

Report to the Environmental Review Commission

Pursuant to S.L. 2014-120, Sec. 29 REFORM AGENCY REVIEW OF ENGINEERING WORK

January 14, 2015

Name of Local Government Unit: Town of Hillsborough

Approved/delegated program subject to reporting requirements:

☐ Sedimentation/erosion control

☒ Stormwater

☐ Water/sewer

☐ Cross-connection

☐ 401 certifications

☐ Other Type program name

Terry L. Hackett



12/23/2014

Date

*Submit this report electronically to Mariah Matheson, Commission Assistant,
Environmental Review Commission, at Mariah.Matheson@ncleg.net.*

Name of local government unit: Town of Hillsborough

Please attach any written procedures that may have been developed to implement the provisions of this law.

☒ Check to indicate that this plan review program implemented procedures whereby plan reviewers distinguish between plan changes that are required by statutory or other legal authority and those that the reviewer offers as suggestions for improvement. Refer to S.L. 2014-120, Section 29.(b)(1) for further details about this requirement.

☒ Check to indicate that this plan review program identifies the statutory or regulatory authority for any revisions or requests for additional information that are required by the program in order to grant the requested plan permit, approval, or license. Refer to S.L. 2014-120, Section 29.(b)(2) for further details about this requirement.

☒ Check to indicate that this plan review program implemented procedures for local governments to follow when (1) a Professional Engineer submits a sealed design or practice that is not in the local government's guidance, manuals, or standard operating procedures, and (2) the submitting Professional Engineer requests additional internal review of that design or practice. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program established a procedure whereby the plan reviewer's supervisor OR the approving/delegating state agency can provide further review and oversight of these design details. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program either employs a Professional Engineer who can conduct further review of these innovative designs, or maintains a list of consulting Professional Engineers of the local government unit's choice that may conduct this review, if requested by and paid for by the submitting Professional Engineer. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program established an informal internal process to address disputes when a plan reviewer identifies a change to the plans as being "required" under a specific, identified legal authority. Refer to S.L. 2014-120, Section 29.(c)(2) for further details about this requirement.

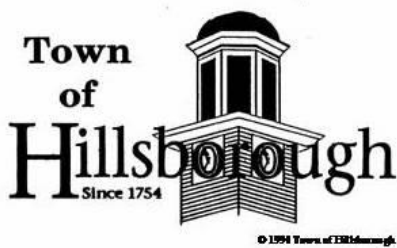
☒ Check to indicate that this plan review program discontinued use of the word "engineer" in the job titles of all program employees whose responsibilities include review of plans in affected programs, *unless* those employees hold Professional Engineer licenses. Refer to S.L. 2014-120, Section 29.(h) for further details about this requirement.

Name of local government unit: [Type name]

☒ Check to indicate that this plan review program reviewed the titles of all employees conducting plan reviews for this program. Refer to S.L. 2014-120, Section 29.(h)(1) for further details about this requirement.

☒ Check to indicate that this plan review program proposed revisions to those employees' job titles in order to eliminate use of the word "engineer" when publicly identifying those employees, if those employees do not hold Professional Engineer licenses. Refer to S.L. 2014-120, Section 29.(h)(2) for further details about this requirement.

Additional information: Please See attached memo



TOWN OF HILLSBOROUGH

Stormwater Management Division

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MEMORANDUM

To: Tom King, Senior Planner
From: Terry Hackett, Stormwater Program Manager *TLH*
Date: December 1, 2014
Subject: Implementation of S.L. 2014—120, Section 29
Copies: Margaret Hauth, Planning Director

New requirements for certain local government plan review procedures became effective December 1, 2014. The requirements were included in Session Law 2014-120, Section 29. The requirements of this law apply to specific development plan review processes that are being conducted pursuant to a program approved or delegated by the N.C. Department of Environment and Natural Resources (NCDENR) and includes granting an approval. For the Town of Hillsborough our stormwater management plan approval process and our Neuse buffer authorization process fall under the requirements of this new law.

This memo describes how we will implement these requirements. This includes how this may affect the Technical Review Committee (TRC) process, although I do not expect these new requirements to have a significant impact on how we already handle project review through TRC.

The following list describes the requirement and how the stormwater division will implement them.

1. *Identify “required” vs. “suggested” changes/comments.* The new law requires plan reviewers to distinguish between plan changes that are required by our ordinance or other legal authority versus those that are suggested.

For projects submitted through TRC preliminary comments will be provided as they have been to this point. Once construction drawings are submitted and the applicant pays the stormwater management plan review fee, comments and plan changes will be provided clearly noting which are required. Changes/comments that are required will include a reference to our Unified Development Ordinance, NCDENR Stormwater BMP Manual or other appropriate regulatory citation. The format will be as follows...

Stormwater Management Plan Comments:

Required

- a. Comment #1 (include statutory reference, citation, etc.)...
- b. Comment #2, (include statutory reference, citation) etc.

Suggested

- a. Comment #1...
- b. Comment #2, etc.

2. *Innovative designs involving a Professional Engineer (PE).* When a development proposal includes a design or practice sealed by a PE that is not covered by the NCDENR Stormwater BMP Manual it will be considered an “innovative” design. Innovative designs will continue to be reviewed stormwater staff. At this time stormwater staff reviewing plans is not a licensed PE but is certified by NCDENR as a stormwater management plan reviewer. However, this memo hereby defines the town’s procedure in the event that submitting PE requests additional review. The submitting PE will have two choices.

The submitting PE can either request that the sealed innovative design be submitted to NCDENR for review or request that a third party consulting PE complete the review. In either case it will be up to the submitting PE to pay costs associated with this escalated review. At this point in time the Town of Hillsborough does not intend to maintain a contract with consulting PEs, but simply maintain a list of consulting PE’s acceptable to stormwater staff. While the town will not pay for the escalated review, stormwater staff will coordinate between the submitting PE and outside reviewer.

3. *Disputes involving changes that are “required”.* In the event that a submitting PE disputes comments/changes that have been listed as *required*, the following procedures will be followed:
 - a. The submitting PE must submit their request in writing to the stormwater program manager, detailing the dispute.
 - b. The submitting PE and the stormwater program manager will arrange a meeting to discuss the submitted disputes and make an effort to resolve them to the satisfaction of both parties.
 - c. If resolution of the dispute is not made, then the plan review will be escalated as described in item #2 above.
4. *Job Titles.* Riparian buffer authorization requests do not typically require a PE to seal the submittal but can. For stormwater management plans, a licensed PE must seal and submit the design. At this point in time, stormwater management plan reviews and riparian buffer authorization requests are completed by the stormwater program manager. The stormwater program manager position does not require a PE license, but could. At this point only certification by NCDENR is required. The town will not use the term “engineer” for any position that does not have a PE. Only a licensed PE will use the term engineer in their job title.
5. *Selection of a private-sector PE.* As described above, there will be two instances when a submitting PE can request an escalation of a review. The costs for the escalated review will not be paid by the Town of Hillsborough, but will be directly billed to the submitting PE as applicable.

However, the Town of Hillsborough will maintain a list of licensed PE’s that are capable of completing the escalated review. The list will be maintained by the stormwater program manager and will initially include local firms with qualified licensed PE’s that have completed the NCDENR certifications.