

Lake Management Evaluation Program Policy

ADOPTED BY RALEIGH CITY COUNCIL – OCT. 2020

A RESOLUTION TO REWRITE THE “CITY OF RALEIGH LAKE PRESERVATION AND DEVELOPMENT POLICY”

WHEREAS, in 1994, the City of Raleigh by Resolution (1994)- 439 adopted the “Lake Preservation and Development Policy” as an approach to assure preservation of existing lakes based on mutual benefits and agreements between lake owners and the City, and updated same in 2006 by Resolution (2006) - 976; and

WHEREAS, since that time, the City of Raleigh has completed additional studies, approved, funded, and constructed Stormwater Capital Improvement Projects involving established ponds, lakes, and dams; and

WHEREAS the original lake preservation and development policy, based upon studies and information available at the time, did not fully incorporate the public stormwater management benefits and any directly related aquatic, wetland, floodplain, and/or riparian area management benefits that could be derived from both preserving existing lakes and the restoration of riparian environments which are now or have been impounded; and

WHEREAS the original lake preservation policy, based upon studies and information available at the time, did not realize the public stormwater management benefits available from “closer to source” stormwater control measures including but not limited to green stormwater infrastructure/low impact development measures as balanced with and/or evaluated relative to potential “regional” structural stormwater control measures such as ponds, lakes, and wetlands that serve larger drainage areas; and

WHEREAS, during 2015, the City developed an Integrated Stormwater Management Project Prioritization Model which identifies and incorporates the City’s mission-critical public stormwater management goals and priorities of public safety and public health, flood hazard reduction, water quality protection and improvement, and regulatory compliance; and

WHEREAS the Integrated Stormwater Management Project Prioritization Model was developed in partnership with the City’s Stormwater Management Advisory Commission (SMAC), and presented to City Council in November 2015, and the Prioritization Model is thus available to serve as a tool to help evaluate capital improvement project needs and opportunities citywide including potential lake preservation projects as well as lake management alternative projects; and

WHEREAS, in April 2015, the City of Raleigh adopted a Strategic Plan that includes a key focus upon growth and natural resources along with five other key focal areas for the community; and

WHEREAS the SMAC has recently reviewed the existing lakes policy in detail for clarifications and additional improvements and would recommend that the policy be further updated in 2020 to reflect needed changes, regulatory and implementation opportunities and constraints, and to incorporate the City Stormwater Management Program's strategy for an effective, efficient, measurable, and sustainable lakes management program going forward.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT THE "CITY OF RALEIGH LAKE PRESERVATION AND DEVELOPMENT POLICY" BE RENAMED AS THE "CITY OF RALEIGH LAKE MANAGEMENT EVALUATION PROGRAM" AND BE FURTHER REVISED AS FOLLOWS:

"LAKE MANAGEMENT EVALUATION PROGRAM"

SUMMARY OF PROGRAM AND POLICY ENHANCEMENTS - 2020

The revised program will be known as the "City of Raleigh Lake Management Evaluation Program".

1. As introduced with the 2006 revisions, because of the unique and specific aspects in each watershed across the city, the City's Stormwater Management Program will pursue performance-based surface water quality management strategies using a watershed by watershed-based approach to protect and enhance the City's surface water quality and help achieve public stormwater management program goals rather than a rigid, citywide standard relating to lakes preservation.
2. Unless accepted by the City through the Lake Management Evaluation Program described herein, operation and maintenance of privately-owned ponds, lakes, and/or other private surface water features are the responsibility of the private owner(s). A private pond, lake, or other surface water feature may potentially qualify for City-funded improvements and/or management methods only if it is determined by the City that the facility or area of interest does or could provide significant public stormwater management benefits which will be enhanced or maintained by the City's investment.
3. When significant public stormwater management benefits may be realized per #2, in all cases a range of possible alternatives to potentially manage a given private pond, lake, wetland, or other surface waterbody for public stormwater management purposes must be fully evaluated prior to recommendation for inclusion of a preferred alternative, if any, as a proposed project within the City's Stormwater Capital Improvement Program, subject to available, City Council-authorized and approved Stormwater Management funding. This program is focused upon usage of City Stormwater Management funds for lake

management evaluation projects as defined herein and does not control, limit, nor constrain the usage of non-City Stormwater Management funds with respect to ponds, lakes, wetlands, or other surface waterbody projects.

In the evaluation of potential projects, the City Stormwater Management Program shall document its application of the following criteria and any additional factors which establish the value of the significant stormwater management benefits for the public:

- a) no involvement with the pond, lake, wetland, or other surface waterbody by the City's Stormwater Management Program due to negligible, minimal, or marginal public benefits where higher priority public stormwater management projects and program needs are readily apparent;
- b) if established wetlands exist, then the first priority is to protect and maintain established and existing wetlands. Alternatives may be reviewed that would enhance, expand, and/or improve existing wetlands, however, subject to regulatory standards and approvals;
- c) pond, lake, and/or surface waterbody preservation/restoration in full or in part;
- d) elimination of the constructed dam/spillway and pond/lake impoundment in full or in part in order to restore the natural stream/wetland/floodplain/riparian system in full or in part, provided that applicable regulatory requirements are satisfied including but not limited to the City's National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (NPDES MS4) permit, the Neuse Nutrient Strategy, and Falls Lake Nutrient Strategy;
- e) a potential hybrid solution of full or partial pond/lake/surface waterbody restoration along with potential stream restoration and/or other viable stormwater control measure(s) to best fit the riparian area conditions, public stormwater management needs, and regulatory requirements for the given area and watershed of interest; and
- f) other practicable and permissible alternatives that may vary from watershed to watershed, and from site to site, and that would provide public stormwater management benefits and any directly related aquatic, wetland, floodplain, and/or riparian area management benefits consistent and aligned with the purposes, needs, and goals of the City's Stormwater Management Program.

The preferred alternative, if any, must in all cases be justifiably cost effective and cost-beneficial based on required and available City budgetary funding for the City to both construct and maintain the improvements in perpetuity in the best interest of the public.

In all cases appropriate and required temporary construction easements and permanent stormwater easements must be dedicated to the City by the property owner(s) in order

to protect and maintain the City's improvements through projects performed for beneficial public stormwater management purposes under this program. Easements are to be dedicated to the City by the property owner(s) at no cost to the City other than typical incidental easement transactional costs such as survey or deed recordation fees as would be required for similar easements associated with any City Stormwater Capital Improvement Project

4. Private, permanent structural Stormwater Control Measures (SCMs) such as wet or dry stormwater detention ponds, constructed stormwater wetlands, etc., that are a regulatory requirement for new development or redevelopment of land in Raleigh are not eligible for the City's Lake Management Evaluation Program.
5. Potential stormwater management projects for City or County or other governmental-owned and operated ponds, lakes, wetlands, and other impounded surface waters located within the corporate limits of Raleigh that may be funded in full or in part by the City's Stormwater Management Program must also undergo the same comprehensive evaluation and alternatives analysis outlined in #3 above.
6. Projects on City-owned property or within City right-of-way with public safety-related issues such as dam safety and/or flood control will generally take priority over other recommended projects that do not entail public safety-related elements. In developing the preferred alternative to address the public safety issues and other City stormwater management requirements, the same comprehensive evaluation and alternatives analysis outlined in #3 above must be followed. In addition to satisfying public safety-related issues, if present, projects that are on City-owned property or within City right-of-way are strictly considered as part of the City's MS4 and therefore must also satisfy NPDES MS4 and other applicable regulatory requirements and programs.
7. Existing privately-owned and operated ponds, lakes, dams, wetlands, and other surface waterbodies that are located outside of the boundaries of the City's Municipal Separate Storm Sewer System (MS4) are not the City's responsibility as related to the City's NPDES MS4 permit and program. The City's NPDES MS4 permit and program does not require nor prohibit the preservation of any existing privately-owned and operated pond, lake, dam, wetland, or other surface waterbody for regulatory compliance. Rather, the City's NPDES MS4 permit and program requires that the City, to the Maximum Extent Practicable, reduce the discharge of pollutants from its MS4 to receiving surface waters including streams, ponds, lakes, wetlands, and other receiving surface waters within the jurisdictional limits of Raleigh.
8. Ponds, lakes, wetlands, and other surface waterbodies may be preserved or alternatively managed when possible and permissible, and when publicly beneficial, through incentive approaches authorized in the Unified Development Ordinance (UDO) such as development density transfers, open space tradeoff requirements, and conditional use

zoning cases by monitoring proposed zoning cases as well as site and subdivision plan approval.

9. Priorities for the Lake Management Evaluation Program may continue to be adapted over time as additional watershed and water quality studies are updated and completed throughout the City. Using the Integrated Stormwater Management Project Prioritization Model and other applicable models and tools, results from studies in terms of potential lake management evaluation opportunities will be included in recommended stormwater management facilities for preservation or construction.
10. The City will continue to utilize non-structural stormwater control measures and practices in an effort to protect and improve surface water quality citywide. Such non-structural stormwater measures may include but are not limited to public education and public involvement programs, monitoring and control of illicit discharges to the stormwater system, maintenance of the public stormwater system, and continuation of the erosion and sediment control program.
11. Requirements for public engagement: All lake and lake-related projects considered under this policy herein must include public involvement and public engagement to help the City determine the preferred course of action and to accompany the technical analysis of lake management alternatives. Public engagement will include contact with and request for input from citizens/property owners with a direct interest in a given project such as members of a homeowners association (if applicable) or similar ownership interest. Public input will also include a general open public meeting to garner feedback and input from the interested public at-large. Staff will provide a summary of public input received as projects are evaluated.
12. Requirements for Review by Stormwater Management Advisory Commission and Approval by City Council: All lake and lake-related projects considered under this policy herein must be reviewed by Staff with the Stormwater Management Advisory Commission (SMAC). In cases where a non-lake preservation alternative is being recommended, SMAC must provide a review and concurrent recommendation for Staff. Moreover, in all cases where a non-lake preservation alternative is recommended and supported by SMAC, City Council must formally receive the recommendation from SMAC and make a final decision and determination on course of action for the lake/lake area on behalf of the Raleigh community prior to project implementation.