

ORDINANCE NO. 09-26

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE, APPENDIX A, ARTICLE 8,  
SECTION 8.05 STORMWATER MANAGEMENT & Article 6 DEVELOPMENT STANDARDS,  
SECTIONS 6.04 LANDSCAPE STANDARDS, E. GRADING STANDARDS FOR STREAM AND  
WETLAND PROTECTION**

**TA26-01**

WHEREAS, the proposed text amendment change is a requirement mandated by the United States EPA and administered by the NCDEQ:

WHEREAS, The City's National Pollutant Discharge and Elimination System (NPDES)/Phase II stormwater permit requires that the City adopt a Post-Construction Stormwater Ordinance (PSOC):

WHEREAS, the term Manual of Practice referred to as design requirements under Public Facility Requirements is not a guide used by the City's Engineering Department

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Statesville that Article 8 Section 8.05 Stormwater Management, replaces the existing section in its entirety and Sections 8.02, 8.03 and Article 10 Appendices replace the term Manual of Practice with the following:

**Section 8.05 - Stormwater Management**

**A. Authority, References, and Usage**

1. *Authorities.* The following authorities shall apply to Section 8.05:
  - a. The City Council of the City of Statesville, further referred to herein as "the City", is authorized to adopt this section pursuant to North Carolina law, including but not limited to, Article 14, Section 5 of the Constitution of North Carolina; G.S. 143-214.7 and rules promulgated by the environmental management commission thereunder; Session Law 2004-163, G.S. 160A-174 and 160A-185;
  - b. The Stormwater Program Manager is authorized to determine the interpretation of this section. Any person may request an interpretation by submitting a written request to the Stormwater Program Manager, who shall respond in writing within thirty (30) business days. The Stormwater Program Manager shall keep on file a record of all written interpretations of this section and shall post these on the City's website; and
  - c. Any act authorized by this section to be carried out by the City or Stormwater Program Manager may be carried out by his or her designee.
2. *Role of the Stormwater Program Manager.* In addition to the powers and duties that may be conferred by other provisions of this section and other laws, the Stormwater Program Manager shall have the following powers and duties under this section:
  - a. To assist in the review and approval, approval with conditions or disapproval plans pursuant to this section;
  - b. To make determinations and render interpretations of this section;
  - c. To establish application requirements and schedules for submittal and review of applications, to review and make recommendations to the Statesville City Council on applications for development or redevelopment approvals;
  - d. To enforce the provisions of this section in accordance with its enforcement provisions;
  - e. To maintain records, maps, forms and other official materials as they relate to the adoption, amendment, enforcement and administration of this section;
  - f. To provide expertise and technical assistance to the Statesville City Council upon request;
  - g. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Program Manager; and

- h. To take any other action necessary to administer the provisions of this section.
3. *Most Recent Editions.* Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the City Stormwater Design Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.
  4. *Calculation of Time.* The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City. References to days are calendar days unless otherwise stated.
  5. *Word Usage.* The following provisions about usage shall apply:
    - a. The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature;
    - b. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions and events apply. The word "or" indicates that one (1) or more of the connected items, conditions, provisions or events apply;
    - c. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa; and
    - d. In the event of a conflict or inconsistency between the text of this section and any heading, caption, figure, illustration, table, or map, the text shall control.
  6. *Other Ordinances and Rules.* This section is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this section are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this section imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety and welfare shall control.
  7. *Easements and Other Agreements.* This section is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this section are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this section shall govern. Nothing in this section shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this section. In no case shall the City be obligated to enforce the provisions of any easements, covenants or agreements between private parties.
  8. *If a Portion of this Section is Judged Invalid.* If the provisions of any subsection, paragraph, subdivision or clause of this section shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any subsection, paragraph, subdivision or clause of this section.
  9. *Effective Date.* This Ordinance shall take effect on 20<sup>th</sup> of April, 2026.

## B. Findings

1. *Hydrologic Effects.* Development alters the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, sediment transport and deposition, as well as reducing groundwater recharge.
2. *Pollution.* These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health

and safety as well as to the natural environment.

3. *Managing Effects of Stormwater.* These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.
4. *Federal Authority.* Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and Federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to Federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this section.
5. *City Response to Stormwater Runoff.* Therefore, the Statesville City Council establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

### C. Purpose

1. *General Purpose.* The purpose of this section is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment.
2. *Specific Objectives.* The stormwater management requirements seek to meet the general purpose through the following specific objectives and means:
  - a. Establishing decision-making processes for development that protects the integrity of watersheds and preserves the health of water resources;
  - b. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storms to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
  - c. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
  - d. Establishing design and review criteria for the construction, function, and use of Stormwater Control Measures (SCMs) that may be used to meet the minimum post-development stormwater management standards;
  - e. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
  - f. Establishing provisions for the long-term responsibility for and maintenance of SCMs and nonstructural stormwater Best Management Practices (BMPs) to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
  - g. Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to ensure appropriate long-term maintenance;
  - h. Coordinating site design plans that include open space and natural areas with the City Zoning Ordinance and establish riparian buffers;
  - i. Controlling erosion and sedimentation from construction activities; and
  - j. Assigning responsibility and processes for approving the creation and maintenance of adequate drainage and flood damage prevention measures.

### D. Definitions

When used in this Ordinance, the following words and terms shall have the meaning set forth in this

section, unless other provisions of this Ordinance specifically indicate otherwise. All provisions, terms, phrases, and expressions contained in this section shall be construed according to the general and specific purposes set forth in Section 8.05. If a different or more specific meaning is given for a term defined elsewhere in the City's Code of Ordinances, the meaning and application of the term in this section shall control for purposes of application of this section.

Definitions marked with an asterisk (\*) are as defined in 15A NCAC 02H .1000 – Stormwater Management.

1. *As-built*

A document to compare the designed stormwater control measure to the final specifications and provide details as actually constructed. As-builts reflect all changes made in the design plans and drawings during the construction process, and show the exact dimensions, geometry, and location of all elements of the work completed under the contract and all relevant calculations.

2. *Built-upon Area (BUA)*

As defined in G.S. 143-214.7D, BUA is impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. For the purposes of implementing State or local government stormwater programs, none of the following surfaces shall be considered "built-upon area" or an impervious or partially impervious surface:

- a. A slatted deck;
- b. The water area of a swimming pool;
- c. A surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric;
- d. A trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour);
- e. Landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle; and
- f. Artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer's specifications over a pervious surface.

3. *Department*

The North Carolina Department of Environmental Quality (NCDEQ).

4. *Design Manual*

A single document or manual or collection of documents and manuals referenced by the City containing policy, criteria, and information, including technical specifications and standards, for designing and operating SCMs and any conveyances, appurtenances, or other structures to or from the SCM. All references herein to the Design Manual are to the latest published edition or revision.

5. *Development*

As defined in G.S. 143-214.7, any land-disturbing activity that increases the amount of BUA or that otherwise decreases the infiltration of precipitation into the subsoil. When additional development occurs at a site that has existing development, the BUA of the existing development shall not be included in the density calculations for additional stormwater control requirements, and stormwater control requirements cannot be applied retroactively to existing development, unless otherwise required by federal law.

6. *Dispersed Flow\**

Uniform shallow flow that is conveyed to a vegetated filter strip as defined in 15A NCAC 2H .1059, another vegetated area, or SCM. The purpose of "dispersed flow" is to remove pollutants through infiltration and settling, as well as to reduce erosion prior to stormwater reaching surface waters.

7. *High Density Project\**

A development project that exceeds the low density threshold for BUA.

8. *Instrument of Title*  
Any recorded instrument that affects title or constitutes the chain of title to real property, including, but not limited to, all deeds, wills, estate documents evidencing transfer of title, plats, surveys, easements, rights-of-way, outstanding mortgages and deeds of trust, judicial orders or decrees, and documents evidencing intestate succession.
9. *Larger Common Plan of Development or Sale*  
Any area where multiple, separate and distinct construction or land-disturbing activities will occur under one (1) plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.
10. *Low Density Project\**  
A development project that has less than 24 percent BUA for all residential and non-residential development.
11. *Minimum Design Criteria (MDC)\**  
The requirements set forth in 15A NCAC 02H .1050 for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for the City to issue stormwater permits that comply with State water quality standards.
12. *Non-erosive Velocity\**  
The flow rate of water, usually measured in feet per second that does not exceed the maximum permissible velocity for the condition and type of soil and groundcover over which the water is flowing. Erosion occurs when the maximum permissible velocity is exceeded.
13. *N-year, 24-hour Storm\**  
A rainfall event with a 24-hour duration, having a total precipitation that is expected to be equaled or exceeded, on average, once in n times during a 12-month period.
14. *Owner*  
The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.
15. *Primary SCM\**  
A wet pond, stormwater wetland, infiltration system, sand filter, bioretention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed and maintained in accordance with the MDC.
16. *Project\**  
The proposed development activity for which an applicant is seeking a stormwater permit from the City. "Project" shall exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, State, or local stormwater regulation. Owners and developers of large developments consisting of many linked projects may consider developing a master plan that illustrates how each project fits into the design of the large development.
17. *Redevelopment*  
As defined in G.S. 143-214.7, any land-disturbing activity on previously developed land that does not result in a net increase in BUA and that provides greater or equal stormwater control to that of the previous development. For purposes of Section 8.05 of this ordinance, a rebuilding activity that results in no net increase in BUA and provides equal or greater stormwater control than the previous development is exempt from requirements related to redevelopment.
18. *Riparian*  
Of or pertaining to the landscape interface between an upland area and a flowing surface water body. Riparian areas exhibit their own significance in geography, particularly ecology and hydrology, which are significantly influenced by its relationship with the surface water body.
19. *Sheet Flow*

Conveyance of surface water or runoff at a depth significantly less than the width of the flow path on which it flows. Sheet flow is maintained until the flow begins to concentrate into rills or micro-channels. The purpose for sheet flow in regards to this Ordinance is that sheet flow maintains a lower energy and higher surface area of contact with the flow path than concentrated flow.

20. *Secondary SCM\**

An SCM that does not achieve the annual reduction of Total Suspended Solids (TSS) of a "Primary SCM" but may be used in a treatment train with a primary SCM or other Secondary SCMs to provide pre-treatment, hydraulic benefits, or a portion of the required TSS removal.

21. *Stormwater Control Measure (SCM)\**

A permanent structural device designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. SCMs include physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "SCM" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "structural stormwater treatment systems," and similar terms used in this Ordinance.

22. *Vegetated Buffer*

An undisturbed area of natural or established vegetation adjacent to surface waters, through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation due to development activities.

23. *Vegetated Conveyance\**

A permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.

**E. Applicability**

1. *Applicability.* Section 8.05 shall apply to development projects and major modifications of development projects for residential, commercial, industrial, or institutional use that:

- a. Are subject to one (1) or more of the post-construction stormwater management programs listed in 15A NCAC 02H .1001;
- b. Are submitted for review on or after the effective date of this ordinance revision;
- c. Are within the areas designated on the map titled City of Statesville Zoning Map, both within the City limits and within the Extra-Territorial Jurisdictional areas;
- d. Cumulatively disturbs one (1) acre or more, or adds twenty thousand (20,000) square feet or more of BUA, or is part of a larger common plan of development or sale that cumulatively disturbs one (1) acre or more or adds twenty thousand (20,000) square feet or more of BUA; and
- e. Are not exempt pursuant to Item 3 below.

2. *Redevelopment.* For redevelopment, increased stormwater controls shall only be required for the amount of BUA being added that exceeds the amount of BUA which existed before the redevelopment.

3. *Exemptions.* Activities that are exempt from Section 8.05 include:

- a. Activities that are exempt from Section 404 of the federal Clean Water Act as specified in 40 CFR 23, including land management activities associated with agriculture or silviculture;
- b. Activities of the North Carolina Department of Transportation (NCDOT) that are regulated in accordance with the provisions of NPDES Permit Number NCS000250;
- c. Development activities that have already received a permit from the City of Statesville. These activities shall follow their existing permit conditions;
- d. Airport facilities that are deemed permitted in accordance with G.S. 143-214.7(c4);
- e. Redevelopment that does not result in a net increase in BUA;
- f. Linear transportation projects undertaken by an entity other than the NCDOT

when:

- i. The project is constructed to NCDOT standards and is in accordance with the NCDOT Stormwater Best Management Practices Toolbox;
  - ii. Upon completion, the project will be conveyed either to the NCDOT or another public entity and will be regulated in accordance with that entity's NPDES MS4 stormwater permit; and
  - iii. The project is not part of a common plan of development.
4. *Disputes Over Applicability.* In the event of a dispute, the applicability of this Ordinance to a particular area of land or SCM shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

#### **F. Stormwater Design Manual**

1. *Basis of Decisions.* The Stormwater Program Manager shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of SCMs and nonstructural stormwater BMPs.
2. *Design Practices and Criteria.* The Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.
3. *Relevance of Other Manuals.* The Design Manual may consist of one (1) or several acceptable manuals or documents determined by the Stormwater Program Manager. The Stormwater Program Manager may add or remove manuals or documents from reference at their discretion in order to meet this section of the Statesville UDO and Phase II laws. As of the effective date of this Section 8.05 revision, Design Manual shall refer to both the City Stormwater Design Manual and the NCDEQ Stormwater Design Manual. Links to the documents for the effective Design Manuals will be posted on the City's website.
4. *Evaluation of SCMs.* All SCMs and stormwater treatment required under this section shall be evaluated by the Stormwater Program Manager according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the *Design Manual*. The Stormwater Program Manager shall determine whether proposed SCMs will be adequate to meet the requirements of this section.
5. *Determination of Adequacy.* Stormwater treatment practices that are designed, constructed and maintained in accordance with the criteria and specifications in the *Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of this section. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *Design Manual*, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this section. The Stormwater Program Manager may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Program Manager to determine whether such an affirmative showing is made.
6. *If Design Manual is More Restrictive.* If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.
7. *Updates to Design Manual During Plan Review.* If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this section but prior to approval, the information applicable at the date of the submittal shall control and shall be utilized in reviewing the application and in implementing this section with regard to the application.
8. *Updates to Design Manual.* The Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience. NCDEQ regularly updates portions of their manual and offers a service for notifications of updates. Notices of updates to the City manual will be posted on the City website.

#### **G. Stormwater Design Requirements**

The following stormwater design requirements are in accordance with 15A NCAC 02H – Section 1000.

1. *Calculation of Project Density.* The following procedures shall be used to calculate project density:
  - a. Project density shall be calculated as the total BUA divided by the total project area. Computation of lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site based on coordinate geometry of horizontal projection;
  - b. A project with existing development may use the calculation method listed above in 1.a or shall have the option of calculating project density as the difference of total BUA minus existing BUA divided by the difference of total project area minus existing BUA; and
  - c. On a case-by-case basis as determined by the City during application review, projects may be considered to have both high and low density areas based on one (1) or more of the following criteria:
    - i. Natural drainage area boundaries;
    - ii. Variations in land use throughout the project; or
    - iii. Construction phasing.
2. *Low Density Projects.* The following design standards shall apply to low density projects:
  - a. A project is considered low density when the drainage area contains less than 24 percent BUA for all residential and non-residential development;
  - b. Projects shall be designed to maximize dispersed flow through vegetated areas and minimize channelization of flow;
  - c. Stormwater runoff that cannot be released as dispersed flow shall be transported from the development by vegetated conveyances to the maximum extent practicable. A minimal amount of non-vegetated conveyances for erosion protection or piping for driveways or culverts under a road shall be allowed by the City when it cannot be avoided. Vegetated conveyances shall meet the following requirements:
    - i. Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the City that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
    - ii. The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm as demonstrated by engineering calculations.
  - d. Low density projects may use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:
    - i. The curb outlets shall be designed such that the swale or vegetated area can carry the peak flow from the 10-year storm at a non-erosive velocity;
    - ii. The longitudinal slope of the swale or vegetated area shall not exceed five percent, except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;
    - iii. The swale's cross-section shall be trapezoidal with a minimum bottom width of two feet;
    - iv. The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical); and
    - v. The minimum length of the swale or vegetated area shall be one hundred (100) feet.
3. *High Density Projects.* The following standards shall apply to high density projects:
  - a. A project is considered high density when the project equals or exceeds 24 percent

BUA; and

- b. High density projects shall include primary SCMs that meet the following requirements:
    - i. SCMs shall control and treat runoff from the first inch of rain;
    - ii. Minimum design criteria for SCMs shall be in accordance with 15A NCAC 02H .1050 through .1062 and the Design Manual; and
    - iii. The peak rate of flow from the new development shall not exceed the peak rate of flow that existed prior to the new development for the 2-year, 10-year, and 25-year, 24-hour storm events.
4. *City Authority to Approve Alternative Designs.* The City shall have the option to approve projects that do not comply with all of the provisions on a case-by-case basis as follows:
- a. If the alternative design pertains to an SCM design that does not meet all of the MDC, then the applicant shall provide technical justification based on engineering calculations and the results of research studies showing that the proposed design provides equal or better stormwater control and equal or better protection of waters of the State than the requirements of this section and that it shall function in perpetuity. The City shall have the option to require compliance with the MDC in the event that the alternative SCM design fails; or
  - b. If the variation pertains to other aspects of the project, then the applicant shall demonstrate that the project provides equal or better stormwater control and equal or better protection of waters of the State than the requirements of this section.

#### H. Vegetated Buffers

1. *Before High Rock Lake Buffer Rule Implementation.* Prior to the implementation of 15A NCAC 02B .0764 High Rock Lake Nutrient Strategy: Protecting Existing Riparian Buffers, all BUA shall be a minimum of thirty (30) feet landward of all perennial and intermittent surface waters. The vegetated buffer shall meet the following requirements:
  - a. The width of a vegetated buffer shall be measured horizontally from the normal pool elevation of impounded structures, from the top of bank of each side of streams or rivers. Top of bank determination is to be generally consistent with the US Army Corps of Engineers "Ordinary High Water Mark" used in delineation of jurisdictional waters. In cases of conflicting interpretations by the Stormwater Program Manager and the applicant, the applicant will have the option of providing a jurisdictional determination, including tops of stream banks, from an individual certified by NCDEQ as qualified for Surface Water Identification;
  - b. No land-disturbing activities shall take place within a vegetated buffer, except for required streets and associated facilities, utility mains and easements, and/or greenways and pedestrian paths. Roads and golf courses may cross a buffer, provided they do not cross at an angle of less than sixty (60) degrees; and
  - c. SCMs, fill slopes, and outlet structures shall be located a minimum of thirty (30) feet landward of all perennial and intermittent surface waters.
2. *After High Rock Lake Buffer Rule Implementation.* Following the implementation of 15NCAC 02B.0764, protected riparian buffers shall be in place and consist of two zones as follows:
  - a. Zone 1 shall consist of a 30-foot vegetated area that is undisturbed that shall be measured as follows:
    - i. For streams, Zone 1 shall begin at the most landward limit of the top of bank or the rooted herbaceous vegetation and extend landward a distance of thirty (30) feet on all sides of the stream, measured horizontally (where an intermittent or perennial stream begins or ends, including when it goes underground, enters or exits a culvert, or enters or exits a wetland, the required distance shall be measured as a radius around the beginning or the end); and
    - ii. For ponds, lakes and reservoirs subject to this Rule, Zone 1 shall begin at the normal water level and extend landward a

distance of thirty (30) feet, measured horizontally.

- b. Zone 2 shall consist of a stable, vegetated area that is undisturbed except for uses deemed allowable within 15A NCAC 02B .0764. Grading and revegetating in Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. Zone 2 shall begin at the outer edge of Zone 1 and extend landward twenty (20) feet as measured horizontally. The combined width of Zones 1 and 2 shall be fifty (50) feet on all sides of the surface water; and
- c. All other requirements of 15A NCAC 02B .0764 shall be met.

#### **I. Stormwater Plan Timing and Phasing**

1. *Timing of Stormwater Plan Application.* Design plans and calculations for the stormwater facilities shall be provided as part of the subdivision construction plans and site plan review submission. All development and redevelopment projects for which complete and full applications were submitted and accepted as complete by the City prior to the effective date of this section shall be exempt from complying with all provisions of this updated Section 8.05 but shall be subject to the Section 8.05 ordinance provisions in place when the application was submitted.
2. *Phased Development Plan.* A phased development plan shall be reviewed and approved under the Section 8.05 ordinance provisions in place at the time the plan is submitted and accepted as complete by the City if the following provisions apply:
  - a. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been submitted for TRC approval and accepted as complete; or
  - b. For any subsequent phase of development, the submitted plan includes sufficient detail to show that implementation of the updated requirements of this section to that phase of development would require a material change in that phase of the plan.
3. *Plan Review Procedures.* Stormwater management approvals shall be reviewed separately by the Stormwater Program Manager or designee and may be reviewed concurrently with the City of Statesville Planning Department Technical Review Committee processes and procedures.

#### **J. Stormwater Concept Plan**

1. *When a Concept Plan is Required.* A concept plan is required for the following types of projects:
  - a. High density projects;
  - b. Projects disturbing five (5) or more acres of land;
  - c. Major subdivisions;
  - d. Conditional rezoning projects; and
  - e. Any site whose complexity or proximity to natural resources is deemed necessary by the Stormwater Program Manager.
2. *Concept Plan Consultation Meeting.* Prior to submitting a Stormwater Plan Application, the applicant shall schedule a consultation with the Stormwater Program Manager. This consultation meeting may be held as part of a Planning Department/TRC Pre-Application Conference. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering commences. Local watershed plans, the Unified Development Ordinance, and other relevant resource protection plans shall be consulted in the discussion of the concept plan.
3. *Required Components of a Stormwater Concept Plan.* The applicant shall provide existing conditions based only on publicly available topography, hydrography, soils, land cover, flood zones that can be obtained from government websites or observed from aerial photography. Applicants are encouraged to also incorporate other information as may be available from their own records or upon request from NCDOT, adjacent property owners, etc. The concept

plan shall include the following items:

- a. Location and boundaries of perennial and intermittent streams, lakes, ponds, stream buffers and wetlands;
- b. Soil survey map (if available);
- c. Location of floodplain/floodway limits;
- d. Relationship of site to upstream and downstream properties and drainages;
- e. Proposed limits of clearing and grading;
- f. Existing and proposed topography and proposed flow paths;
- g. Location of existing and proposed roads, buildings, parking areas and other impervious surfaces, as well as any known existing utilities on the site;
- h. Other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.) – to the extent this information is publicly available or can be observed from general site reconnaissance;
- i. Preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings; and
- j. A written or graphic concept plan of the proposed post-development stormwater management system, including preliminary selection and location of proposed SCMs and associated access corridors; low-impact design elements; location of existing and proposed conveyance systems.

#### **K. Stormwater Plan Application Requirements**

The stormwater management plan shall be prepared by a qualified registered North Carolina professional engineer and the engineer shall perform services only in their area of competence and shall be submitted electronically and shall include the following items:

1. *Narrative*. The narrative shall detail how post-development stormwater runoff will be controlled and managed. The narrative shall also verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the design and plans are sufficient to comply with applicable standards and ensure compliance with Section 8.05 and policies found in the Design Manual.
2. *Engineering Drawings*. The signed and sealed engineering drawings shall contain the following items:
  - a. Perennial and intermittent streams;
  - b. Mapping of predominant soils from soil surveys (if available);
  - c. Locations of floodplain/floodway limits;
  - d. Relationship of site to upstream and downstream properties and drainages;
  - e. Proposed limits of clearing and grading;
  - f. Existing and proposed topography and proposed flow paths;
  - g. Location of existing and proposed roads, buildings, parking areas and other impervious surfaces, as well as any known existing utilities on the site. All notes, plans, calculations and details pertinent to stormwater construction. It is recommended that plans are developed with coordinate geometry referenced to the NC Grid System, since electronic as-builts will later be required in this format;
  - h. Clear delineations and accounting for all existing and proposed BUA, specifying areas to be removed and any additional BUA requiring stormwater treatment;
  - i. Storm drainage easements, shall be shown on the plan sheets and labeled "Public Storm Drainage Easement" for all stormwater pipes and open conveyances which convey runoff from public rights-of-way; and

- j. The locations of any jurisdictional wetlands and vegetated buffers on the development.
3. *Cost Estimate.* The construction cost estimate for each SCM shall be signed and sealed.
4. *Operation and Maintenance Agreement.* The operation and maintenance agreement shall include all SCM(s) and the drainage system on the development, shall be signed and notarized and shall meet all requirements in Sub-section P below.
5. *Stormwater Plan Review Fee.* The stormwater plan review fee shall be calculated as a standard fee per project plus an additional amount per acre of disturbance. Revisions to approved plans will incur the same fee schedule. If no revisions are required between grading only and full construction plans, then no additional stormwater fees shall be required. Fee schedule can be found on the Stormwater Plan Review website.

**L. Stormwater Plan Application Review Process**

1. *Initial Plan Review.* The Stormwater Program Manager, or designee, shall review each complete stormwater plan submittal and within thirty (30) days of receipt will either notify the applicant that it has been approved or provide written comments if the plan does not meet the criteria in Section 8.05.
2. *Subsequent Plan Reviews.* The Stormwater Program Manager, or designee, shall review revised plans and within fifteen (15) days of receipt, shall either notify the applicant that it has been approved or provide written comments if the plan does not meet the criteria in Section 8.05.
3. *Performance Securities.* Upon approval of the stormwater plan, the applicant shall submit a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement. The installation performance security shall be the total estimated construction cost of the SCM(s), plus fifty (50) percent plus \$2,500 for mobilization per SCM.
4. *Deed Restriction or Protective Covenants.* The approval of the stormwater plan shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.
5. *Expiration of Stormwater Plan Approval.* Stormwater management plan approvals shall automatically expire two years from date of approval, and all activities pursuant to such approval thereafter shall be deemed in violation of this Code, when:
  - a. The applicant fails to satisfy any condition that was imposed as part of the original or revised approval of the development application, or that was made pursuant to the terms of any development agreement; or
  - b. The applicant fails to present a subsequent stormwater plan application within two years as required by this Code. If no time limit for satisfaction of conditions is specified in the original or revised approval of the development application, the time shall be presumed to be two years from the date of approval.

6. *Extensions.* Unless otherwise prohibited, the Stormwater Program Manager may approve a permit extension for a period not to exceed six months from the original date of expiration.

#### **M. Variances from Stormwater Requirements**

1. *Variances.* Any person may petition the Board of Adjustment for a variance granting permission to use the person's land in a manner otherwise prohibited by this section. To qualify for a variance, the petitioner shall show all of the following:
  - a. Unnecessary hardships would result from strict application of the stormwater requirements;
  - b. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property;
  - c. The hardships did not result from actions taken by the petitioner; and
  - d. The requested variance is consistent with the spirit, purpose, and intent of this section; will secure public safety and welfare; and will preserve substantial justice.
2. *Board of Adjustment Action.* The Board of Adjustment may seek input from the City of Statesville Stormwater Advisory Committee for variance requests. The Board of Adjustment may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

#### **N. Revocation of Stormwater Plan Approvals**

1. *Revocations.* If the Stormwater Program Manager determines that there are reasonable grounds for revocation of a stormwater management plan approval, the Stormwater Program Manager shall set a hearing before the final decision-maker. If the original approval being revoked was made by the Stormwater Program Manager, the hearing shall be conducted by the Board of Adjustment. All other revocations shall be reviewed by the City Council. If the City Council was the original decision-maker, the Council may, at its sole discretion, refer the proposed revocation to the Board of Adjustment for a recommendation prior to its action.
2. *Effect and Appeals.* Effects and appeals shall be handled as follows:
  - a. A decision to revoke a development permit shall become final fifteen (15) days after the date the decision is rendered, unless appealed. After the effective date of revocation, any activities continuing pursuant to the permit shall be deemed to be in violation of this Code; and
  - b. Written notice of appeal shall be filed with the Stormwater Program Manager no later than thirty (30) days after the date of the action. A meeting date shall be set for the Board of Adjustment within thirty (30) days of receipt of written notice of appeal, or as soon thereafter as is practicable.
3. *Additional Actions.* The City's right to revoke a development permit, as provided in this Section, shall be cumulative to any other remedy allowed by law.

#### **O. As-built Plans and Final Approval**

1. *Timing of As-built Submittal.* Upon completion of a project, and before a certificate of occupancy shall be granted and/or installation bonds released, the applicant shall provide certification by the engineer of record that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual as-built plans and calculations for all stormwater management facilities or practices after final construction is completed. As-built plans shall be submitted electronically with units in feet and based on NC State Plane coordinates.
2. *Required Components of As-built Submittal.* The as-built submittal shall include the following items:
  - a. Final grading from the development and the locations of all BUA on the sites as well as the total area of BUA installed;
  - b. The final design for all SCMs and stormwater drainage system components that

includes field location, size, depth, and planted vegetation as installed;

- c. Updated calculations based on the installed topography, BUA, SCMs, and stormwater drainage system; and
  - d. A signed and sealed certification from the designer that the as-built SCMs and stormwater drainage system is in compliance with the approved stormwater management plans and designs and with the requirements of this Section.
3. *Final Inspection.* A final inspection and approval by the Stormwater Program Manager shall occur before the release of any performance securities.
  4. *Other Permits.* No certificate of compliance or occupancy shall be issued by Iredell County without all aspects of this section being met and approval by the Stormwater Program Manager, except where multiple units are served by the stormwater practice or facilities, or where SCMs required by this section are being used for erosion control and a bond is in place for their conversion. In this case, Iredell County shall withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

#### **P. Operation and Maintenance Requirements**

1. *General Standards for Maintenance.* The owner of each SCM installed pursuant to this section shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the SCM was designed.
2. *Agreement Requirements.* The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the SCM, and shall state the terms, conditions, and schedule of maintenance for the SCM. In addition, it shall grant to the City a right of entry in the event that the Stormwater Program Manager has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the SCM; however, in no case shall the right of entry, of itself, confer an obligation on the City to assume responsibility for the SCM.
3. *Approval of the Agreement.* The operation and maintenance agreement shall be approved by the Stormwater Program Manager prior to construction plan approval, shall be referenced upon the final plat, or any instrument of title recorded with the county Register of Deeds if there is no recorded plat, and shall be executed by all parties. The original signed and executed maintenance agreement shall be given to the Stormwater Program Manager before a certificate of occupancy will be issued. Property owner shall maintain a record of the operation and maintenance agreement. If unable to locate, owner may request a copy from the Stormwater Program Manager.
4. *Execution of the Agreement.* Prior to the conveyance or transfer of any lot or building site to be served by an SCM pursuant to this Ordinance, and prior to issuance of any permit for development or redevelopment requiring an SCM pursuant to this Ordinance, the applicant or owner of the site shall execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the SCM.
5. *Automatic Transference of the Agreement.* When property, sites, or lots served by the SCM, are transferred from the original owner or applicant to a new owner, the new owner shall become responsible for carrying out the provisions of the operation and maintenance agreement.
6. *Deed Recordation and Indications on Plat.* The applicable operation and maintenance agreement pertaining to every SCM shall be referenced on the final plat. If no subdivision plat is recorded for the site, then the operation and maintenance agreement shall be referenced upon any instrument of title recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.
7. *Signage.* Where appropriate in the determination of the Stormwater Program Manager to assure compliance with this section, SCMs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.
8. *Nuisance.* The owner of each SCM or nonstructural BMP, shall maintain it so as not to create or result in a nuisance condition, as enumerated in Chapter 13 of the City's Code of Ordinances.

9. *Maintenance Easement.* All SCMs and associated maintenance accesses on privately owned land except for those located on single family residential lots shall be located in permanent recorded easements for adequate maintenance and repair. The easement shall be a minimum width of ten feet, shall not exceed 3:1 slopes, and extend from the nearest public right-of-way. The easement shall be permanently recorded with the SCM shown and labeled within the easement. The easement shall grant access to the City as the party responsible for enforcing the stormwater program.
10. *Special Requirement for Homeowners' and Other Associations.* For all SCMs required pursuant to this Ordinance and are to be, or are owned and maintained by, a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:
- a. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
  - b. Establishment of an escrow account, which can be spent solely on maintenance, repair, replacement, and reconstruction costs of the SCMs. If SCMs are not performing adequately or as intended or are not properly maintained, the City, in its sole discretion, may remedy the situation, and in such instances, the City shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the SCMs, provided that the City shall first consent to the expenditure.
  - c. Both developer contribution and annual sinking fund deposits shall fund the escrow account. The total sinking fund budget shall require ten (10) percent of the stormwater control project's original cost of construction within five (5) years following acceptance of the SCM by the City and shall be retained by the owner of the system. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to five (5) percent of the initial construction cost of the SCMs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.
  - d. Requirement that the association is formed and the association bylaws are submitted to the City prior to the conveyance or transfer of any lot, unit, or building site. The Stormwater Program Manager will not approve the final plat until this requirement is met.
  - e. Grant to the City a right of entry to inspect, monitor, maintain, repair, and reconstruct SCMs.
  - f. Authorization for the City to recover from the association and its members any and all costs the City expends to maintain or repair the SCMs or to correct any operational deficiencies. Failure to pay the City all of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the agreement. In the case of deficiency, the City shall thereafter be entitled to bring an action against the association and its members to pay or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.
  - g. A statement that this agreement shall not obligate the City to maintain or repair any SCMs, and the City shall not be liable to any person for the condition or operation of SCMs.
  - h. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law.
  - i. A provision indemnifying and holding harmless the City for any costs and injuries arising from or related to the SCM, unless the City has agreed in writing to assume the maintenance responsibility for the SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

#### **Q. Installation Performance Security**

1. *Need for Security.* The City shall require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the SCMs are installed as required by the

approved stormwater management plan.

2. *Amount of Security.* The amount of an installation performance security shall be the total estimated construction cost of the SCMs, or conversion cost if the SCM location is first being used for erosion control purposes, approved under the permit, plus fifty (50) percent plus \$2,500.00 for mobilization. The installation performance security is required to remain in effect until the City has inspected and approved all SCMs. Installation performance securities are required to be submitted to the City prior to issuance of any grading or building permits. Installation performance security amounts may be adjusted upon approval of the Stormwater Program Manager based on updated cost estimates for phased projects and/or where SCM construction is substantially complete but part of the contributory drainage area is still under an erosion control permit.
3. *Forfeiture Provisions.* The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this section, approvals issued pursuant to this section, or an operation and maintenance agreement established pursuant to this section.
4. *Default.* Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any SCM in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Program Manager shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the City shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.
5. *Costs in Excess of Performance Security.* If the City acts upon such failure by the applicant or owner, the City may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.
6. *Refund.* Within sixty (60) days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25 percent) of landscaping installation and ongoing maintenance associated with the SCMs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

## **R. Annual Maintenance Inspections**

1. *Inspection Reports.* All inspection reports shall be on forms supplied by the Stormwater Program Manager. The first report shall be submitted to the Stormwater Program Manager one (1) year following the final approval date of the SCM and each year thereafter on or before the approval anniversary date.
2. *Maintenance of Records.* The owner of each SCM shall keep records of inspections, maintenance, and repairs for the most recent five years and shall submit the same upon reasonable request to the Stormwater Program Manager.
3. *Annual Maintenance Inspection.* The person responsible for maintenance of any SCM installed pursuant to this section shall submit to the Stormwater Program Manager an inspection report from a qualified registered North Carolina professional engineer or a qualified professional certified in the state of North Carolina for inspection and maintenance of SCMs. The inspection report shall contain all of the following:
  - a. The name and address of the landowner;
  - b. The recorded book and page number of the lot of each SCM;
  - c. A statement that an inspection was made of all SCMs;
  - d. The date the inspection was made;

- e. A statement that all inspected SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this section if the SCM is judged to be in compliance;
  - f. An action plan for restoring any SCM that is found to be out of compliance;
  - g. Digital photographs from the date of the inspection; and
  - h. The original signature and seal of the engineer or certification number of the qualified inspector.
4. *Major Issues with Outlet Structure or Dam Embankment.* Should any major issues related to the outlet structure or dam embankment be noted during the inspection, it shall be required to consult a qualified registered North Carolina professional engineer to assess the maintenance issue and design a signed and sealed repair plan.
  5. *City Inspections.* Inspections and inspection programs by City may be conducted or established on any reasonable basis, including but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in SCMs; and evaluating the condition of SCMs.
  6. *Owner Refusal of City Inspection.* If the owner or occupant of any property refuses to permit such inspection, the Stormwater Program Manager shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Program Manager while carrying out his or her official duties.

#### **S. Enforcement, Violations, and Remedies**

1. *Authority to Enforce.* The provisions of this section shall be enforced by the Stormwater Program Manager, his or her designee, or any authorized agent of the City. Whenever this section refers to the Stormwater Program Manager, it includes his or her designee as well as any authorized agent of the City.
2. *Violation Unlawful.* Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this section, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this section, is unlawful and shall constitute a violation of this section.
3. *Violations Continue.* Any violation of provisions existing on the effective date of this section shall continue to be a violation under this section and be subject to penalties and enforcement under this section unless the use, development, construction, or other activity complies with the provisions of this section.
4. *Each Day a Separate Offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense.
5. *Responsible Persons/Entities.* Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, SCM, practice, or condition in violation of this section shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this section, or fails to take appropriate action, so that a violation of this section results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

For the purposes of this article, the person(s) responsible shall include but not be limited to:

- a. An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this section, or fails to take appropriate action, so that a violation of this section results or persists; or

- b. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.
6. *Remedies and Penalties.* The remedies and penalties provided for violations of this section, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.
  - a. *Withholding of certificate of occupancy.* Iredell County may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise addressed the violations described therein.
  - b. *Disapproval of subsequent permits and development approvals.* As long as a violation of this section continues and remains uncorrected, the Stormwater Program Manager or other authorized agent may withhold, and the City Planning Department or Stormwater Program Manager may disapprove, any request for permit or development approval or authorization provided for by this section or any other ordinance contained the City Code of Ordinances for the land on which the violation occurs.
  - c. *Injunction, abatements, etc.* The Stormwater Program Manager, with the written authorization of the City Manager may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction, order of abatement or other civil action to correct a violation of this section. Any person violating this section shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
  - d. *Correction as public health nuisance, costs as lien, etc.* If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. 160A-193, the Stormwater Program Manager, with the written authorization of the City Manager may cause the violation to be corrected and the costs to be assessed as a lien against the property.
  - e. *Stop work order.* The Stormwater Program Manager may issue a stop work order to the person(s) violating this section. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.
7. *Civil Penalties.* Violation of this Section may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within thirty (30) days after notice of the violation is issued by the Stormwater Program Manager. Civil penalties may be assessed up to the full amount of penalty to which City is subject for violations of its Phase II stormwater permit, or if no Phase II stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.
8. *Criminal Penalties.* Each violation of this section can be enforced as a misdemeanor pursuant to G.S. 14-4, subject to a maximum fine of \$500.00. (See Section 8.05 E.1.c.)
9. *Enforcement Procedures.* Enforcement procedures shall be as follows:
  - a. *Initiation/Complaint.* Whenever a violation of this section occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Program Manager, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Program Manager.
  - b. *Inspection.* The Stormwater Program Manager shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this section.
  - c. *Notice of Violation and Order to Correct.* The issuance of a Notice of Violation and Order to Correct shall be handled as follows:
    - i. When the Stormwater Program Manager finds that any building, structure, or land is in violation of this section, the Stormwater Program Manager shall notify, in writing, the property owner or other person violating this section. The notification shall indicate the nature of the violation, contain the address or other

description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they shall be paid or be subject to collection as a debt.

- ii. The Stormwater Program Manager may deliver the notice of violation and correction order personally, by the City of Statesville Police Department, Iredell County Sheriff's Department, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.
  - iii. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Program Manager may take appropriate action under this section to correct and abate the violation and to ensure compliance with this section.
10. *Extension of Time.* A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Program Manager a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Program Manager may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding thirty (30) days. The Stormwater Program Manager may grant multiple 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this section. The Stormwater Program Manager may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction shall be made, after which the violator shall be subject to the penalties described in the notice of violation and correction order.
11. *Enforcement After Time to Correct.* After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Program Manager, the Stormwater Program Manager shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Program Manager may act to impose one (1) or more of the remedies and penalties authorized by this section.
12. *Emergency Enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this section or pose an immediate danger to the public health, safety or welfare, then the Stormwater Program Manager may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Program Manager may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

## **Article 6 DEVELOPMENT STANDARDS, SECTIONS 6.04 LANDSCAPE STANDARDS, E. GRADING STANDARDS FOR STREAM AND WETLAND PROTECTION**

### **E. Grading Standards for Stream and Wetland Protection**

1. For requirements regarding soil erosion, storm drainage control, retention and/or detention, contact the City of Statesville Stormwater Division.
2. An undisturbed, natural buffer shall be maintained along each perennial stream within the planning jurisdiction. The minimum buffer width shall be thirty (30) feet as measured from the top of bank on each side of the stream. Top of bank determination is to be generally consistent with the US Army Corps of Engineers "Ordinary High Water Mark" used in delineation of jurisdictional waters. In cases of conflicting interpretations, the applicant will have the option of providing a jurisdictional determination, including tops of stream banks, from an individual certified by NCDEQ as qualified for Surface Water Identification.

This ordinance was introduced for first reading by Council member P e a r s o n , seconded by Council member Allison, and unanimously carried on the 16<sup>th</sup> day of March, 2026.

AYES: Robertson, Jones, Pfeufer, Allison, Lawton, Nicholson, Pearson, Pressly

NAYS:

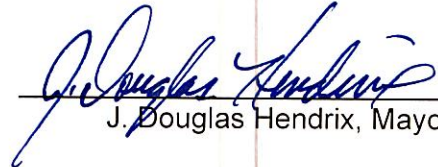
The second and final reading of this ordinance was heard on the 13<sup>th</sup> day of April, 2026, and upon motion of Council member Pfeufer, seconded by Council member Robertson, and unanimously carried, was adopted.

AYES: Robertson, Jones, Pfeufer, Allison, Lawton, Nicholson, Pearson, Pressly

NAYS:

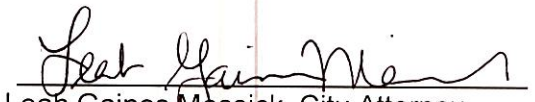
This ordinance is to be in full force and effect from and after the 20<sup>th</sup> day of April, 2026.

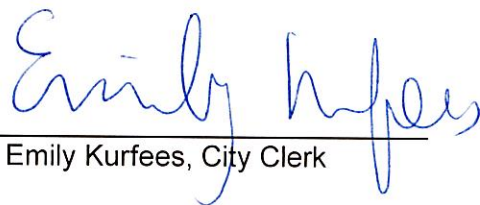
CITY OF STATESVILLE

  
\_\_\_\_\_  
J. Douglas Hendrix, Mayor

APPROVED AS TO FORM

ATTEST:

  
\_\_\_\_\_  
Leah Gaines Messick, City Attorney

  
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Emily Kurfees, City Clerk

(Seal)