**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

**WHEREAS**, pursuant to N.C.G.S. § 160A-459 the Town of Nags Head (the "Town") is authorized to adopt and enforce a stormwater control ordinance to protect water quality and control water quantity. Pursuant to this authority, the Town has previously adopted a stormwater management ordinance which is codified as Chapter 34 of the Town's Code of Ordinances (the "Town Code") for that purpose; and

**WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 48 of the Town Code; and

**WHEREAS**, pursuant to N.C.G.S. § 160A-458 the Town may enact, amend and enforce erosion and sedimentation control ordinances as authorized by Article 4 of Chapter 113A of the General Statutes. Pursuant to this authority and additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has previously adopted sedimentation and erosion control ordinances which have been codified in Chapter 28 of the Town Code and as portions of the Town's Zoning Ordinance; and

**WHEREAS**, pursuant to N.C.G.S. § 160A-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

**WHEREAS**, pursuant to N.C.G.S. § 160A-175 the Town may adopt, establish and amend procedures for exercising remedies available for violations of the Town Code; and

**WHEREAS,** the Town acknowledges that stormwater poses a threat to the public health, safety, and welfare, and;

**WHEREAS**, the Town has experienced significant localized flooding during heavy and/or frequent rain events that in many cases can be attributed to stormwater runoff; and

**WHEREAS,** it is the Town's intent to preserve residential neighborhoods and limit the impacts of new development on adjacent properties; and

**WHEREAS**, the Town finds that the lack of maintenance of stormwater management practices contributes to stormwater run-off; and

**WHEREAS**, the 2017 Comprehensive Plan states that the Town will "Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas (p. 205)"; and

**WHEREAS,** the Town finds that to protect coastal waters we should limit non-point source pollution attributed to run-off from impervious surfaces such as parking lots and roof tops; and
**WHEREAS,** the Town finds that as more lots are developed and the built upon area is increased throughout Nags Head, stormwater collection and conveyance systems within the public rights-of-way are being overburdened and must be supplemented with additional management practices on private property; and

**WHEREAS,** the Town manages resources to protect the public infrastructure, quality of life, environment, and property of the citizens of Nags Head through fair and equitable, cost effective means, and the Stormwater Ordinance seeks to improve, enhance, and protect the quality of life for the citizens of Nags Head; and

**WHEREAS**, the Town finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Comprehensive Plan, and that this action is reasonable and in the public interest.

**NOW THEREFORE BE IT ORDAINED,** by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Town's Code of Ordinances be amended as follows:

**PART I.** That **Section 34-2, Definitions,** of **Chapter 34 Stormwater, Fill and Runoff Management,** be amended as follows:

Sec. 34-2 - Definitions.

*Fill depth:* the difference between the post-development surface elevation and the pre-development surface elevation ~~at any given point~~.

**PART II.** That **Section 34-6, General standards for residential or duplex development on individual lots,** of **Chapter 34 Stormwater, Fill and Runoff Management,** be amended as follows:

Section 34-6 - General standards for residential or duplex development on individual lots.

(a) Stormwater management plan applicability. Stormwater management requirements shall apply to the following types of development:

(1) New detached single-family and duplex residential properties.

(2) Existing single-family and duplex residential properties where more than 500 square feet of new built-upon area is being added. In such cases, the stormwater management requirements shall apply only to the new built-upon area.

(3) Removal and replacement of driveways. In instances where an existing driveway and parking area not meeting the standards of this section is being removed and replaced, the new driveway and/or parking area shall be designed so as to limit the discharge of stormwater into the right-of-way or onto adjacent properties.

(b) Stormwater management standards.

(1) All runoff from the project's built-upon area shall be directed into an approved stormwater management system designed with a storage volume of 15 cubic feet for every 100 square feet of built-upon area.

(2) Stormwater control management (SCM) measures may include a variety of techniques used in combination to achieve the storage volume requirement. These include:

a. Rainwater harvesting to include cisterns and/or rain barrels

b. Subsurface drainage systems to include dry wells, french drains and infiltration galleries/panels

c. Permeable pavements

d. Tree/open space preservation credits

e. Bioretention or rain gardens

f. Landscaped swales

g. Infiltration basins

h. Other methods as approved by the stormwater administrator

(3) Guidance for applying and calculating the techniques listed above can be found in the Town of Nags Head Recommended Standard Details Manual.

(4) On-site permanent runoff control measures shall be installed, in conjunction with other on-site stormwater management practices, to intercept rainfall runoff from driveways that are sloped or graded towards the street or right-of-way. On-site permanent runoff control practices include, but are not limited to, permeable pavement ribbons, slotted drains, driveway speed bumps or other approved methods of diverting, collecting and managing on-site runoff. Measures to control runoff from driveways may be combined with other stormwater management techniques to meet the stormwater volume requirement.

(5) In no instance shall open drainage systems be located beneath a building.

(6) Storage capacity (interstitial storage) within existing soils and/or fill material shall not be counted towards the volume requirement for the stormwater management design.

(7) Reduction of built-upon area. Certain stormwater management practices are encouraged and shall reduce the site's built-upon area in accordance with the following standards:

a. Paved surfaces which are designed to be permeable in accordance with the Town of Nags Head Recommended Standard Details Manual or as otherwise approved by the stormwater administrator shall not count as built-upon area.

b. The water surface area of pools, wood slatted decks, and non-compacted, clean gravel and stone areas shall not count as built-upon area.

c. Preservation and/or planting of vegetation shall reduce built-upon area in accordance with the following schedule:

1. Existing trees receive a 100 square foot reduction in built-upon area (min. 6" caliper).

2. New trees receive a 50 square foot reduction in built-upon area (min. 2" caliper, min. 6' tall).

3. Trees must comply with list of approved species included in the Town's Vegetative Planting Guidelines.

d. Projects that reduce the overall limits of disturbance and designate areas of preserved open space shall receive a reduction in built-upon area.

1. Open space areas and the credit for the reduction of built-upon area shall be calculated at a 2:1 ratio. For example, for every two square feet of preserved open space, built-upon area shall be reduced by one square foot.

2. There shall be a minimum of 1,000 square feet of preserved open space to qualify for this credit. Individual pockets or areas of preserved open space shall be a minimum of 250 square feet in area.

3. Preserved open space shall not be applied in areas of the lot that are typically excluded from development including wetland areas, ponds, or areas that are excluded from development by other agencies.

4. Preserved open space shall contain significant examples of locally adaptive and/or native trees and/or shrubs and shall be located in areas that create natural vegetative filtering or retention between built-upon areas and adjacent properties or rights-of-way.

e. Total tree credit and/or open space preservation credits in combination shall not reduce total built-upon area by more than 30 percent.

f. Projects that incorporate three or more of the stormwater control measures listed in subsection (B)(2) above shall receive a 15 percent built-upon area reduction. This reduction shall be applied in addition to the built-upon area reductions already provided by this section.

~~(a) Development or redevelopment of detached single-family and duplex residential property does not require submission of a stormwater plan under the following circumstances:~~

~~(1) Where there is no importation of fill;~~

~~(2) Where fill is used to replace excavated or removed material only;~~

~~(3) Where fill is necessary to comply with a newly issued septic permit;~~

~~(4) The redevelopment includes a stormwater retrofit associated with flood mitigation property improvements which limits the importation of earthen fill material to no greater than 12 inches in depth; or~~

~~(5) Where grading or balancing activities:~~

~~a. Are performed in accordance with an approved land disturbance permit;~~

~~b. Do not result in an increase to the lot surface elevation, except in accordance with subsections (a)(1), (a)(2), (a)(3) or (a)(4) above; and~~

~~c. Do not produce a slope or ditch which directs stormwater onto another property without appropriate agreements or easements.~~

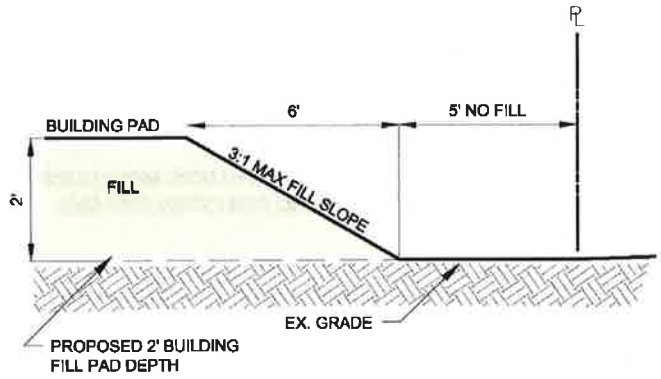
~~(b) All other development or redevelopment of detached single-family and duplex residential property requires submission of a stormwater plan showing that the development will meet or exceed the following standards:~~

~~(1) All runoff from the project's built-upon area must be directed into an approved stormwater management system designed to accommodate the volume of runoff generated by a 1.5-inch design storm.~~

~~(2) Infiltration systems shall provide a minimum of one foot of vertical clearance from the seasonal high water table and must be located in soils classified as sandy textured soils within Group I or Group II designations in accordance with 15A NCAC 18.A.1941. Soils deemed suitable by the Dare County Health Department on the septic permit shall be presumed to meet this infiltration requirement. Infiltration systems shall not exceed a maximum retention time of five days for the 1.5-inch design storm.~~

(8)~~(3)~~ Fill shall not be placed within five feet of a property line, except for the grading of driveway entrances, such that runoff from a fill slope is not "pitched" onto adjoining properties. A maximum of a 3:1 horizontal to vertical fill slope shall be maintained. Setback area may be used to accommodate an approved stormwater control measure ~~drainage swale~~. See Diagram 34-A.

*DIAGRAM 34-A: SETBACK REQUIREMENT WHERE FILL IS USED*




(9)~~(4)~~ The five-foot setback requirement may be varied or waived as part of a multi-lot development of contiguous properties, or between adjacent properties if and only if a dedicated easement is established to accommodate a shared drainage swale or other SCM~~BMP~~ between adjacent properties as approved by the town engineer.

(10)~~(5)~~ The construction and use of bulkheads, walls, and other structural controls to retain the placement of fill on property shall only be permitted:

a. In the immediate area of the on-site sewage disposal system as approved by the Dare County Health Department for the installation of such system, or

b. In those areas of the property where the naturally occurring slope exceeds 3:1 or greater in steepness, or

c. In those areas of where a retaining wall is necessary to achieve a five-foot setback of fill from an adjacent property boundary. Retaining walls used on fill slopes shall not be tiered, shall not retain more than two feet of fill, and shall not exceed two feet in maximum height from final grade.

(11)~~(6)~~ The allowable depth or elevations for fill are in subsection (c) of this section.

~~(7) Copies of operations and maintenance agreements must be filed with the town prior to the issuance of the certificate of compliance.~~

~~(8) During construction, to prevent adverse effects onto adjoining properties or rights-of-way, temporary and/or permanent runoff control measures shall be installed after placement of fill. This can be achieved via implementation of:~~

~~a. Installation of earthen diversion berms along the periphery of the property, or~~

~~b. Installation of permanent stormwater control measures which shall be maintained and kept operational for the duration of construction, or~~

~~c. Other approved methods of erosion and stormwater control measures.~~

~~(9) On-site permanent runoff control measures shall be installed, in conjunction with other on-site stormwater management practices, to intercept rainfall runoff from driveways that are sloped or graded towards the street or right-of-way. On-site permanent runoff control practices include, but are not limited to, slotted drains, driveway speed bumps or other approved methods of diverting, collecting and managing on-site runoff.~~

(c) *Standard for depth or elevation of fill.* Any residential or duplex development or redevelopment which utilizes fill shall be limited to the following standards according to the zone as designated on the most recent flood insurance rate maps or FIRM.

(1) *Within the Oceanfront V Zone:*

a. Addition of landscape fill is permitted up to two feet above the pre-development surface grade or up to base flood elevation, whichever is lower;

b. Fill footprint may not exceed ten percent of the lot area (see sections 48-402, 48-403, 48-404, 48-405 dimensional requirements), excluding the footprint of the active drainfield and septic system as approved by the health department in accordance with the septic permit. Lot area is defined as that portion of the lot landward of the first line of stable vegetation as defined by CAMA;

c. No bulkheads are allowed;

d. All grading and fill activities must comply with guidance provided in FEMA Technical Bulletin #5.

(2) *Within the Estuarine V Zone:*

a. Addition of fill is permitted but shall not exceed the base flood elevation.

~~1. Any use of fill exceeding two feet above the pre-development surface grade shall require an engineered stormwater management plan that captures and stores the runoff produced by a 2.15-inch rainfall event.~~

~~2. Use of fill that is equal to or less than two feet above the pre-development surface grade is allowable with a non-engineered stormwater management plan that captures and stores the runoff produced by a 1.5-inch rainfall event.~~

b. Fill footprint may not exceed 50 percent of the total developable lot area (see sections 48-402, 48-403, 48-404, 48-405 dimensional requirements) as defined by CAMA, excluding:

1. The footprint of the active drainfield and septic system as approved by the health department in accordance with the septic permit; and

2. Backfill used as part of a CAMA approved estuarine bulkhead and placed within 25 feet of the bulkhead structure.

(3) *All other flood zones (including AE and X):*

~~a.~~ Fill shall not be permitted to exceed base flood elevation except in cases where it is placed directly beneath a slab that is designed to meet the regulatory flood protection elevation as defined in Town Code section 22-32. In these instances, fill may exceed the base flood elevation by up to 12 inches to support a turn-down or thickened edge slab or beneath a slab that is supported by a ring-wall style foundation. Fill placed above the base flood elevation shall not extend beyond the outside edge of the slab. In areas in which there is no base flood, fill shall not exceed the amount required for wastewater permits required by the Dare County Health Department, or two feet above pre-development surface elevation, whichever is higher.

~~b. Use of fill that is equal to or less than two feet above the pre-development surface grade is allowable with a non-engineered plan that captures and stores the runoff produced by a 1.5-inch rainfall event.~~

~~c. Use of fill exceeding two feet above pre-development surface grade shall require an engineered stormwater plan that captures and stores the runoff produced by a 2.15-inch rainfall event.~~

(d) Plan submittal, review and approval for residential or duplex development on individual lots. It is the responsibility of an applicant to provide sufficient information in the plan so that the Town or its agents may reasonably evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on area surface waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing

adverse impacts. The applicant shall provide, as necessary, maps, tables, photographs, narrative descriptions and explanations to demonstrate compliance with the town's stormwater management standards.

(1) The stormwater management plan shall be submitted as part of the application for a building permit or land disturbance permit.

(2) The stormwater management plan need not be prepared by a registered design professional. However, the Town will consider plans and additional alternatives to meet the stormwater requirements if prepared by a registered design professional. An on-site meeting with the stormwater administrator or his/her designee is strongly encouraged prior to plan preparation.

(3) The stormwater management design information may be depicted on a site survey that is also utilized for zoning, CAMA, or other town approvals. At a minimum the plan shall include:

a. Existing Conditions. The conditions of the site shall be described in general, including the following:

1. The direction of flow of stormwater runoff under existing conditions.
2. The location of areas on the site where stormwater collects or infiltrates into the ground.
3. A survey of the site, including topography. The survey shall be prepared by a licensed surveyor and shall include the minimum required elevation information as referenced in the Town of Nags Head Recommended Standard Details Manual. The survey must also show the location of drainage ditches within the area surveyed, and the location of wetlands, and ponds.
4. Approximate elevation of seasonal high-water table. "Seasonal high wetness condition" as indicated by the Dare County Health Department site evaluation is acceptable for determining vertical separation compliance of SCMs on single family and duplex residential projects. Also, include any fill requirements provided with the Dare County Health septic approval.

b. Proposed Alterations. Proposed alterations of the site shall be described, including:

1. Change(s) in topography. The proposed final elevations shall be shown in a manner that can be distinguished from the existing elevations. If there are abrupt changes in elevations, these should be clearly identified in the plans. These should be plotted on a scale that is easy to read and in a form that conveys the nature of changes that are proposed.
2. Identification and quantification of the area(s) that will be covered with built-upon area and a description of the surfacing material(s).
3. The proposed area to be preserved and/or planted with vegetation as well as any designated open space. This shall include the location of any trees and/or open space that will be utilized to reduce the built-upon area calculations.
4. Identification and quantification any other site improvements such as pools, wood slatted decks, and permeable pavement.
5. The size and location of any buildings or other structures, including bulkheads or retaining walls.
6. Stormwater Runoff Features. All SCMs intended to receive stormwater runoff from the proposed built-upon areas on the site shall be described and their location identified on the survey.
7. Erosion and Sediment Control Measures. A description of the measures that will be put in place for the control of erosion and sedimentation shall be provided.
8. Other Information. The applicant shall provide other information which the town or its designated agent deems necessary for an evaluation of the development proposal for compliance with this chapter.

(4) Elevation data shall be provided on the as-built survey to determine compliance with the maximum fill height requirements of this chapter.

(5) Upon completion of stormwater management improvements, the stormwater administrator or his/her designee shall verify compliance via field inspection. Once a project is completed, stormwater management features shall be maintained in accordance with the approved plan and subsequent certificate of compliance.

**PART III.** That **Sections 34-8 through 34-10,** of **Chapter 34 Stormwater, Fill and Runoff Management,** be amended as follows:

Sec. 34-8. - Stormwater management plan submittal and approval requirements for development other than residential or duplex development on individual lots.

(a) *Preparer's certification.*

~~(1) For a project involving an individual single-family or duplex structure on a single lot wherein the importation of fill results in an elevation increase of greater than two feet, technical documents shall be prepared by a qualified and registered design professional to demonstrate compliance with this chapter. For all other single-family or duplex residential development, a design professional shall only be required if deemed necessary by the town engineer.~~

~~(2)~~ For ~~all other development, including for a~~ commercial, mixed-use or multi-lot development such as a subdivision, stormwater management plans and supporting technical documents shall be prepared by a qualified and registered design professional knowledgeable within the field of work for the performance of the design, construction, and operation and maintenance of what is being proposed.

(b) Supporting plans and documentation including assumptions, methodology, calculations and conclusions shall be submitted to the town as part of the application.

~~(1) For residential or duplex lots that require an engineered stormwater management plan, the plan shall be submitted as part of the land disturbance permit application for approval by the town engineer.~~

~~(2) For residential or duplex lots that do not require an engineered stormwater management plan, the plan shall be submitted as part of the application for a building permit and shall be reviewed by the planning director or his/her designees.~~

(1)~~(3)~~ For all subdivisions and commercial applications, a stormwater management plan with all supporting documentation meeting all town requirements and standards shall be submitted with the plat or site plan application for approval by the town engineer.

(2)~~(4)~~ For conditional uses, a preliminary stormwater management plan shall be submitted with the conditional use permit application. A stormwater management plan with all supporting documentation meeting all town requirements and standards shall be submitted with, or in advance of, the application for a building permit.

(c) The stormwater management plan shall include engineered drawings, non-engineered drawings, maps, assumptions, calculations and narrative statements, including:

(1) *Existing conditions.* Sheets or maps indicating existing features, including buildings, ground surface elevations, landforms, parking areas, roadways, structures, subsurface utilities, surface utilities, surface waters, watercourses, vegetation, and other significant elements. Elevations shall be provided in sufficient detail to determine the efficacy of proposed stormwater improvements and compliance with all stormwater and fill requirements. At a minimum, pre-disturbance spot elevations shall be provided beneath proposed improvements and along property lines adjacent to any fill slopes.

(2) Project boundaries clearly depicted and labeled, including any staging areas.

(3) Locations and elevations of the adjoining street pavement, shoulder, ditches, and drainage systems, as well as upstream and downstream driveway culverts.

(4) Approximate elevation of seasonal high water table. "Seasonal high wetness condition" as indicated by the Dare County Health Department site evaluation is acceptable for determining vertical separation compliance of SCM~~BMP~~s on single family and duplex residential projects. Also include any fill requirements provided with the Dare County Health septic approval.

(5) *Distance measurements.* Lateral and vertical separation distances from AECs, state surface waters, subsurface water conditions, above ground and underground utilities, or

other separation distances as required by existing federal, state or local laws clearly depicted.

(6) *Proposed conditions.* Sheets or maps indicating location of proposed features including areas where fill will be placed including the toe of fill slopes, buildings, ground surface elevations, landforms, parking areas, roadways, structures, subsurface utilities, landscaping, and other significant elements.

(7) Drawings shall describe the proposed elements and their association with existing elements with spot elevations depicted in areas of proposed fill and finished floor elevations for all proposed buildings/structures described. Notational information shall be provided which includes existing surface elevation at each site element, proposed maximum fill depths for each site element, and maximum fill depth within the project site.

(8) Location and description of stormwater BMPs proposed to capture runoff from all surfaces within a given drainage area.

(9) *Location of erosion control measures relative to fill slopes and disturbed areas.* This shall include any temporary measures that will be necessary to retain stormwater or other construction related water discharges on the property during construction prior to the installation of final stormwater improvements.

(d) An operations and maintenance agreement shall be submitted to and be approved by the town. The operations and maintenance agreement shall address sediment removal, mowing and re-vegetation, immediate repair of eroded areas, debris removal, and unclogging of any structures. The operations and maintenance agreement may provide for access by the town and its agents to all stormwater management measures at the site for the purposes of inspection, maintenance, reporting, and repair operations. The operations and maintenance plan shall run with the property and compliance shall be the responsibility of the property owner.

(e) Copies of all recorded easements or covenants that run with the property and are necessary for continued function of the best management practices utilized for plan approval.

(f) *Certification.* Upon completion of construction, stormwater management facilities shall be certified by the stormwater plan preparer or a qualified and authorized professional as having been constructed in substantial conformity with the town-approved plans and specifications. The acceptability of a certification by any other person than the person who prepared the original design shall be at the sole discretion of the town. A copy of this documentation shall be submitted to the town prior to the issuance of a certificate of compliance.

(g) *Construction record or as-built plans.* The construction record survey or plan shall include any on-site stormwater management measures and shall be prepared once final construction has been completed. These plans shall be prepared by a licensed surveyor and shall include all of the elements shown as proposed on the approved construction plans and depict sufficient topographic information to demonstrate compliance with the approved plans. These shall be submitted to the town prior to the issuance of a certificate of compliance.

Sec. 34-9. - Operations and maintenance requirements.

(a) For all projects other than residential or duplex development on individual lots. ~~Once a project is completed, stormwater management features shall be maintained in accordance with the operations and maintenance agreement.~~

(1) An operations and maintenance agreement based on the operations and maintenance plan shall be executed by the owner or amongst the owners and approved by the town prior to issuance of a certificate of compliance.

(2) The operations and maintenance agreement:

a. Shall require the owner or owners to maintain, repair, and if necessary, reconstruct the stormwater management features, and

b. Shall state the terms, conditions, and schedule of maintenance for the stormwater management features, and

c. May grant to the town a right of entry into the property to inspect, monitor, maintain, repair, or reconstruct the stormwater management features. However, in no case shall the right of entry confer an obligation on the town to assume responsibility for the stormwater management features.

(3) Operations and maintenance agreement recordation requirements:

a. ~~For subdivisions and commercial or mixed use development:~~ ~~p~~Prior to issuance of a certificate of compliance for any project served by stormwater management features required by this ordinance, the operations and maintenance agreement shall be recorded as a deed restriction or protective covenant with the Dare County Register of Deeds Office binding all subsequent property owners to compliance with the agreement.

(b) The town-approved stormwater management system shall not be altered without approval of the town engineer.

(c) Failure to maintain on-site stormwater management facilities shall be grounds for a notice of violation, civil penalties and possible revocation of occupancy permits in accordance with Town Code section 1-6.

~~(d) The town shall maintain a location map of all stormwater BMPs permitted under this chapter.~~

Sec. 34-10. - Reference documents.

(a) The town has prepared a Town of Nags Head Recommended Standard Details Manual which includes guidance on specific stormwater control measures and other requirements of this ordinance. ~~town BMP manual entitled "Low Impact Development Solutions to Reduce Stormwater Runoff."~~ The town will make copies of the most current town Recommended Standard Details Manual ~~BMP manual~~ and the most current NCDENR BMP manual available to applicants for permits under this chapter.

(b) Applicants for permits under this chapter shall refer to the most current editions of the NCDENR BMP manual and the town's manual if citing them for the design, construction and maintenance management practices on the site associated with the application. Stormwater treatment practices that are designed, constructed, and maintained in accordance with the NCDENR BMP manual and the town ~~BMP~~ manual will be presumed to meet the minimum water quality and quantity performance standards of this chapter.

(c) Applicants for permits under this chapter may propose utilization of a stormwater management practice or practices which are not designed, constructed or maintained in accordance with the NCDENR BMP manual and the town Recommended Standard Details ~~BMP~~ manual. In such cases, 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 and the practices must be approved by the town engineer.

(d) Upon review and evaluation of an application for a permit under this chapter, the stormwater administrator may recommend management practices regarding a particular site. If upon review and inspection the stormwater administrator determines that the environmental conditions of a particular site will not support the management practices proposed by an applicant, the stormwater administrator may require reasonable changes to the application, professional certification of a particular design and/or evaluation of the proposal by the town engineer. The stormwater administrator may require any reasonable changes to an application proposed by the town engineer.

**PART IV.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 5th day of December 2018.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:
John Leidy, Town Attorney

Date adopted: December 5, 2018

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: ____ AYES ____ NAYS