

SECTION 6: MAINTENANCE

601 DEDICATION OF BMPS, FACILITIES & IMPROVEMENTS

~~(A) Single Family Residential BMPs Accepted for Maintenance~~

~~The Town of Pineville shall accept maintenance responsibility (as specified in the Administrative Manual) of structural BMPs that are installed pursuant to this ordinance following a warranty period of two (2) years from the date of as built certification described in Section 203(C), provided the BMP:~~

- ~~(1) Only serves a single family detached residential development or townhomes all of which have public street frontage;~~
- ~~(2) Is satisfactorily maintained during the two year warranty period by the owner or designee;~~
- ~~(3) Meets all the requirements of this ordinance and the Design Manual; and~~
- ~~(4) Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance, repair or reconstruction.~~

~~The Storm Water Administrator must receive an application for transfer of maintenance responsibilities for the structural BMP along with the storm water management permit application. The Storm Water Administrator will develop and distribute this application as a component of the Administrative Manual (see Section 202(D)(4)).~~

~~(B)~~(A) Maintenance and Operation of BMPs

The owner of a structural BMP installed pursuant to this ordinance ~~and not covered under Subsection 601(A) above~~ shall maintain and operate the BMP so as to preserve and continue its function in controlling storm water quality and quantity at the degree or amount of function for which the structural BMP was designed.

~~(C)~~(B) Damage or Removal of Trees

The following provisions apply to trees contained in permitted Undisturbed Open Space areas or in BMPs that are damaged or removed:

- (1) For trees damaged or removed due to natural disasters, the owner shall be required to replace the trees in accordance with the undisturbed open space mitigation criteria described in Section 505(C)(1)(c) of this ordinance within a timeframe specified by the Storm Water Administrator.
- (2) For trees damaged or removed due to reasons other than (1) above, the owner shall be required to replace the trees in accordance with the open space mitigation criteria described in Section 505(C)(1)(c) of this ordinance within a timeframe specified by the Storm Water Administrator with the following exception, the trees shall be replaced at twice the

specified density. In addition, the owner may be subject to fines as described in Section 7, Violations and Enforcement.

~~(D)~~(C) Annual Maintenance Inspection and Report

The person responsible for maintenance of any BMP installed pursuant to this ordinance ~~and not covered under Section 601(A) above~~ shall submit to the Storm Water Administrator an inspection report from a qualified registered North Carolina professional engineer or landscape architect performing services only in their area of competence. All inspection reports shall be on forms supplied by the Storm Water Administrator that are contained in the Administrative Manual. An original inspection report shall be provided to the Storm Water Administrator beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

602 OPERATION AND MAINTENANCE AGREEMENT

(A) General

At the time that as-built plans are provided to the Storm Water Administrator as described in Section 203(C) and prior to final approval of a project for compliance with this ordinance, but in all cases prior to placing the BMPs in service, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Failure to execute an operation and maintenance agreement within the time frame specified by the Storm Water Administrator may result in assessment of penalties as specified in Section 7, Violations and Enforcement. 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. At the discretion of the Storm Water Administrator, certificates of occupancy may be withheld pending receipt of an operation and 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 Town of Pineville a right of entry in the event that the Storm Water Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the Town of Pineville to assume responsibility for the structural BMP.

Standard operation and maintenance agreements for BMPs shall be developed by the Storm Water Administrator and made available in the Administrative Manual. The operation and maintenance agreement must be approved by the Storm Water Administrator prior to plan approval, and it shall be referenced on the final plat as described in Section 308.

(B) Special Requirement for Homeowners' and Other Associations

For all structural BMPs required pursuant to this ordinance not covered under Section 601(A) above, 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 the provisions described in the Administrative Manual.

603 INSPECTION PROGRAM

Inspections and inspection programs by the Town of Pineville 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 Storm Water 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 Storm Water Administrator while carrying out his or her official duties.

604 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

The Town of Pineville may 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 accordance with the provisions contained in the Administrative Manual.

605 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 Storm Water Administrator.

606 MAINTENANCE EASEMENT

Every structural BMP installed pursuant to this ordinance shall be made accessible for adequate inspection, maintenance, reconstruction and repair by a maintenance easement.

The easement shall be recorded as described in Section 308 and its terms shall specify who may make use of the easement and for what purposes.