Environment and Water Resources Committee and City staff requests for advice on matters related to stormwater services and stormwater management utility.
- d. The Committee shall present the Environment and Water Resources Committee with an annual report of key actions and issues and its annual work program.

### **(C) Procedures:**

The Stormwater Management Advisory Committee is directed to adopt rules of procedure necessary to the conduct of its affairs and keeping with the provision of this Code, all policies of the City Council, and applicable State laws. Such Rules of procedure, and any modifications to same, shall be submitted to the Environment and Water Resources Committee for review prior to City Council approval. Except as provided in this Code, the rules of procedure adopted by the Committee shall at least provide for: selection of the officers of the committee; the time and place of its regular meeting, which shall at least be held bi-annually, and the calling of special meetings; the procedures of the conduct of the public hearings and voting. The committee shall elect from its membership at least a chairperson and vice chairperson, who shall serve for terms of one (1) year, who shall be eligible for reelection, and who shall have the right to vote. The chairperson shall preside over the Stormwater Management Advisory Committee. In the absence or disability of the chairperson, the vice-chairperson shall perform the duties of the chairperson. All meetings of the Stormwater Management Advisory Committee shall be open to the public, in accordance with the North Carolina Open Meeting Law, G. S. 143-318.10 et seq., and a public record shall be kept of the Committee's resolutions, proceedings, and actions. The rules of procedure and minutes of the Committee are maintained as separate documents in the nature of a public record at the City Clerk's office. The City Manager or his designee shall provide such technical, administrative, and clerical assistance as required by the Committee.

## **58-111. APPEALS**

Any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

- (A) An appeal must be filed in writing with the Director of Engineering. At the discretion of the Director of Engineering, the appeal may be required to include a survey prepared by a registered land surveyor and such other information that show the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to the stormwater events.
- (B) Using the information provided, the Director of Engineering shall conduct a technical review pursuant to good engineering practices. The Director of Engineering may adjust the stormwater service management charge so long as the adjustment is in conformance with the general purpose and intent of this chapter. The Director of Engineering may take the appeal to the Stormwater Management Advisory Committee for their review and/or comment. At the conclusion of the review, the Director of Engineering shall issue a written determination stating whether an adjustment to the stormwater management charge is appropriate, and if so, the percentage of such adjustment. Any approved adjustments must be communicated in writing to the appropriate utility billing staff.
- (C) An appeal may be taken from any decision of the Director of Engineering which is adverse to the customer by giving notice of appeal to the Board of Adjustment within thirty (30) days after service of the Director of Engineering's written decision on the customer. Notice of appeal shall be given by the customer by delivery of a written statement to the Board of Adjustment stating the grounds for the appeal and providing the Board of Adjustment with a copy of the written decision of the Director of Engineering. The Director of Engineering shall transmit to the Board of Adjustment and the customer all documents constituting the record upon which the Director of Engineering's decision was made.
- (D) All decisions of the Director of Engineering and Board of Adjustment shall be served on the customer personally or by registered or certified mail. Mailing shall be based upon the billing address of the customer.
- (E) When an appeal is from a decision authorizing an adjustment to the customer's bill, the Director of Engineering's decision shall remain in effect until and unless reversed or otherwise modified. No adjustment to a customer's bill shall be made which is for more than the one-year period immediately preceding the date that the customer's request is first received by the City.

## **58-112. LIMITATION OF RESPONSIBILITY**

- (A) The City shall be responsible only for the portions of the drainage system which are on city property including city-maintained street rights-of-way and permanent storm drainage easements conveyed to and accepted by the city. Repairs and improvements to the drainage system shall be in accordance with established standards, policies, and schedules.
- (B) The City's acquisition of storm drainage easements and/or the construction or repair by the City of stormwater control measures and drainage facilities does not constitute a warranty against stormwater hazards, including, but not limited to, flooding, erosion, or standing water.

Section 2. This ordinance shall be effective upon adoption.

Adopted this 18th day of November, 2008.

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Bobby G. Kilgore, Mayor

ATTEST:

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Bridgette H. Robinson, City Clerk

# Appendix E

## Stormwater Management Ordinance

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## SECTION 1: GENERAL PROVISIONS

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### 159-101 TITLE

This Ordinance shall be known as “The Stormwater Management Ordinance,” hereinafter as “Ordinance,” and may be so cited.

### 159-102 AUTHORITY

The City Council is authorized to adopt this Ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes: Chapter 15-27.2. (Warrants to conduct inspections authorized by law), Chapter 143-214.5 (Water supply watershed protection), Chapter 143-214.7 (Stormwater runoff rules and programs) and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246 (Phase II Stormwater Management); Chapter 160A, §§ 174, 175 & 185 (General ordinance-making power, Enforcement of ordinance § Emission of pollutants or contaminants.)

### 159-103 FINDINGS

It is hereby determined that:

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

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from *development* sites.

Further, the Federal Water Pollution Control Act of 1972 (“Clean Water Act”) and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this Ordinance.

Therefore, the City Council establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

### 159-104 PURPOSE

#### (A) General

The purpose of this Ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-*development* stormwater runoff and non-point and point source pollution

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

**(B) Specific**

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

1. Establishing decision-making processes for *development* that protect the integrity of watersheds and preserve the health of water resources;
2. Requiring that new *development* and *redevelopment* maintain the pre-*development* hydrologic response in their post-*development* state as nearly as practicable for the applicable design storm to reduce flooding, stream bank erosion, non-point and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
3. Establishing minimum post-*development* stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establishing design and review criteria for the construction, function, and use of *structural stormwater BMPs* that may be used to meet the minimum post-*development* stormwater management standards;
5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
6. Establishing provisions for the long-term responsibility for and maintenance of *structural and nonstructural stormwater BMPs* to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
7. Establishing administrative procedures for the submission, review, approval and disapproval of *stormwater management plans*, for the inspection of approved projects, and to assure appropriate long-term maintenance.
8. Coordinating site design plans that include open space and natural areas with the Unified Development Ordinance.
9. Controlling illicit discharges into the municipal separate stormwater system.

10. Controlling erosion and sedimentation from construction activities in conjunction with the Erosion and Sedimentation Control Ordinance

**159-105            APPLICABILITY AND JURISDICTION**

**(A)     General**

Beginning with and subsequent to its effective date, this Ordinance shall be applicable to all *development* and *redevelopment*, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection (B) of this Section, Exemptions.

**(B)     Exemptions**

**(1) Threshold**

Residential *development* that cumulatively disturbs less than one acre and is not part of a *larger common plan of development or sale*, and non-residential *development* that cumulatively disturbs less than one-half acre and is not part of a *larger common plan of development or sale* is exempt from the provisions of this Ordinance.

*Redevelopment* outside the *floodplain* that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Ordinance

*Redevelopment* of residential structures that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Ordinance whether or not within the *floodplain*.

*Redevelopment* of non-residential structures that disturbs less than one-half acre, that is not part of a *larger common plan of development or sale*, that is within the *floodplain*, and that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Ordinance.

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

**(2) General exemption**

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

**(C)     No Development or Redevelopment Until Compliance and Permit**

No *development* or *redevelopment* shall occur except in compliance with the provisions of this Ordinance or unless exempted. No *development* for which a

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

**(D) Map**

The provisions of this Ordinance shall apply within the areas designated on the map titled "Stormwater Map of City of Monroe, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance.

The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this Ordinance and the geographic location of all *structural BMPs* permitted under this Ordinance. In the event of a dispute, the applicability of this Ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

**159-106 INTERPRETATION**

**(A) Meaning and Intent**

All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to the general and specific purposes set forth in Section 104, Purpose. If a different or more specific meaning is given for a term defined elsewhere in City of Monroe Code of Ordinances, the meaning and application of the term in this Ordinance shall control for purposes of application of this Ordinance.

**(B) Text Controls in Event of Conflict**

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

**(C) Authority for Interpretation**

The Stormwater Administrator has authority to determine the interpretation of this Ordinance. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this Ordinance.

**(D) References to Statutes, Regulations, and Documents**

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the *Design Manual* prepared by the North Carolina Department of Environment and Natural Resources), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

**(E) Computation of Time**

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City of Monroe, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City of Monroe. References to days are calendar days unless otherwise stated.

**(F) Delegation of Authority**

Any act authorized by this Ordinance to be carried out by the Stormwater Administrator of City of Monroe may be carried out by his or her designee.

**(G) Usage**

**(1) Mandatory and Discretionary Terms**

The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

**(2) Conjunctions**

Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions and events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.

**(3) Tense, Plurals, and Gender**

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

**(H) Measurement and Computation**

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

**159-107 DESIGN MANUAL**

**(A) Reference to Design Manual**

The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the *Design Manual* prepared by the North Carolina Department of Environment and Natural Resources as the

basis for decisions about stormwater permits and about the design, implementation and performance of *structural and non-structural stormwater BMPs*.

The *Design Manual* includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II and other applicable stormwater laws.

**(B) Relationship of Design Manual to Other Laws and Regulations**

If the specifications or guidelines of the *Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the *Design Manual*.

**(C) Changes to Standards and Specifications**

If the standards, specifications, guidelines, policies, criteria, or other information in the *Design Manual* are amended subsequent to the submittal of an application for approval pursuant to this Ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this Ordinance with regard to the application.

**159-108 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS**

**(A) Conflict of Laws**

This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this Ordinance are in addition to the requirements of any other Ordinance, rule, regulation or other provision of law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

**(B) Private Agreements**

This Ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this Ordinance shall govern. Nothing in this Ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this Ordinance. In no case shall the City of Monroe be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

**159-109 SEVERABILITY**

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

**159-110 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS**

**(D) Effective Date**

This Ordinance shall take effect on October 1, 2007.

**(E) Final Approvals, Complete Applications**

All *development* and *redevelopment* projects for which complete and full applications were submitted and approved by the City prior to the effective date of this Ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of *development* or *redevelopment* shall be exempt from complying with all provisions of this Ordinance dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions.

A phased development plan shall be deemed approved prior to the effective date of this Ordinance if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

1. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.

2 For any subsequent phase of development, sufficient detail so that implementation of the requirements of this Ordinance to that phase of development would require a material change in that phase of the plan.

**(F) Violations Continue**

Any violation of provisions existing on the effective date of this Ordinance shall continue to be a violation under this Ordinance and be subject to penalties and enforcement under this Ordinance unless the use, *development*, construction, or other activity complies with the provisions of this Ordinance.

## **SECTION 2: ADMINISTRATION AND PROCEDURES**

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### **159-201 REVIEW AND DECISION-MAKING ENTITIES**

#### **(A) Stormwater Administrator**

##### **(1) Designation**

The Stormwater Administrator shall be the City of Monroe Engineering Director or his designee who shall be responsible for administering and enforcing this Ordinance.

##### **(2) Powers and Duties**

In addition to the powers and duties that may be conferred by other provisions of the City of Monroe Code of Ordinances and other laws, the Stormwater Administrator shall have the following powers and duties under this Ordinance:

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

### **159-202 REVIEW PROCEDURES**

#### **(A) Permit Required; Must Apply for Permit**

A stormwater permit is required for all *development* and *redevelopment* unless exempt pursuant to this Ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

**(B) Effect of Permit**

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

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

**(C) Authority to File Applications**

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

**(D) Establishment of Application Requirements, Schedule, and Fees**

**(1) Application Contents and Form**

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

**(2) Submission Schedule**

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

**(3) Fees Required**

Applications for stormwater permit approval, use of city- owned/maintained stormwater control systems, inspections related to the initial approval of stormwater control systems, and annual inspections of stormwater control systems and development sites shall be subject to any and all relevant fees as adopted by the City Council and prescribed in the City of Monroe Code of Ordinances and Fee Schedule. Application fees shall accompany any application, otherwise the application shall be determined incomplete and shall be returned to the applicant.

**(4) Administrative Manual**

For applications required under this Code, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this Ordinance, and information on how and where to obtain the Design Manual in an Administrative Manual, which shall be made available to the public.

**(E) Submittal of Complete Application**

Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this Ordinance, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

**(F) Review**

Within 30 calendar days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this Ordinance.

**(1) Approval**

If the Stormwater Administrator finds that the application complies with the standards of this Ordinance, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this Ordinance. The conditions shall be included as part of the approval.

**(2) Fails to Comply**

If the Stormwater Administrator finds that the application fails to comply with the standards of this Ordinance, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

**(3) Revision and Subsequent Review**

A complete revised application shall be reviewed by the Stormwater Administrator within 15 calendar days after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered

withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

## **159-203            APPLICATIONS FOR APPROVAL**

### **(A)    Concept Plan and Consultation Meeting**

Before a stormwater management permit application is submitted, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed *development* project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the *development* process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced.

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

#### **(1) Existing Conditions/Proposed Site Plans**

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

#### **(2) Natural Resources Inventory**

A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for *development* and stormwater management.

#### **(3) Stormwater Management System Concept Plan**

A written or graphic concept plan of the proposed post-*development* stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of

floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

**(B) Stormwater Management Permit Application**

The stormwater management permit application shall detail how post-*development* stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this Ordinance, including Section 3, Standards. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Design Manual*, and that the designs and plans ensure compliance with this Ordinance.

The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 159-202(D).

**(C) As-Built Plans and Final Approval**

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual “as built” plans for all stormwater management facilities or practices after final construction is completed.

The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this Ordinance. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

**(D) Other Permits**

No certificate of compliance or occupancy shall be issued by the City of Monroe Permitting Center without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the City of Monroe may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

**159-204 PARTICIPATION IN A REGIONAL STORMWATER MANAGEMENT FACILITY**

**(A) Where Permitted**

Where a regional stormwater management facility has been established by the City of Monroe, or by an authority operating with approval from the City of Monroe, a development may participate in said program in lieu of any certification of runoff control required by this article, provided that:

1. Runoff from the development drains to an existing public regional stormwater management facility approved by the City of Monroe;
2. Participation is in the form of contribution of funds, contribution of land, contribution of stormwater management facility construction work, or a combination of these, the total value of which shall be in accordance with fee schedule adopted by the City Council; and
3. The City finds that the stormwater management plan is in compliance with all other applicable requirements of this Ordinance.

**(B) Use of Contributions**

Each contribution from a development participating in a regional stormwater management facility shall be used for acquisition, design, construction or maintenance of one (1) or more such facilities in the same watershed in which the development is located.

**(C) Fees Required**

Stormwater management control plan review, use of City-owned/ maintained stormwater control systems, inspections related to the initial approval of stormwater control systems, and annual inspections of stormwater control systems shall be subject to any and all relevant fees as adopted by City Council and prescribed in the City of Monroe Code of Ordinances and Fee Schedule. Plan review fees shall accompany the plans submitted for review, otherwise the plan submittal shall be determined incomplete and shall be returned to applicant.

**159-205 APPROVALS**

**(A) Effect of Approval**

Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

**(B) Time Limit/Expiration**

An approved plan shall become null and void if the applicant fails to make *substantial progress* on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

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

**159-206 APPEALS**

**(A) Right of Appeal**

Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this Ordinance made by the Stormwater Administrator, may file an appeal to the Board of Adjustment within 30 days.

**(B) Filing of Appeal and Procedures**

The process and procedures for hearing appeals and variance requests, as outlined by in Chapter 156, Zoning Code, shall apply to all requests for appeals or for a variance to any part of this Chapter.. The Stormwater Administrator shall transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken.

The hearing conducted by the Board of Adjustment shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

**(C) Review by Superior Court**

Every decision of the Board of Adjustment shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the latter of the following:

- (1) The decision of the Board of Adjustment is filed; or
- (2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Board of Adjustment at the time of its hearing of the case.

## **SECTION 3: STANDARDS**

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### **159-301 GENERAL STANDARDS**

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

### **159-302 IMPERVIOUS SURFACE REQUIREMENTS**

#### **(A) Setback Requirement**

All impervious surfaces, except for roads, paths, and water dependent structures, shall be located at least 35 feet landward of all perennial and intermittent surface waters. Development approved in conjunction with a conditional zoning district or special use permit shall have an impervious surface setback of 50 feet landward of all perennial or intermittent surface waters.

A perennial or intermittent surface water shall be deemed present if the feature is shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent complete version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using *Division*-approved methodology.

#### **(B) No new impervious or partially pervious surface in floodplain**

For development activities, no new impervious or partially pervious surfaces, except for road crossings (public and private), paths, and water dependent structures, where no practical alternative exists shall be allowed within the floodplain.

#### **(C) Development in Critical Area of Water Supply Watersheds**

All development activities that are located within the area designated by the Environmental Management Commission as a Critical Area of a Water Supply Watershed shall be limited to a maximum impervious surface density of 36 percent.

### **159-303 STRUCTURAL STORMWATER CONTROL REQUIREMENTS**

*Owners* of property subject to this Ordinance and required to install structural stormwater control measures shall implement those measures in compliance with each of the following standards:

- (A) The measures shall control and treat runoff from the first inch of rain. Runoff volume drawdown time for wet detention ponds shall be a minimum of 48 hours, but not more than 120 hours.

- (B) All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS);
- (C) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Design Manual*;
- (D) The measure shall discharge the storage volume at a rate equal or less than the pre-development discharge rate for the 1-year, 24-hour storm.
- (E) The approval of the stormwater permit shall require enforceable restrictions on property usage that runs with the land, including recorded deed restrictions and protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

**159-305 STANDARDS FOR STORMWATER CONTROL MEASURES**

**(A) Evaluation According to Contents of Design Manual**

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

**(B) Determination of Adequacy; Presumptions and Alternatives**

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

**(C) Separation from Seasonal High Water Table**

For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

**159-306 DEDICATION OF BMPS, FACILITIES & IMPROVEMENTS**

The City of Monroe may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this Ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. Decision to accept dedication shall be based on formal action of the Monroe City Council at their sole discretion.

**159-307 VARIANCES**

(A) Any person may petition the City of Monroe for a variance granting permission to use the person's land in a manner otherwise prohibited by this Ordinance. To qualify for a variance, the petitioner must show all of the following:

- (1) Unnecessary hardships would result from strict application of this Ordinance.
- (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
- (3) The hardships did not result from actions taken by the petitioner.
- (4) The requested variance is consistent with the spirit, purpose, and intent of this Ordinance; will secure public safety and welfare; and will preserve substantial justice.

(B) The City of Monroe may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(C) Statutory exceptions

Notwithstanding subdivision (A) of this section, exceptions from the 35-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

- (1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.
- (2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

**159-308            ADDITIONAL WATER QUANTITY CONTROL STANDARDS**

**(A)    Applicability**

This section applies to the following type developments or redevelopments:

All non-residential sites containing new development and/or redevelopment including road construction, grading, paving, gravel placement, and construction of buildings and other structures, which include the creation of 20,000 square feet or more of new impervious area, within the corporate limits and the extraterritorial jurisdiction of the City of Monroe. Impervious areas in existence prior to the effective date of this Ordinance shall not be included in the computation of impervious area; and

All new residential development and/or redevelopment meeting the following requirements:

- (1) Exceeds 1 dwelling units per acre;
- (2) Provides for private or public street/driveway construction for access to multiple lots;
- (3) Requires engineered stormwater control structures as outlined by this Ordinance.

Properties that directly abut regulated floodways as designated by the Federal Emergency Management Agency shall be considered exempt from requirements of this Section.

**(B)    General Requirements**

- (1) The engineer or landscape architect of record shall conduct hydrologic and hydraulic engineering studies for the site for both pre-development and post-development conditions. The engineer or landscape architect of record shall provide a certification that the development or redevelopment will not cause increased off-site flooding, drainage, or erosion problems

(2) Where it is determined that the development of the site does increase the peak discharge rate, stormwater quantity control improvements must be implemented. The stormwater quantity control improvements must limit the two-year and ten-year post-development peak discharge rates to pre-development peak discharge rates, to minimize flooding, drainage, and erosion problems. These improvements may consist of nonstructural approaches such as natural swales, depressions in the land and other natural approaches, or structural approaches such as detention structures (wet and dry basins), extended detention facilities and alternative best management practices (BMPs) with provisions for stormwater quantity control. A combination of nonstructural and structural approaches is encouraged.

(3) For stormwater management improvements proposed to achieve compliance with quantity control requirements of this section, a hydrologic-hydraulic analysis of the site drainage system in the pre-development condition and the post-development condition shall be performed. The analysis should be included with the stormwater management plan and should demonstrate that the quantity control requirements stated in this section will be achieved by the proposed improvements. These improvements shall be subject to review and approval by the Stormwater Administrator.

(4) If site characteristics indicate that complying with the minimum stormwater management requirements of this section will not provide adequate engineering designs or protection for local residents, and downstream property, it shall be the site designer's responsibility to exceed the minimum requirements as necessary.

## **SECTION 4: MAINTENANCE**

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### **159-401 GENERAL STANDARDS FOR MAINTENANCE**

#### **(A) Function of BMPs As Intended**

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

#### **(B) Annual Maintenance Inspection and Report**

The person responsible for maintenance of any *structural BMP* installed pursuant to this Ordinance shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

- (1) The name and address of the land *owner*;

- (2) The recorded book and page number of the lot of each *structural BMP*;
- (3) A statement that an inspection was made of all *structural BMPs*;
- (4) The date the inspection was made;
- (5) A statement that all inspected *structural BMPs* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this Ordinance;
- (6) The original signature and seal of the engineer, surveyor, or landscape architect; and
- (7) A financial statement documenting the available funding established in the escrow account for operation and maintenance of the stormwater control and management facilities.

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

#### **159-402 OPERATION AND MAINTENANCE AGREEMENT**

##### **(A) In General**

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

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

The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval by the City of Monroe.

**(B) Special Requirement for Homeowners' and Other Associations**

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

- (1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
- (2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the *structural BMPs*. If *structural BMPs* are not performing adequately or as intended or are not properly maintained, the City of Monroe, in its sole discretion, may remedy the situation, and in such instances the City of Monroe shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the *structural BMPs*, upon written notification to the City of Monroe.
- (3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15) per cent of the initial construction cost of the *structural BMPs*. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the *structural BMPs*. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.
- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied upon approval by the Monroe City Council based upon good cause shown.
- (5) Granting to the City of Monroe a right of entry to inspect, monitor, maintain, repair, and reconstruct *structural BMPs*.
- (6) Allowing the City of Monroe to recover from the association and its members any and all costs the City of Monroe expends to maintain or repair the *structural BMPs* or to correct any operational deficiencies. Failure to pay the City of Monroe all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, the City of Monroe shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the

property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.

- (7) A statement that this agreement shall not obligate the City of Monroe to maintain or repair any *structural BMPs*, and the City of Monroe shall not be liable to any person for the condition or operation of *structural BMPs*.
- (8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City of Monroe to enforce any of its Ordinances as authorized by law.
- (9) A provision indemnifying and holding harmless the City of Monroe for any costs and injuries arising from or related to the structural BMP, unless the City of Monroe has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.
- (10) A provision that a financial statement shall be provided and included as part of the annual inspection report documenting the available funding established in the escrow account for operation and maintenance of the stormwater control and management facilities.

**159-403 INSPECTION PROGRAM**

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

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

**159-404 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE**

**(A) May Be Required**

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

- (1) Installed by the permit holder as required by the approved stormwater management plan; and/or

(2) Maintained by the *owner* as required by the operation and maintenance agreement.

**(B) Amount**

**(1) Installation**

The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 10%.

**(2) Maintenance**

The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing, minus a reasonable estimate of long-term inflation.

**(C) Uses of Performance Security**

**(1) Forfeiture Provisions**

The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or *owner* in accordance with this Ordinance, approvals issued pursuant to this Ordinance, or an operation and maintenance agreement established pursuant to this Ordinance.

**(2) Default**

Upon default of the *owner* to construct, maintain, repair and, if necessary, reconstruct any *structural BMP* in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the *owner* to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the City of Monroe shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

**(3) Costs in Excess of Performance Security**

If the City of Monroe takes action upon such failure by the applicant or *owner*, the City of Monroe may collect from the applicant or *owner* the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

**(4) Refund**

Within sixty days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 10%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

**159-405 NOTICE TO OWNERS**

**(A) Deed Recordation and Indications On Plat**

The applicable operations and maintenance agreement or dedication and acceptance into public maintenance pertaining to every *structural BMP* shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement or dedication and acceptance into public maintenance shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

**(B) Signage**

Where appropriate, to assure compliance with this Ordinance, *structural BMPs* shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

**159-406 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES**

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

**159-407 NUISANCE**

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

## SECTION 5: ENFORCEMENT AND VIOLATIONS

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### 159-501 GENERAL

#### (A) Authority to Enforce

The provisions of this Ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of City of Monroe. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of City of Monroe.

#### (B) Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other *development* or *redevelopment* approval or authorization granted pursuant to this Ordinance, is unlawful and shall constitute a violation of this Ordinance.

#### (C) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

#### (D) Responsible Persons/Entities

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this Ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists; or an *owner*, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or *development* of the property on which the violation occurs.

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

##### (1) Person Maintaining Condition Resulting In or Constituting Violation

An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists.

##### (2) Responsibility For Land or Use of Land

The *owner* of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or

practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, *development* or *redevelopment* of the property.

## **159-502 REMEDIES AND PENALTIES**

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

### **(A) Remedies**

#### **(1) Withholding of Certificate of Occupancy**

The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

#### **(2) Disapproval of Subsequent Permits and Development Approvals**

As long as a violation of this Ordinance continues and remains uncorrected, the Stormwater Administrator or other issuing authority may withhold, and may disapprove, any request for permit or *development* approval or authorization requested for the land on which the violation occurs.

#### **(3) Injunction, Abatements, etc.**

The Stormwater Administrator, with the written authorization of the City Council, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance. Any person violating this Ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

#### **(4) Correction as Public Health Nuisance, Costs as Lien, etc.**

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Stormwater Administrator, with the written authorization of the City Council, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

#### **(5) Stop Work Order**

The Stormwater Administrator may issue a stop work order to the person(s) violating this Ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop

work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

**(B) Civil Penalties**

Violation of this Ordinance may subject the violator to a civil penalty ( § 10.99 General Penalty) to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which the City of Monroe is subject for violations of its National Pollutant Discharge Elimination System (NPDES) Permit.

**(C) Criminal Penalties**

Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of not less than \$50.00 nor more than \$500.00 dollars per violation per day and/or imprisonment for a period of time not to exceed 20 days. The authorized enforcement agency may recover all attorney's fees, court costs and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

**159-503 PROCEDURES**

**(A) Initiation/Complaint**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

**(B) Inspection**

The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this Ordinance.

**(C) Notice of Violation and Order to Correct**

When the Stormwater Administrator finds that any building, structure, or land is in violation of this Ordinance, the Stormwater Administrator shall notify, in writing, the property *owner* or other responsible persons/entities violating this Ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

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

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

**(D) Extension of Time**

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

**(E) Enforcement After Time to Correct**

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this Ordinance.

**(F) Emergency Enforcement**

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

## SECTION 6: DEFINITIONS

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### 159-601 TERMS DEFINED

When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

#### ***Built-upon area (BUA)***

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.

#### ***Department***

The North Carolina Department of Environment and Natural Resources.

#### ***Design Manual***

The stormwater design manual approved for use in Phase II jurisdictions by the North Carolina Department of Environment and Natural Resources for the proper implementation of the requirements of the Federal Phase II stormwater program. All references herein to the *Design Manual* are to the latest published edition or revision. The Design Manual is not part of the City of Monroe Standard Specifications and Detail Manual.

#### ***Development***

Any land-disturbing activity that increases the amount of *built-upon area* or that otherwise decreases the infiltration of precipitation into the soil.

#### ***Division***

The Division of Water Quality in the *Department*.

#### ***Floodplain***

The one percent Annual Chance Floodplain as delineated by the North Carolina Floodplain Mapping Program in the Division of Emergency Management.

#### ***Larger common plan of development or sale***

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

#### ***1-year, 24-hour storm***

The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

***Owner***

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

***Redevelopment***

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

***Structural BMP***

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

***Substantial progress***

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

## **SECTION 7: ILLICIT DISCHARGES**

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### **159-701 ILLICIT DISCHARGES AND CONNECTIONS**

#### **(A) Illicit Discharges**

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

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising ground waters;
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensation;
- (10) Irrigation waters (does not include reclaimed water as described in 15A NCAC 2H .0200);
- (11) Springs;
- (12) Water from crawl space pumps;
- (13) Footing drains;
- (14) Lawn watering;
- (15) Individual residential and charity car washing;
- (16) Flows from riparian habitats and wetlands;
- (17) Dechlorinated swimming pool discharges;
- (18) Street wash water;
- (19) Flows from emergency fire fighting; and

- (20) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the City of Monroe Engineering Department.

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

**(B) Illicit Connections**

- (1) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (A) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
- (2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other Ordinance prohibiting such connections, the property *owner* or the person using said connection shall remove the connection within one year following the effective date of this Ordinance. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
- (3) Where it is determined that said connection:
- a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or
  - b. Was made in violation of any applicable regulation or Ordinance, other than this section.

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

1. The quantity and complexity of the work;
2. The consequences of delay;
3. The potential harm to the environment, to the public health, and to public and private property; and
4. The cost of remedying the damage.

**(C) Suspension of MS4 Access**

Suspension due to Illicit Discharges in Emergency Situations

The City of Monroe may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

**(D) Industrial or Construction Activity Discharges**

Any person subject to an industrial or construction activity NPDES storm water 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 City of Monroe prior to the allowing of discharges to the MS4.

**(E) Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, 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.

**(F) Spills**

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

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 storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the

discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Monroe 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.

Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

**(G) Nuisance**

Illicit discharges and illicit connections which exist within the City of Monroe corporate limits are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.