



THE TOWN OF

Holly Springs

Ordinance No.: 07-17

Date Submitted: November 6, 2007

Date Adopted: November 6, 2007

Effective Date: November 6, 2007

**AN ORDINANCE TO AMEND CHAPTER 8 OF THE TOWN OF HOLLY SPRINGS
CODE OF ORDINANCES TO INCLUDE THE NEW ARTICLE V,
NPDES PHASE II POST-CONSTRUCTION STORM WATER REGULATIONS**

BE IT ORDAINED by the Town Council of the Town of Holly Springs, North Carolina that Chapter 8 of the Holly Springs Code of Ordinances is amended as follows:

Section 1. Chapter 8, Article IV, Timbering, is amended to reserve Secs. 8-182 – 8-190.

Section 2. Article V, NPDES Phase II Post-Construction Storm Water regulations, are added in the manner illustrated and attached hereto as Exhibit A.

Section 3. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of the Code of the Town of Holly Springs conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. SEVERABILITY. If any section, part of a section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 5. INCLUSION IN CODE. It is the intention of the Town Council entered as hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Town of Holly Springs, North Carolina; that the Section(s) of this Ordinance may be renumbered or relettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section," or "Article" or other word.

Section 6. EFFECTIVE DATE. Approved and effective this, the 6th day of November, 2007.

Dick Sears, Mayor



[X] Joni Powell, CMC, Town Clerk

[] Linda Harper, CMC, Deputy Town Clerk

EXHIBIT A

**TOWN OF HOLLY SPRINGS, NORTH CAROLINA
NPDES PHASE II POST-CONSTRUCTION STORMWATER ORDINANCE
SECTION 8, ARTICLE V
Ordinance 07-17
November 6, 2007**

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DIVISION 1: GENERAL PROVISIONS

8-191 TITLE

This ordinance shall be officially known as “The Phase II Post-Construction Stormwater Ordinance.” It is referred to herein as “this ordinance.”

8-192 AUTHORITY

The Holly Springs Town 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; Town of Holly Springs; North Carolina General Statutes § 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapters 160A, §§ 174, 185 and Article 19 of Chapter 160A.

8-193 FINDINGS

The Holly Springs Town Council hereby finds that:

Development and Redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint 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 which 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 (Phase II 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 the minimum stormwater controls such as those included in this ordinance.

Therefore, the Holly Springs Town Council (“Town 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.

8-194 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 nonpoint and point source pollution associated with new Development and Redevelopment. 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. This ordinance works cooperatively with the Flood Damage Prevention Ordinance to achieve this purpose.

(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 protects the integrity of watersheds and preserves 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 in order to reduce flooding, streambank erosion, nonpoint 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 Best Management Practices (“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 green space and other conservation areas to the maximum extent practicable;
6. Establishing provisions for the long-term responsibility for and maintenance of Structural 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.

8-195 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, development plan applications, preliminary plan applications, and grading applications, unless exempt pursuant to Subsection (C) of this Section, Exemptions, below.

(B) Jurisdiction

This article is hereby adopted by the Town Council to apply to the corporate limits of the Town of Holly Springs (“Town”) and its extraterritorial jurisdiction (“ETJ”).

(C) Exemptions

Development that cumulatively disturbs less than 20,000 sq. ft. and is not part of a Larger Common Plan of Development or Sale is exempt from the provisions of this ordinance.

Redevelopment that cumulatively disturbs less than 20,000 sq. ft. and is not part of a Larger Common Plan of Development or Sale is exempt from the provisions of this ordinance.

Development and Redevelopment that disturb 20,000 sq. ft are not exempt if such activities are part of a Larger Common Plan of Development or Sale, even though multiple, separate or distinct activities take place at different times on different schedules.

Activities 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.

Single Family Residential that cumulatively disturbs 20,000 sq. ft or more and is not part of a Larger Common Plan of Development or Sale may be exempt from portions of this ordinance provided that they utilize nonstructural BMPs as outlined in the Design Manual.

(D) 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.

(E) Map

A “Town of Holly Springs Stormwater Map” (“Stormwater Map”) shall be kept on file by the Engineering Department. The Stormwater Map will apply to the Town and its ETJ. The Stormwater Map may be amended from time to time to include changes to the geographic boundaries of the Town due to annexation or extension of the Town’s ETJ. The Stormwater Map shall be updated to take into account 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 Structural BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning (Unified Development Ordinance (UDO)) and jurisdictional boundary ordinances.

8-196 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 Holly Springs Town Code 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 Director of Engineering, or Engineering Department, has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Engineering Department who shall respond in writing within 30 days. The Engineering Department 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), 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 Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town. 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 Engineering Department of the Town may be carried out by his or her designee.

(G) Usage

(1) Mandatory and Discretionary Terms

The words “shall” 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 or 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.

8-197 DESIGN MANUAL

(A) Reference to Design Manual

The Engineering Department shall use the policy, criteria, and information, including technical specifications and standards, in the Town of Holly Springs Stormwater Design Manual (“Design Manual”), which is contained in Section 8 of the Town of Holly Springs Engineering Design Standards and Specifications, as the basis for decisions about stormwater permits and about the design, implementation and performance of Structural BMPs and Non-Structural BMPs.

The Design Manual includes a list of acceptable stormwater treatment practices, including the 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 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.

(D) Amendments to Design Manual

The Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.

Prior to amending or updating the Design Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

8-198 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, and 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 easement, covenant, or other private agreement, then 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 Town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

8-199 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.

8-200 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

(A) Effective Date

This Ordinance shall take effect on November 6, 2007.

(B) Final Approvals, Complete Applications

All Development and Redevelopment projects for which complete Major Residential Subdivision Plan, Master Plan, Development Plan, Special Exception Use and PUD Master Plan where a complete petition has been submitted and remains active in the development review process or approved by the Town prior to the effective date of this ordinance and otherwise valid pursuant to the Town of Holly Springs Unified Development Ordinance (“UDO”) 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.

(C) 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.

SECS. 8-201 – 8-210. RESERVED.

DIVISION 2: ADMINISTRATION AND PROCEDURES

8-211 REVIEW AND DECISION-MAKING ENTITIES

(A) Director of Engineering Designation

The Director of Engineering, or Engineering Department, shall administer and enforce this ordinance.

(B) Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the Town of Holly Springs Town Code and other laws, the Engineering Department shall have the following powers and duties under this ordinance:

1. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
2. To make determinations and render interpretations of this ordinance.
3. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Town Council on applications for Development or Redevelopment approvals.
4. To enforce the provisions of this ordinance in accordance with its enforcement provisions.
5. To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this ordinance.
6. To provide expertise and technical assistance to the Town Council, upon request.
7. To designate appropriate other person(s) who shall carry out the powers and duties of the Engineering Department.
8. To take any other action necessary to administer the provisions of this ordinance.

8-212 REVIEW PROCEDURES

(A) Permit Required; Shall Apply for Permit

A Stormwater Permit (“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 Stormwater 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 Stormwater BMPs and elements of site design for stormwater management other than Structural Stormwater BMPs.

The permit is intended to provide a mechanism for the review, approval, and inspection of the method 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 Stormwater 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 Ordinance shall be submitted to the Engineering Department by the landowner or the land Owner's duly authorized agent.

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

(1) Application Contents and Form

The Engineering Department 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 Engineering Department shall establish a submission schedule for applications, which shall be in accordance with other schedules for plan approval as described in the Town of Holly Springs Development Procedures Manual ("DPM"). The schedule shall establish deadlines by which complete applications shall 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) Permit Review Fees

The Town Council shall establish permit review fees and may amend and update the fees and policies from time to time. Fees will be set based on the effective schedule of fees and approved by the Town Council.

(E) Submittal of Complete Application

Applications shall be submitted to the Engineering Department pursuant to the application submittal schedule in the form established by the Engineering Department, 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 Engineering Department 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

The Engineering Department shall review the application and determine whether the application complies with the standards of this ordinance. The review will take place in accordance with schedules set forth in the DPM.

(1) Approval

If the Engineering Department finds that the application complies with the standards of this ordinance, the Engineering Department shall approve the application. The Engineering Department 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 Engineering Department finds that the application fails to comply with the standards of this ordinance, the Engineering Department 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 Engineering Department after its re-submittal and shall be approved, approved with conditions or disapproved in accordance with time schedules set forth in the DPM.

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

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

8-213 APPLICATIONS FOR APPROVAL

(A) Preliminary Review, Concept Plan and Consultation Meeting

Before a Stormwater Permit Application is deemed complete, it shall be preliminarily reviewed by the Engineering Department at a meeting. This concept plan meeting shall take place a minimum of fourteen (14) days prior to submittal of a development plan at the time of the preliminary review process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the current Stormwater Map, the current Open Space Master Plan, and other relevant resource protection plans may be consulted in the discussion of the concept plan.

To accomplish this goal the following information should be included in the concept plan, which shall be submitted fourteen (14) days 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 (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(2) Natural Resources Inventory

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

(3) Stormwater Management System Concept Plan

A stormwater management system concept plan is a written or graphic concept plan of the proposed post-Development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(B) Stormwater Permit Application

The Stormwater 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, and the engineer 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 Engineering Department. Incomplete submittals shall be treated pursuant to Section xx-202(E).

(C) As-Built Plans and Final Approval

Upon completion of a project, and before a certificate of occupancy shall be granted, a Licensed Professional Engineer (“PE”) for the applicant shall certify that the completed project is substantially in accordance with the approved Stormwater Management Plans and designs, and shall submit actual “as-built” plans for all Structural BMPs after final construction is completed.

The plans shall show the final design specifications for all Structural BMPs and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the Structural BMPs and plans shall certify, under seal, that the as-builts 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 Engineering Department shall occur before the release of any performance securities. Such plans shall be submitted in mylar and in an approved electronic format to the Engineering Department.

(D) Private Drainage Easements

The approval of the stormwater permit shall require documentation, approved by the Town, of an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future Development and Redevelopment maintains the site consistent with the approved project plans.

All Structural BMPs shall be located entirely within private drainage easements and indicated on the final plat and shall be labeled and recorded as a “private drainage easement.” Such easements shall be located on commonly owned property unless it is required for individual lot use.

(E) Other Permits

No certificate of compliance or occupancy, building permits, or inspections may be issued by the Town without final as-built plans, recorded deeds and plats and a final inspection and approval by the Engineering Department, except where multiple units are served by the Structural BMPs, in which case the Town 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.

8-214 APPROVALS

(A) Effect of Approval

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

(B) Time Limit/Expiration

An approved plan shall become null and void if the applicant has failed to make Substantial Progress on the site within one year after the date of approval. The Engineering Department 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 Engineering Department 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.

8-215 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 and made by the Engineering Department may file an appeal to the Town Council within thirty (30) days.

(B) Filing of Appeal and Procedures

Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms approved by the Town. The Engineering Department shall forthwith transmit to the Town Council all documents constituting the record on which the decision appealed from was taken.

The hearing conducted by the Town Council 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 Town Council 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 Town Council is filed; or
2. A written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Town Council at the time of its hearing of the case.

SECS. 8-216 – 8-230. RESERVED.

DIVISION 3: STANDARDS

8-231 GENERAL STANDARDS

All Development and Redevelopment to which this ordinance applies shall comply with the standards of this section.

8-232 DEVELOPMENT STANDARDS

All development for which a land disturbance permit is required (20,000 sq.ft. or greater of disturbed area) shall implement Structural and Non-Structural BMPs that comply with each of the following performance standards. The Structural and Non-Structural BMPs shall control and treat:

1. The difference in stormwater runoff peak discharge rate leaving the project site between the pre- and post- Development conditions for, at a minimum, the 1-Year, 24-Hour Storm (2.83 inches). Runoff volume drawdown time shall be a minimum of twenty-four (24) hours, but not more than one hundred and twenty (120) hours.
2. The total nitrogen (TN) export limitations, in a manner consistent with the Neuse Basin Rules, 15A NCAC 2B.0233, will be required throughout the Town and extra territorial jurisdiction. The Town Council may establish Fee in Lieu for nitrogen export and may amend and update the fees and policies from time to time. Fee costs and policies will be outlined in the Design Manual.
3. A minimum of 85% average annual removal for Total Suspended Solids (TSS);
4. General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008©, as explained in the Design Manual;
5. All Built-Upon Area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters, as described in Section 7.06 of the UDO.

8-233 COMPREHENSIVE WATERSHED PLAN

(A) In General

The Town does not currently have a comprehensive watershed plan however; the Town may choose to implement one or more comprehensive watershed plans with the intent to meet the minimum NPDES Phase II requirements for post-construction discharges and other local, state or federal regulations. This plan may be for planned development or for watersheds in general. They may be developed in conjunction with existing or planned Structural and Non-Structural BMPs. Such measures include but are not limited to: stormwater master planning, riparian buffers, floodplain protections, open space preservation, conservation or drainage easements, and erosion and sediment control.

(B) Basin Models Required

The Town shall require hydrologic and hydraulic studies to be prepared (or updated whichever is applicable) for development which occurs upstream or downstream of existing or potential drainage problems and/or flooding problems, as determined by the Director of Engineering. In addition, if Development occurs upstream or downstream of any existing Flood Study or Basin Model, then the Flood Study or Basin Model shall be modified. This determination shall be made by the Director of Engineering after an evaluation of the project and the downstream basin with respect information contained in Holly Springs Policy Statement P-18. New studies and updates under this requirement shall be required to be submitted to the Town as part of the development review process.

8-234 STANDARDS FOR STORMWATER CONTROL MEASURES

(A) Evaluation According to Contents of Design Manual

All Structural and Non-Structural BMPs required under this ordinance shall be evaluated by the Engineering Department 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 Engineering Department shall determine whether they will be adequate to meet the requirements of this ordinance.

(B) Determination of Adequacy; Presumptions and Alternatives

Structural Stormwater BMPs 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 Structural Stormwater BMP(s) 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 Structural Stormwater BMP(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The Engineering Department may require the applicant to provide such documentation, calculations, and examples as necessary for the Engineering Department to determine whether such an affirmative showing is made.

8-235 VARIANCES

(A) Petitions for Variances

Any person may petition the Town Council as outlined in DMP section 10.06 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 shall 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) Safeguards upon Variances

The Town may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

8-236 VESTED RIGHTS

The purpose of this Section is to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability and fairness to the reasonable expectations of landowners affected by this Ordinance in recognition that approval of land Development projects or Subdivisions typically follows significant landowner investment in site development.

A vested right shall be established upon the approval of a Major Residential Subdivision Plan, Master Plan, Special Exception Use, Development Plan or approved PUD Master Plan with an approval that is currently valid.

(A) Exceptions

Excepted from this provision is any vesting of rights on property located partially or entirely within Zone 1 or Zone 2 of the Neuse River Basin, as defined by 15A NCAC 02B.022. Vested rights within these Zones shall be determined in accordance with 15A NCAC 02B.022, *et seq.*

(B) Vested Rights Shall Run with the Land

The right to carry out development in accordance with the Major Residential Subdivision Plan, Master Plan, Special Exception Use, Development Plan or approved PUD Master Plan approval shall attach and run with the land, and is not a personal right to the landowner. All successors and heirs to the original landowner shall be entitled to exercise such rights, as long as development occurs in accordance within the approved plan as noted above.

(C) Subsequent Changes Prohibited

1. A vested right, once established as provided for in this Ordinance, precludes any zoning action by the Town which would change, alter, impair, diminish, or otherwise delay the development or use of the property as set forth in the Major Residential Subdivision Plan, Master Plan, Special Exception Use, Development Plan or approved PUD Master Plan as submitted, except:
2. Upon written consent of the Landowner;
3. Upon a finding by the Town Council after notice and public hearing that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the Major Residential Subdivision Plan, Master Plan, Special Exception Use, Development Plan or approved PUD Master Plan;
4. To the extent that the landowner receives compensation for all costs, expenses and other losses incurred by the landowner.
5. Where the Holly Springs Town Council finds, after notice and public hearing, that the landowner or his representative supplied intentionally inaccurate information or made material misrepresentations which made a difference in the approval of the Major Residential Subdivision Plan, Master Plan, Special Exception Use, Development Plan or approved PUD Master Plan;
6. Upon the enactment of a State or federal law or regulation which precludes development as contemplated in the Major Residential Subdivision Plan, Master Plan, Special Exception Use, Development Plan or approved PUD Master Plan, in which case the Town Council may after notice and public hearing, allow for a modification of the plan so as to comply with the new State or federal law or regulation;
7. Vested rights under this Ordinance shall not preclude the application of overlay zoning which may impose additional requirements but does not affect the allowable type or use density, or other ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the Town.

(D) Changes to Major Residential Subdivision Plan, Master Plan, Special Exception Use, Development Plan or Approved PUD Master Plan:

Changes made by the owner of the project as listed in the Development Petition to a Major Residential Subdivision Plan, Master Plan, Special Exception Use, Development Plan or approved PUD Master Plan shall be approved by the Engineering Department as not significantly deviating from the original plan or PUD. Other changes to the plan will terminate the vested rights.

SECS. 8-237 – 8-260. RESERVED

DIVISION 4: MAINTENANCE

8-261 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 annually submit to the Engineering Department an inspection report from a qualified registered North Carolina professional engineer-performing services only in their area of competence. 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. If maintenance measures are required, a statement of what maintenance is required shall be included, including the schedule of performing the maintenance; and
6. The original signature and seal of the engineer.

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

8-262 OPERATION AND MAINTENANCE AGREEMENT

(A) In General

Prior to the conveyance or transfer of any lot or building site 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 shall execute an Operation and Maintenance (O&M) Agreement with the Town that shall be binding on all subsequent Owners of the site, portions of the site, and other lots or parcels served by the Structural BMP. Until the transfer or conveyance of all property, sites, or lots served by the Structural BMP, the original Owner or applicant shall have sole responsibility for carrying out the provisions of the agreement.

The O&M Agreement shall require the Owner or Owners to maintain, repair and, if necessary, reconstruct the Structural BMP, and shall state the terms, conditions, and schedule of maintenance for the Structural BMP. In addition, it shall grant to the Town a right of entry in the event that the Engineering Department has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the Structural BMP;

however, in no case shall the right of entry, of itself, confer an obligation on the Town to assume responsibility for the Structural BMP.

The O&M Agreement shall be approved by the Engineering Department prior to plan approval or permit issuance, and it shall be referenced on the final plat and shall be recorded at the expense of the Owner with the Wake County Register of Deeds upon final plat approval. A recorded copy of the recorded O&M Agreement shall be given to the Engineering Department within fourteen (14) days following its recordation.

(B) Special Requirement for Homeowners' and Other Associations

For all Structural BMPs required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required O&M Agreement shall include all of the following provisions:

1. Acknowledgment that the association or entity shall continuously operate and maintain the stormwater control and management facilities.
2. Establishment of an escrow account which can be spent solely for maintenance such as sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the Structural BMPs, provided that the Town shall first consent to the expenditure. If Structural BMPs are not performing adequately or as intended or are not properly maintained, the Town, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed from the association's funds to include funds in the escrow account and other funds sufficient to cover such reimbursement. Developer contributions shall fully fund the escrow account. Prior to plat recordation the developer shall pay into the escrow account an amount equal to 150% of the initial construction cost of the Structural BMPs. A portion of the annual assessments of the association shall include an allocation into the escrow account if necessary. Any funds drawn down from the escrow account shall be replaced within six months of the time of withdrawal.
3. Granting to the Town a right of entry to inspect, monitor, maintain, repair, and reconstruct Structural BMPs.
4. Allowing the Town to recover from the association and its members and/or their escrow account any amount of money the Town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town of Holly Springs all of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the O&M Agreement. The Town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, staff administrative costs, and attorney fees shall be added to the recovery.
5. A statement that this agreement shall not obligate the Town to maintain or repair any Structural BMPs, and the Town shall not be liable to any person for the condition or operation of Structural BMPs.
6. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law.
7. A provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the Structural BMP.
8. All inspection records shall remain with the owner or responsible party.

8-263 INSPECTION PROGRAM

Inspections and inspection programs by the Town 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 Engineering Department shall proceed to obtain an administrative search warrant pursuant to G.S. § 15-27.2. No person shall obstruct, hamper or interfere with the Engineering Department while carrying out his or her official duties

8-264 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

(A) Performance Security for Installation is Required

Town requires the establishment of an escrow account as described in Section 402 (B)(3) for the purpose of operation and maintenance of structural BMPs approved in this permit at the Town's discretion.

(1) In General

Town requires the submittal of a performance security or bond with surety, cash escrow, letter of credit in order to ensure that the Structural BMPs are installed by the permit holder as required.

(2) Installation

The amount of an installation performance security shall be the total estimated construction cost of the Structural BMPs approved under the permit, plus 50%.

(3) Forfeiture Provisions

The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the one (1) year from Engineer's Certification and Town acceptance of the BMP, or to initiate or maintain any actions which may be required of the applicant, permit holder, or Owner in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

(4) 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 Town may obtain and use all or any portion of the security to make necessary improvements. 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 Town shall not return any of the unused deposited cash funds or other security.

(5) Costs in Excess of Performance Security

If the Town takes action upon such failure by the applicant, permit holder, or Owner, the Town may collect from the applicant, permit holder, or Owner.

(6) Release of Guarantee

Within sixty (60) days of the final approval or permit issuance and once the maintenance security has been received, the installation performance security shall be released to the

applicant or terminated, with the exception of any amount attributable to the cost (plus 50%) of landscaping installation. 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.

(B) Maintenance Security is Required

Town requires the establishment of an escrow account as described in Section 402 (B)(3) for the purpose of operation and maintenance of structural BMPs approved in this permit at the Town's discretion.

(1) In General

The amount of a maintenance performance security shall be the as described in section 402(B)(3) and/or based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at the Town's discretion.

(2) 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, permit holder, or Owner in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

(3) Default

Upon default of the Owner to maintain, repair and, if necessary, reconstruct any Structural BMP in accordance with the applicable operation and maintenance agreement, the Town may obtain and use all or any portion of the security to make necessary improvements. Such expenditure of funds shall only be made after requesting the Owner to comply with the maintenance agreement. In the event of a default triggering the use of maintenance performance security, the Town shall not return any of the unused deposited cash funds or other security.

(4) Costs in Excess of Maintenance Security

If the Town takes action upon such failure by the applicant, permit holder, or Owner, the Town may collect from the applicant, permit holder, or Owner.

8-265 NOTICE TO OWNERS

(A) Deed Recordation and Indications On Plat

The applicable O&M Agreement private drainage easement 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 O&M Agreement [private drainage easement] shall be recorded with the Wake County Register of Deeds with the current Owner's name in the Grantor index so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. Documentation shall be provided to the Town.

(B) Signage

Structural BMPS shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection and the Structural BMP's purpose. The sign shall be maintained so as to remain visible and legible.

8-266 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The Owner of each Structural BMP shall keep records of inspections, maintenance, and repairs from the date of creation of the record and shall submit the same upon reasonable request to the Engineering Department.

8-267 NUISANCE

The Owner of each Structural BMP shall maintain it so as not to create or result in a nuisance condition.

8-268 MAINTENANCE ACCESS EASEMENT

Every Structural BMP installed pursuant to this ordinance shall be made accessible for adequate maintenance access to public rights of way and repair by a maintenance access easement. The easement shall be recorded by plat and its terms shall specify who may make use of the easement and for what purposes pursuant to Section 8.40 of the Design Manual.

SECS. 8-269 – 8-300. RESERVED.

DIVISION 5: ENFORCEMENT AND VIOLATIONS

8-301 GENERAL

(A) Authority to Enforce

The provisions of this ordinance shall be enforced by the Engineering Department, his or her designee, or any authorized agent of the Town. Whenever this section refers to the Engineering Department, it includes his or her designee as well as any authorized agent of the Town.

(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 Owner or person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, Structural or Non-Structural 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, or any person who has control over, or responsibility for, the use, Development or Redevelopment of the property has responsibility for the use of that land.

8-302 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 a Building Permit

The Engineering Department or other authorized agent may refuse to issue a building permit for a building or other improvements constructed or being constructed on any development site and served by the Structural BMP 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) Withholding of Certificate of Occupancy

The Engineering Department or other authorized agent may refuse to issue a certificate of occupancy for a building or other improvements constructed or being constructed on any development site and served by the Structural BMP 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.

(3) Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this ordinance continues and remains uncorrected, the Engineering Department or other authorized agent may withhold, and the Town Council may disapprove, any request for permit or Development approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

(4) Injunction, Abatements, etc.

The Engineering Department, with the authorization of the Town Manager, 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.

(5) 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 Engineering Department, with the authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(6) Stop Work Order

The Engineering Department 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 to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within thirty (30) days after notice of the violation is issued by the Town of Holly Springs Director of Engineering and Stormwater Administrator. Civil penalties may be issued up to the full amount of penalty to which the Town of Holly Springs is subject for violations of its Phase II Stormwater permit, or \$32,500 per day per violation.

(C) Criminal Penalties

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

8-303 REMEDIES AND PENALTIES PROCEDURES

(A) Initiation/Complaint

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint or the Town may commence enforcement action on its own. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Engineering Department, who shall record the complaint. The complaint shall be investigated promptly by the Engineering Department.

(B) Inspection

The Engineering Department 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 Engineering Department finds that any building, structure, or land is in violation of this ordinance, the Engineering Department shall notify, in writing, the property Owner or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. 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 shall be paid or be subject to collection as a debt.

The Engineering Department may deliver the notice of violation and correction order 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 Engineering Department 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 Engineering Department 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 Engineering Department may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding sixty (60) days. The Engineering Department may grant thirty (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 Engineering Department may grant such extensions only by a written notice of extension. The notice of extension shall state the date prior to which correction shall 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 Engineering Department, the Engineering Department shall determine if the violation is corrected. If the violation is not corrected, the Engineering Department 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 Engineering Department may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Engineering Department may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

SECS. 8-304 – 8-320. RESERVED.

DIVISION 6: DEFINITIONS

8-321 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.

BASIN MODEL

Engineering Hydraulic and Hydrologic models performed to calculate discharges and water surface elevations as required by the Director of Engineering.

BUILT UPON AREA

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

CONCEPT PLAN

An informal site plan of a proposed subdivision, project, planned unit development or other development intended to convey the scope, content and nature of a proposed development, but lacking sufficient detail to determine compliance with UDO requirements.

CONSULTATION MEETING

The Concept Plan Review Meeting held in the development review process as outlined in DPM Section 1.01.

DESIGN MANUAL

The stormwater design manual developed by the Town and approved by DENR as at least as stringent as the stormwater design manual approved for use in Phase II jurisdictions by DENR for the proper implementation of the requirements of the federal Phase II stormwater program for the Town. The Design Manual is Section 8 of the Town of Holly Springs Engineering Design Standards and Specifications. All references herein to the design manual are to the latest published edition or revision.

DEVELOPMENT

Any land disturbing activity for which a Town of Holly Springs Land Disturbance Permit is required is considered a Development in the context of this ordinance.

DEVELOPMENT PETITION

Any petition or review process required by this UDO prior to the issuance of a UDO permit, including but not limited to petitions for: zoning map changes; variances of development standards; special exception uses; master plans or preliminary plans for subdivisions; final plats; vacations of land in a recorded plat; or, development plans.

DEVELOPMENT PROCEDURES MANUAL (DPM)

The Town of Holly Springs Development Procedures Manual.

DIRECTOR OF ENGINEERING

The Direction of the Town of Holly Springs Engineering Department.

FLOOD STUDY

Engineering Flood Studies performed to calculate discharges and water surface elevations as required by the Director of Engineering.

IMPERVIOUS AREA

An impervious area is an area of hardened surface (concrete, rooftop, asphalt, compacted gravel, etc.) that does not absorb stormwater. Impervious surface areas cause increased pollutant loading, increased volume and rate of stormwater runoff, lower stream base flows, and decreased infiltration of stormwater into the soil.

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.

NONSTRUCTURAL BMP

Policy related approaches to stormwater management such as reduced land disturbance, stream buffer requirements, low impact development, and similar measures.

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 (and equal to 3.0 inches).

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 Engineering Department s 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.

OPERATION AND MAINTENANCE AGREEMENT

An agreement that defines the guidelines under which a Structural BMP shall be operated and maintained.

PERFORMANCE SECURITY

A legally binding agreement whereby the owner posts a surety in a form acceptable to the Town for the operation and maintenance of Structural BMPs authorized by this Ordinance, any other applicable ordinances of the Town, and any requirements, covenants, or conditions which may be imposed pursuant to the Town of Holly Springs UDO.

PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN

A master plan filed in connection with a zoning map change requesting a planned unit development outlined in UDO Section 5.

REDEVELOPMENT

Any rebuilding activity other than a rebuilding activity that results in no net increase in Built Upon Area and provides equal or greater stormwater control than the previous Development.

STORMWATER PLAN

A plan for stormwater management as required pursuant to this Ordinance.

STORMWATER PERMIT APPLICATION

An application made to the Town of Holly Springs for a Stormwater Permit pursuant to This Ordinance and the Phase II rules under the Clean Water Act.

STORMWATER PERMIT

A permit granted for compliance with stormwater requirements pursuant to this Ordinance.

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 BMPs include physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, underground storage facilities, 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.

SUBDIVISION

All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this UDO pertaining to preliminary plan approval:

- (a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this UDO;
- (b) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (c) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (d) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the UDO;
- (e) A division of land into cemetery plots for the purpose of burial; and,
- (f) a division of a lot of record, which is or may be legally developed with a two family dwelling or a multifamily dwelling, into sub-lots for the purpose of transfer of ownership of the individual dwelling units and their associated portion of the lot of record, provided that no additional development sites are created by the division and that no sub-lots are created which do not contain a dwelling unit.

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.

UNIFIED DEVELOPMENT ORDINANCE (UDO)

The Unified Development Ordinance of the Town of Holly Springs.

Appendix: Sources consulted or from which provisions were drawn for this Ordinance

Model Ordinance for Post-Development Stormwater Management for New Development and Redevelopment (Metropolitan North Georgia Water Management District)

Model Ordinance for Water Supply Watershed (NC Division of Water Quality)

Neuse River Basin Model Stormwater Program for Nitrogen Control

Tar-Pamlico Basin Nutrient-Sensitive Waters Management Strategy

Model Stormwater Ordinance (Center for Watershed Protection, Inc. [“Stormwater Center”])

Model Stormwater Ordinance (US EPA)

Unified Development Ordinance (Hall County, Georgia)

Unified Development Ordinance (Town of Holly Springs and Town of Apex, NC)

Land Development Ordinance (Town of Cary, NC)

Watershed Protection Ordinance (Town of Cary, NC)

Stormwater Management Model Ordinance (State of Virginia)

Town Code of Wrightsville Beach, NC

Illicit discharge provisions: Raleigh, NC; Greenville, NC; Franklin, TN

Stormwater Management Ordinance (Wake County, NC)