

## **An Overview of Carrboro’s Privately Owned Stormwater Control Measure Maintenance and Inspection Program**

Carrboro is required under an EPA stormwater permit administered by the NC Department of Environmental Quality to pursue an operation and maintenance program for structural stormwater treatment devices. These types of devices have for many years been known in the stormwater profession as “BMPS”, or “Best Management Practices”, but more recently have been renamed “Stormwater Control Measures”, or SCMs, and will be referred to as such for the remainder of this document.

The essence of the approach being pursued in Carrboro is that the property owner has responsibility for SCM maintenance and annual reporting for Town permitted SCMs<sup>1</sup>. The Town will periodically (at least once every five years) inspect SCMs to insure that maintenance is being adequately performed. The Town’s Fee Schedule allows the Town to charge the property owner for these inspections if the annual reporting does not occur or proper maintenance is not being pursued<sup>2</sup>. If the Town finds that adequate maintenance is not being pursued, the Town may take on the maintenance responsibility, and invoice the owner for the costs of the maintenance along with fees for the additional staff time for reinspections and overseeing the maintenance. The Town wishes to go this route as a last resort and only when it is apparent that the property owner is not intending to accept the responsibility.

By establishing maintenance agreements between landowners and the Town for owner maintenance responsibility, the Town receives assurance that the SCM owners are aware of and capable of fulfilling their responsibility for maintenance, and the SCM owners receive the benefit of being able to control the inspection and maintenance and not bearing the expense of Town maintenance and inspection activities. Both parties receive clarity of understanding of respective roles and responsibilities.

The following FAQs go into more detail on the program and owner maintenance and inspection requirements and responsibilities and the Town’s plan for oversight.

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<sup>1</sup> This responsibility is implicit for all SCMs. In 2007, Carrboro passed a provision in the Land Use Ordinance ([Section 15-263\(1\)](#)) in 2007 to make this requirement explicit.

<sup>2</sup> <http://www.townofcarrboro.org/DocumentCenter/View/1652/Miscellaneous-Fee-Schedule> (p. 22)

## FAQS for Owners Regarding Stormwater SCM Maintenance

### Why is SCM maintenance so important?

SCMs serve the essential functions of protecting water quality, the structural and functional integrity of streams, and flood mitigation.

### What SCM(s) am I/are we responsible for inspecting, maintaining, and reporting to the Town?

Property owners are responsible for SCMs located on their property that are permitted under a land use permit. If you are uncertain as to if you have one or more SCMs that are subject to this requirement, you can contact Town Zoning or Stormwater staff. Alternatively, information is available in recorded documents through Orange County Land Records.

### What does the Town require regarding SCM maintenance?

The owner of each SCM shall maintain and operate the SCM so as to preserve and continue its function in controlling stormwater quality and quantity to the degree and with the function for which the SCM was designed. For new development, developers are required to submit Operation and Maintenance Agreements to the Town and the property owner prior to completion, and owners are required to enter into an agreement with the Town.

Since 2007, the Land Use Ordinance (15-263.1) has specifically required that permitted SCM owners:

- 1) Maintain and operate the SCM, through a written agreement (subsections b-e)
- 2) Have inspections performed by a qualified professional and submit an annual report to the Town (subsection c)
- 3) Set outside adequate funds for maintenance, and include in the annual report that this is occurring (subsection d).
- 4) Authorize the Town to inspect the SCM(s)
- 5) Include the obligation to maintain the SCM in property owners, homeowners association, or similar entity covenants.
- 6) Include the Operation and Maintenance agreement in the plat for the property.

The Town may also require signage indicating the maintenance responsibility.

### What do I/we need to do to adequately maintain the stormwater SCM?

If a stormwater manual has been provided as part of approval of the development and SCM, these details will be spelled out in the manual. Technical information about SCM maintenance is also available through the [NCDENR SCM Manual](#). The [NCSU Stormwater Engineering Group](#) website is also recommended as a source of information about stormwater SCMs and their maintenance.

Note that the owner is responsible for regular inspection by a certified party (State certified through NCSU Cooperative Extension). A list of North Carolina certified inspectors working locally, per Chapel Hill's Stormwater program, is available at [this link](#). Durham maintains a list of City certified inspectors at

[this link](#). Carrboro's Stormwater program offers no endorsement and does not maintain a separate list of certified inspectors.

**Whom should I submit the annual report to?**

The report can be submitted to: Stormwater Division, Public Works Department, 301 West Main St., Carrboro, NC 27510, or electronically be emailing to [stormwater@townofcarrboro.org](mailto:stormwater@townofcarrboro.org).

**What will happen if I/we do not inspect our SCM(s) and report the results to the Town?**

The Town will consider the submittal of annual reports in establishing the Town's inspection schedule and follow up actions. The Town will charge the owner an inspection fee (as specified in the Town's fee schedule) at the time of inspection for Town inspections in the absence of the owner submitting the report specifically and more generally in demonstrating SCM inspection and maintenance responsibility. The Town may charge additional reinspection and maintenance fees and recoup maintenance costs incurred by the Town if the owner is not fulfilling these responsibilities. Beginning in late 2020, the Town will be notifying all SCM owners of their requirement to self-inspect annually and provide results to the Town. The Town will prioritize future Town inspections based on results and reporting of self-inspections. Owners who submit adequate documentation of self-inspection and maintenance will not be charged an inspection fee by the Town. To reiterate, the Town only intends to charge inspection and maintenance fees to owners who do not fulfill the responsibilities for ongoing maintenance, self-inspections and reporting.

**When will the Town inspect my/our SCM(s)?**

The Town will inspect all SCMs covered by a permit at least once by the end of 2024. A precise schedule will be determined later in 2021. The schedule, as mentioned above, will depend in part on results of self-inspections and reporting. The Town intends to post and maintain a planned inspection schedule on the Town's website later in 2021.

**Who from the Town will inspect my/our SCM(s)?**

Public Works staff or staff from a firm under contract to the Town will perform the inspection.

**What notification will I/we receive regarding the Town's inspection?**

For properties that have completed the annual self-reporting, Town staff will contact the property owner (and/or designee) prior to the first inspection that the Town pursues for a given site. The property owner and/or their designee will be invited to participate in the inspection. Staff do not intend to provide notification for inspections or reinspections for owners who have not been responsive. After each inspection, the Town will provide the results of the inspection and maintenance requirements.

**Does the Town offer technical or financial assistance with SCM maintenance?**

The Town does not offer financial assistance. Limited technical assistance is offered through the Town's website and through the Town inspections.

**What will happen if the Town finds that the SCM is not being adequately maintained through its inspection?**

The Town will notify the property owner of the results of the inspection in writing. If after 3 inspections, an owner does not provide adequate maintenance, the Town may perform the maintenance, and pass on related costs to the property owner. The Town has this authority under Section 15-236(1) of the Town's Land Use Ordinance.

**How much will maintenance of the SCM(s) cost?**

The Town is not in a position to provide estimates of maintenance costs. These costs could vary widely depending on the type of SCM and how well it has been maintained. In general, routine and adequate maintenance will be more cost effective than negligence.

**We have not set aside money for inspections and maintenance, and believe that this requirement is unfair. What recourse do we have?**

The Town recognizes that SCM maintenance requirements have not been well understood historically. The LUO has required landowners with more recent permits to set aside funds through an escrow account, sinking fund, or other arrangement, sufficient to pay for maintenance and inspection costs such as the cost of sediment removal, structural, biological, or vegetative replacement, major repair, or reconstruction. For older permits, this responsibility is implicit, though not explicit in the LUO. Furthermore, the Town requires that the owner shall submit in its annual report certification that such funds have been set aside. The Town seeks to enter into agreements with all SCM owners that makes these terms clear to all parties. The Town seeks to work collaboratively (and only with a "heavier hand" for clear negligence) with owners to ensure adequate SCM maintenance, within the understanding and constraint of owner responsibility for adequate maintenance and ongoing inspections.

**If the LUO has been explicitly requiring property owner maintenance since 2007 (and implicitly for longer), why has it taken so long for the Town to take these steps?**

The Town has not had adequate funding or staffing to oversee private property owner maintenance in the past. The Town recently created a Stormwater Utility (2017) and began collecting dedicated revenue (2018) for the stormwater program, and has subsequently hired and trained staff to provide this capacity.

**Whom with the Town can I talk to about these requirements? Will Town staff come to the site to explain and discuss these requirements?**

You may wish to discuss the site permitting details with Zoning staff. Stormwater staff are able to discuss specific SCM maintenance details. As a first step, it is requested that [this form](#) be completed explaining the questions and requests in as much detail as possible so that Town staff can understand and look into the details and then determine how to respond and follow up. Depending on the details, Town staff may be able to schedule an onsite meeting.

**Where can I learn more about SCM Maintenance?**

Technical information about SCMs is available through the [NCDENR SCM Manual](#). The [NCSU Stormwater Engineering Group](#) website is also recommended as a source of information about stormwater SCMs and their maintenance.