STORMWATER OFF-RIGHT-OF-WAY ASSISTANCE PROGRAM
Approved October 13, 2025

Background:

The Town of Fletcher's level of service related to storm drainage meets the minimum basic requirements of the State of North Carolina. The Town maintains drainage facilities within Town-system street rights-of-way. The Town does not typically plan for improvements to existing street drains, and the Town does not maintain or improve drainage facilities on private property.

In 2025, the Town of Fletcher Council initiated a storm drainage incentive grant program to assist with the cost of making drainage improvements on private property that also benefit the public. The following information will help property owners apply for an incentive grant.

Application Process:

1. Applicant(s) shall review the drainage situation with the Town of Fletcher Staff.

   Contact: Mr. Mark Biberdorf, Town Manager
   Town of Fletcher
   300 Old Cane Creek Road
   Fletcher, NC 28732
   Telephone: (828)687-3985

2. To be eligible for a grant, the proposed project must meet the following criteria:
   a. The residential property must be located within the town limits of Fletcher, North Carolina.
   b. It must include a demonstrable public benefit meaning that it helps to convey stormwater that contains runoff from the public right of way or public property.
   c. The applicant shall be in good standing with Town taxes and/or fees.

3. Applicant(s) shall submit a completed grant application including the following:
   a. A description of the problem and the proposed treatment.

b. Cost proposal(s) submitted by appropriate contractors. At least three NC licensed/insured contractor quotes are recommended before final approval of award.
c. Statement describing how expenses shall be shared.
d. Photos of existing conditions annotated with notes for the proposed improvements.
e. A sketch of the proposed improvements.

4. A notification letter will be sent to the applicant(s) identifying if the request has been granted, granted with restrictions, or denied.
5. An agreement between the Town and the property owner(s) must be signed before any grant-eligible work commences. Any work that is performed without an agreement in place will not be covered by the grant program.
6. It is the applicant's responsibility to ensure that construction is completed in substantial conformance with the grant proposal; the Town will provide spot inspections of construction activity.
7. The Town will pay its portion of the grant payment directly to the contractor after a completed copy of the contractors' invoice has been submitted. The Town reserves the right to withhold payment for work found to be not in substantial conformance with the grant proposal. All requests for payment must be submitted by the end of the fiscal year (July-June) in which the grant was awarded.

Evaluation of Grant Requests:

1. Grant requests received and reviewed on a bi-monthly basis shall be evaluated competitively and awarded by Town Council based on established priorities and subject to available funds.
2. Grants of up to $5,000 may be awarded by the Town Manager. Grants in excess of $5,000 may be awarded only by Town Council approval.
3. Improvements will also be reviewed for conformance with best engineering practices, Town zoning, ordinances and land-use requirements before the application is approved.

Legal Background:

The North Carolina Supreme Court formally adopted the common law doctrine known as the "rule of reasonable use" with respect to surface water drainage in 1977. The rule of reasonable use allows each landowner to make reasonable use of his/her land even though by doing so, he/she alters in some way the flow of surface water, thereby harming other landowners. Liability is incurred only when the harmful use is found to be unreasonable and causes substantial damage. The questions of what is unreasonable and what constitutes substantial damage are dependent upon the circumstances of each situation and can be specified only through litigation.

The State Court has ruled on several cases to establish the following general principles that are applicable to drainage throughout North Carolina:

1. Every property owner has the right to develop his property to the extent allowed by local ordinances (zoning and subdivision ordinances).

2. Development results in more runoff at a higher velocity. Downstream property owners are obligated to accommodate the increased runoff (except for diversions).

3. Municipalities are not obligated to address storm drainage on private property.

4. If a Town has accepted streets with insufficient drainage facilities, the Town must use reasonable diligence to keep the drains in good repair, but the Town is not obligated to upgrade them.

5. If a Town annexes an area with drainage problems, the Town is required to provide the same level of service to that area as is provided Town wide. The Town is not obligated to correct existing problems in a newly annexed area.

STATE OF NORTH CAROLINA AGREEMENT

COUNTY OF HENDERSON/ TOWN OF FLETCHER

THIS AGREEMENT, is made and entered into this _____ day of _____20____, by and between the Town of Fletcher, a municipal corporation of Henderson County, North Carolina, hereinafter referred to as the TOWN, party of the first part, and _____, of Henderson County, North Carolina, hereinafter referred to as the RECIPIENT, party of the second part.

WITNESSETH THAT:

WHEREAS, the Common Law Doctrine known as the "rule of reasonable use" which has been formally adopted by the North Carolina Supreme Court with respect to surface water drainage allows reasonable alteration of the flow of storm water runoff which may cause harm to properties; and

WHEREAS, there are locations throughout the Town of Fletcher where the altered flow of public storm water runoff through private property interferes with the safety, comfort, welfare, and/or convenience of property owners or the general public; and

WHEREAS, the Town does not have the power of eminent domain with respect to storm water runoff, and in most cases does not have legal authority to make drainage improvements on private property; and

WHEREAS, the Town is willing to award grants to promote the improvement of drainage facilities on private property in accordance with the Stormwater Off-Right-of-Way Assistance Grant;

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties agree as follows:

1. The Recipient agrees to utilize the grant funds via direct payment to their contractor to fulfill the project described in the Stormwater Off-Right-of-Way Assistance Grant Application, attached hereto as Exhibit "A", and to utilize said funds solely for fulfillment of identified storm drainage improvements.

2. The Recipient agrees to maintain the subject drainage way after project completion at no cost or liability to the Town. Further, the Recipient acknowledges that the Town is not, at this time, responsible for surface water runoff or for the maintenance of drainage ways across private property.

3. The Recipient agrees to abide and conform all drainage improvement construction undertaken pursuant to this agreement to all applicable laws of the United States, the State

of North Carolina, Henderson County, and those applicable provisions of the ordinances of the Town directly or indirectly related to the subject matter of this agreement.

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4. The amount of the grant shall be $ _____ or 90% of actual grant-eligible expenses, whichever is less. Grant funds shall be payable upon submittal of contractor invoices, approved for payment, provided said project meets with the Town's approval and is completed in substantial conformance with those provisions specified in the Stormwater Off-Right-of-Way Assistance Grant, Exhibit "A".

5. The Recipient agrees to complete the project and submit approved invoices as soon as is practical after the work is completed and by the end of the fiscal year (July-June) in which the grant was awarded.

6. Technical assistance provided by the Town will be advisory only. The Town will not be a party to negotiations between the Recipient and any contractor or designer employed by the Recipient. The Recipient agrees to hold the Town harmless for any design considerations, defects in workmanship, or from any liability, damages, or other costs relative to this project. This includes during and as a result of construction.

7. This agreement may be terminated and the Town may withhold grant monies upon the Recipient's breach of or failure to perform any of the terms of this agreement including those provisions in Exhibits "A". The Town shall give the Recipient 10 days notice in writing of termination for any cause.

IN WITNESS THEREOF, the parties hereto have caused this agreement to be signed by their proper officials upon the day and year first written above.

_____
Town of Fletcher

_____
Grant Recipient

_____
Town Clerk/Seal

STORMWATER OFF-RIGHT-OF-WAY ASSISTANCE PROGRAM
Exhibit A

Property Location _____

_____

Nature of Problem _____

_____

_____

_____

_____

Proposed Treatment _____

_____

_____

_____

_____

Total Estimated Cost (Please attach itemized estimates) $_____

Expenses shall be shared in the following manner:

___ A single participant shall incur all expenses.

___ Expenses shall be divided equally among all participants.

___ Expenses shall be prorated according to street frontage.

___ Expenses shall be prorated according to property length.

___ Other (please describe) _____

We the undersigned hereby apply for a Stormwater Off-Right-Of-Way Assistance Grant from the Town of Fletcher. By signing this form, we acknowledge the following;

- The proposed storm drainage improvement is being made under control of private property owners. The subject drainage way is neither owned nor controlled by the Town, and at this time is not part of a Town-maintained drainage system.
- Upon completion of the project, property owners shall continue to maintain the drainage facilities located on their respective properties. Maintenance includes but is not limited to: using reasonable diligence to keep pipes and ditches free of obstructions and uncontrolled vegetation; removal of litter and debris; repair of erosion or structural failure.
- We have read the standard agreement and agree to abide by its terms.
- We agree to pay our respective share of the project to be determined prior to the awarding of the grant.

_____	_____	_____
Applicant(s) Printed Name	Applicant(s) Signature	Date
_____	_____	_____
Applicant(s) Printed Name	Applicant(s) Signature	Date
_____	_____	_____
Applicant(s) Printed Name	Applicant(s) Signature	Date