

ORDINANCE TO AMEND CITY OF MONROE CODE OF ORDINANCES
TITLE XV: LAND USAGE
CHAPTER 159: STORMWATER MANAGEMENT ORDINANCE
O-2025-24

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONROE THAT TITLE XV: LAND USAGE OF THE CITY OF MONROE CODE OF ORDINANCES BE AMENDED.

Section 1. Amend **CHAPTER 159: STORMWATER MANAGEMENT ORDINANCE** as follows:

SECTION 1: GENERAL PROVISIONS

159.101 TITLE

This Ordinance shall be known as “The Stormwater Management Ordinance,” hereinafter as “Ordinance,” and may be so cited.

159.102 AUTHORITY

The City Council is authorized to adopt this Ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes: Chapter 15-27.2. (Warrants to conduct inspections authorized by law), Chapter 143-214.5 (Water supply watershed protection), Chapter 143-214.7 (Stormwater runoff rules and programs) and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246 (Phase II Stormwater Management); Chapter 160A, § 174, 175 & 185 (General ordinance-making power, Enforcement of ordinance & Emission of pollutants or contaminants.)

159.103 FINDINGS

It is hereby determined that:

Development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

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;

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from *development* sites.

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 Ordinance.

Therefore, the 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.

159.104 PURPOSE

(A) General

The purpose of this Ordinance 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 source pollution associated with new *development* and *redevelopment*. It has been determined that proper management of construction-related and post-*development* stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

(B) Specific

This Ordinance seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for *development* that protect the integrity of watersheds and preserve the health of water resources;
2. 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 storm to reduce flooding, stream bank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
3. Establishing minimum post-*development* stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establishing design and review criteria for the construction, function, and use of structural Stormwater Control Measures (hereinafter SCMs) that may be used to meet the minimum post-*development* stormwater management standards;
5. 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;
6. Establishing provisions for the long-term responsibility for and maintenance of *structural and nonstructural* SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

7. Establishing administrative procedures for the submission, review, approval and disapproval of *stormwater management plans*, for the inspection of approved projects, and to assure appropriate long-term maintenance.
8. Coordinating site design plans that include open space and natural areas with the Unified Development Ordinance.
9. Controlling illicit discharges into the municipal separate stormwater system in conjunction with the Stormwater Illicit Discharge Elimination Ordinance.
10. Controlling erosion and sedimentation from construction activities in conjunction with the Erosion and Sedimentation Control Ordinance.
11. Assigning responsibility and processes for approving the creation and maintenance of adequate drainage and flood damage prevention measures in conjunction with the Floodplain Regulations Ordinance.

159.105 APPLICABILITY AND JURISDICTION

(A) General

Beginning with and subsequent to its effective date, this Ordinance shall be applicable to all *development* and *redevelopment*, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection (B) of this Section, Exemptions.

(B) Exemptions

- 1) Residential *development* that cumulatively disturbs less than one acre and is not part of a *larger common plan of development or sale*, and non-residential *development* that cumulatively disturbs less than one-half acre and is not part of a *larger common plan of development or sale* is exempt from the provisions of this Ordinance.
- 2) *Redevelopment* outside the *floodplain* that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Ordinance.
- 3) *Redevelopment* of residential structures that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Ordinance whether or not within the *floodplain*.
- 4) *Redevelopment* of non-residential structures that disturbs less than one-half acre, that is not part of a *larger common plan of development or sale*, that is within the *floodplain*, and that results in no net increase in *built-upon area*

and provides equal or greater stormwater control than the previous development is exempt from the provisions of this Ordinance.

- 5) *Development* and *redevelopment* that disturb less than a stated area threshold are not exempt if such activities are part of a *larger common plan of development or sale* that exceeds the area threshold, even though multiple, separate or distinct activities take place at different times on different schedules.
- 6) Activities that are exempt from permit requirements of Section 404 of the Federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this Ordinance.

(C) No Development or Redevelopment Until Compliance and Permit

No *development* or *redevelopment* shall occur except in compliance with the provisions of this Ordinance or unless exempted. No *development* for which a permit is required pursuant to this Ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(D) Map

The provisions of this Ordinance shall apply within the areas designated on the map titled "Phase II Stormwater Map of City of Monroe, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance.

The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this Ordinance and the geographic location of all *structural SCMs* permitted under this Ordinance. 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.

159.106 INTERPRETATION

(A) Meaning and Intent

All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to the general and specific purposes set forth in Section 104, Purpose. If a different or more specific meaning is given for a term defined elsewhere in City of Monroe Code of Ordinances, the meaning and application of the term in this Ordinance shall control for purposes of application of this Ordinance.

(B) Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

(C) Authority for Interpretation

The Stormwater Administrator has authority to determine the interpretation of this Ordinance. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within thirty (30) days. The Stormwater Administrator shall keep on file a record of all written interpretations of this Ordinance.

(D) References to Statutes, Regulations, and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the *Stormwater Design Manual* prepared by the North Carolina Department of Environmental Quality), 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.

(E) Computation 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 of Monroe, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City of Monroe. References to days are calendar days unless otherwise stated.

(F) Delegation of Authority

Any act authorized by this Ordinance to be carried out by the Stormwater Administrator of City of Monroe may be carried out by his or her designee.

(G) Usage

(1) Mandatory and Discretionary Terms

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.

(2) Conjunctions

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 or more of the connected items, conditions, provisions or events apply.

(3) Tense, Plurals, and Gender

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.

(H) Measurement and Computation

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

159.107 STORMWATER DESIGN MANUAL

(A) Reference to Stormwater Design Manual

The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the *Stormwater Design Manual* prepared by the North Carolina Department of Environmental Quality as the basis for decisions about stormwater permits and about the minimum design criteria (MDC), implementation and performance of *structural and non-structural stormwater control measures*.

The *Stormwater Design Manual* includes a list of acceptable stormwater treatment practices, including specific MDC's 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 and other applicable stormwater laws.

(B) Relationship of Stormwater Design Manual to Other Laws and Regulations

If the specifications or guidelines of the *Stormwater 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 *Stormwater Design Manual*.

(C) Changes to Standards and Specifications

If the standards, specifications, guidelines, policies, criteria, or other information in the *Stormwater Design Manual* are amended subsequent to the submittal of an application for approval pursuant to this Ordinance but prior to approval, standards in effect at the time of submission shall apply pursuant to NC GS 143-755. and shall be utilized in reviewing the application and in implementing this Ordinance with regard to the application.

159.108 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS

(A) Conflict of Laws

This Ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this Ordinance are in addition to the requirements of any other Ordinance, rule, regulation or other provision of law. Where any provision of this Ordinance 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.

(B) Private Agreements

This Ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this Ordinance shall govern. Nothing in this Ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this Ordinance. In no case shall the City of Monroe be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

159.109 SEVERABILITY

If the provisions of any section, subsection, paragraph, subdivision or clause of this Ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Ordinance.

159.110 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

(A) Effective Date

This Ordinance shall take effect on October 1, 2007.

(B) Final Approvals, Complete Applications

All *development* and *redevelopment* projects for which complete and full applications were submitted and approved by the City prior to the effective date of this Ordinance shall be exempt from complying with all provisions of this Ordinance.

(C) Violations Continue

Any violation of provisions existing on the effective date of this Ordinance shall continue to be a violation under this Ordinance and be subject to penalties and enforcement under this Ordinance unless the use, *development*, construction, or other activity complies with the provisions of this Ordinance.

SECTION 2: ADMINISTRATION AND PROCEDURES

159.201 REVIEW AND DECISION-MAKING ENTITIES

(A) Stormwater Administrator

(1) Designation

The Stormwater Administrator shall be the City of Monroe Engineering Director or his/her designee who shall be responsible for administering and enforcing this Ordinance.

(2) Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the City of Monroe Code of Ordinances and other laws, the Stormwater Administrator shall have the following powers and duties under this Ordinance:

- a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this Ordinance.
- b. To make determinations and render interpretations of this Ordinance.
- c. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the City of Monroe on applications for *development* or *redevelopment* approvals.
- d. To enforce the provisions of this Ordinance in accordance with its enforcement provisions.
- e. To maintain records, maps, forms and other official materials as related to the adoption, amendment, enforcement, and administration of this Ordinance.
- f. To provide expertise and technical assistance to the City Council and the Public Enterprise Committee upon request.
- g. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

- h. To take any other action necessary to administer the provisions of this Ordinance.

159.202 REVIEW PROCEDURES

(A) Permit Required; Must Apply for Permit

A stormwater permit is required for all *development* and *redevelopment* unless exempt pursuant to this Ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(B) Effect of Permit

A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including *structural SCMs* and elements of site design for stormwater management other than *structural SCMs*.

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the *development* or *redevelopment* site consistent with the requirements of this Ordinance, whether the approach consists of *structural SCMs* or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this Ordinance.

(C) Authority to File Applications

All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the land *owner* or the land *owner's* duly authorized agent.

(D) Establishment of Application Requirements, Schedule, and Fees

i. Application Contents and Form

The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how *post-development* stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this Ordinance.

ii. Submission Schedule

The Stormwater Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete

applications must be submitted for the purpose of ensuring that there is adequate time to review applications; and that the various stages in the review process are accommodated.

iii. Fees Required

Applications for stormwater permit approval, use of city- owned/maintained stormwater control systems, inspections related to the initial approval of stormwater control systems, and annual inspections of stormwater control systems and development sites shall be subject to any and all relevant fees as adopted by the City Council and prescribed in the City of Monroe Code of Ordinances and Fee Schedule. Application fees shall accompany any application, otherwise the application shall be determined incomplete and shall be returned to the applicant.

iv. Administrative Manual

For applications required under this Code, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this Ordinance, and information on how and where to obtain the Stormwater Design Manual in an Administrative Manual, which shall be made available to the public.

(E) Submittal of Complete Application

Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this Ordinance, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

(F) Review

Within thirty (30) calendar days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this Ordinance.

i. Approval

If the Stormwater Administrator finds that the application complies with the standards of this Ordinance, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval

as needed to ensure compliance with this Ordinance. The conditions shall be included as part of the approval.

ii. Fails to Comply

If the Stormwater Administrator finds that the application fails to comply with the standards of this Ordinance, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application within six (6) months of notice of deficiency from the Administrator pursuant to NC GS 143-755(b).

iii. Revision and Subsequent Review

A complete revised application shall be reviewed by the Stormwater Administrator within fifteen (15) calendar days after its re-submittal and shall be approved or disapproved.

If a revised application is not re-submitted within six (6) months from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

159.203 APPLICATIONS FOR APPROVAL

(A) Concept Plan and Consultation Meeting

Before a stormwater management permit application is submitted, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed *development* project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the *development* process. 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 is commenced.

To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

i. Existing Conditions/Proposed Site Plans

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and

location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

ii. **Natural Resources Inventory**

A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for *development* and stormwater management.

iii. **Stormwater Management System Concept Plan**

A written or graphic concept plan of the proposed post-*development* stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

(B) Stormwater Management Permit Application

The stormwater management permit application shall detail how post-*development* stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this Ordinance, including Section 3 “Standards”. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Stormwater Design Manual*, and that the designs and plans ensure compliance with this Ordinance.

The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 159-202(D).

(C) As-Built Plans and Final Approval

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual

“as built” plans for all stormwater management facilities or practices after final construction is completed. At the discretion of the stormwater administrator, performance securities or bonds may be required for stormwater management facilities or practices until as-built plans are approved.

The as-built plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this Ordinance. As a condition of the as-built plans approval, a digital copy of the as-built plans as required by the City Standard Specifications and Detail manual shall be submitted to the Stormwater Administrator for the purpose of maintaining records, performing inspections, maintenance and other future needs as determined by the City.

A final inspection and approval by the Stormwater Administrator shall occur before a project is determined to be in compliance with this ordinance and before release of any performance securities.

(D) Other Permits

No certificate of compliance or occupancy shall be issued by the City of Monroe Permitting Center without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the City of Monroe may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

159.204 PARTICIPATION IN A REGIONAL STORMWATER MANAGEMENT FACILITY

(A) Where Permitted

Where a regional stormwater management facility has been established by the City of Monroe, or by an authority operating with approval from the City of Monroe, a development may participate in said program in lieu of any certification of runoff control required by this article, provided that:

1. Runoff from the development drains to an existing public regional stormwater management facility approved by the City of Monroe;

2. Participation is in the form of contribution of funds, contribution of land, contribution of stormwater management facility construction work, or a combination of these, the total value of which shall be in accordance with fee schedule adopted by the City Council; and

3. The City finds that the stormwater management plan is in compliance with all other applicable requirements of this Ordinance.

(B) Use of Contributions

Each contribution from a development participating in a regional stormwater management facility shall be used for acquisition, design, construction or maintenance of one (1) or more such facilities in the same watershed in which the development is located.

(C) Fees Required

Stormwater management control plan review, use of City-owned/ maintained stormwater control systems, inspections related to the initial approval of stormwater control systems, and annual inspections of stormwater control systems shall be subject to any and all relevant fees as adopted by City Council and prescribed in the City of Monroe Code of Ordinances and Fee Schedule. Plan review fees shall accompany the plans submitted for review, otherwise the plan submittal shall be determined incomplete and shall be returned to the applicant.

159.205 APPROVALS

(A) Effect of Approval

Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(B) Time Limit/Expiration

An approved plan shall become null and void if the applicant fails to make *substantial progress* on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one (1)-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

159.206 APPEALS

(A) Right of Appeal

Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this Ordinance made

by the Stormwater Administrator, may file an appeal to the Board of Adjustment within thirty (30) days.

(B) Filing of Appeal and Procedures

The process and procedures for hearing appeals and variance requests, as outlined in Chapter 157, Zoning Code, shall apply to all requests for appeals or for a variance to any part of this Chapter. The Stormwater Administrator shall transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken.

The hearing conducted by the Board of Adjustment shall be conducted in the nature of a quasi-judicial proceeding pursuant to the provisions of NC GS 160D-405 and 406 with all findings of fact supported by competent, material evidence.

(C) Review by Superior Court

Every decision of the Board of Adjustment shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days. of the effective date of the decision or as otherwise provided in 160D-1405(d).

SECTION 3: STANDARDS

159.301 GENERAL STANDARDS

All *development* and *redevelopment* to which this Ordinance applies shall comply with the standards of this section.

159.302 IMPERVIOUS SURFACE REQUIREMENTS

(A) Setback Requirement

All impervious surfaces, except for roads, paths, and water dependent structures, shall be located at least thirty-five (35) feet landward of all perennial and intermittent surface waters, measured from top of bank. Development approved in conjunction with a conditional zoning district or special use permit shall have an impervious surface setback of fifty (50) feet landward of all perennial or intermittent surface waters.

A perennial or intermittent surface water shall be deemed present if the feature is shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent complete version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geological Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using *Division*-approved methodology.

(B) No new impervious or partially pervious surface in floodplain

For development activities, no new impervious or partially pervious surfaces, except for road crossings (public and private), paths, and water dependent structures, where no practical alternative exists shall be allowed within the floodplain.

(C) Development in Critical Area of Water Supply Watersheds

All development activities that are located within the area designated by the Environmental Management Commission as a Critical Area of a Water Supply Watershed (shown on the Stormwater Map), shall be limited to a maximum impervious surface density of thirty-six (36) percent. For purposes of the Stormwater Management Ordinance, the City is divided into the watershed districts described in Section (D).

In addition to those requirements set out herein, all provisions of the City Code of Ordinances Section 54.02 and all watershed regulations of the NC Division of Environmental Management shall apply.

(D) Watershed Districts

The following districts are hereby established as zoning overlay districts and shall be in place and are depicted on the city's official zoning map:

- (1) WS-III-CA (Critical Area) Overlay District.
- (2) WS-III-BW (Balance of Watershed) Overlay District.
- (3) WS-IV-CA (Critical Area) Overlay District.
- (4) WS-IV-PA (Protected Area) Overlay District

159.3030 DEVELOPMENT STANDARDS FOR LOW DENSITY PROJECTS

Any drainage area within a project is considered low density when said drainage area has less than or equal to 24% built upon area, as determined by the methodology established in the *Stormwater Design Manual*. Such low-density projects shall comply with each of the following standards.

- (A) Vegetated Conveyances. Storm water runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.
- (B) Property Usage Restrictions. The approval of the stormwater permit shall require enforceable restrictions on property usage that runs with the land, including recorded deed restrictions and protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

159.3031 DEVELOPMENT STANDARDS FOR HIGH DENSITY PROJECTS

Any drainage area within a project is considered high density when said drainage area has greater than or equal to 24% built upon area, as determined by the methodology established in the *Stormwater Design Manual*. Such high-density projects shall implement storm water treatment systems that comply with each of the following standards:

- (A) Stormwater Quality Treatment Volume. The measures shall control and treat runoff from the first inch of rain.
- (B) Stormwater Quality Treatment. All structural stormwater treatment systems used to meet these requirements shall be designed in accordance with the applicable

device specific Minimum Design Criteria (MDC)) as required by the Stormwater Design Manual;

- (C) Stormwater Treatment System Design. General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Stormwater Design Manual*;
- (D) Stormwater Volume Control. The measure shall discharge the 1-year, 24-hour storage volume at a rate equal or less than the pre-development discharge rate. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than one hundred twenty (120) hours.
- (E) Storm Water Peak Control. The peak flow shall be controlled as described in Section 159.308.
- (F) Property Usage Restrictions. The approval of the stormwater permit shall require enforceable restrictions on property usage that runs with the land, including recorded deed restrictions and protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

159.304 STREAM BUFFER REQUIREMENTS.

- (A) A 35-foot undisturbed vegetated buffer is required along all perennial and intermittent stream channels.
- (B) The buffer shall begin at the most landward limit of the top of bank or the most landward limit of the normal ponded water level and extend landward on perpendicularly.
- (C) Diffuse flow of runoff shall be maintained in the riparian buffer to the extent practicable.
- (D) Existing and ongoing uses shall be exempt.
- (E) Allowable uses within the buffer include bridges, dam maintenance, new stormwater facilities designed to control sediment and attenuate flow before being discharged through the road crossings and temporary sediment and erosion control devices.

159.305 STANDARDS FOR STORMWATER CONTROL MEASURES

(A) Evaluation According to Contents of Stormwater Design Manual

All stormwater control measures and stormwater treatment practices (also referred to as SCMs) required under this Ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including

technical specifications and standards and the specific design criteria for each stormwater practice, in the *Stormwater Design Manual*. The Stormwater Administrator shall determine whether proposed SCMs will be adequate to meet the requirements of this Ordinance.

(B) Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the *Stormwater Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of this Ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *Stormwater 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 Ordinance. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

(C) Separation from Seasonal High Water Table

For SCMs that require a separation from the seasonal high water table, the separation shall conform to the applicable device specific MDC as required by the *Stormwater Design Manual*.

159.306 DEDICATION OF SCMS, FACILITIES & IMPROVEMENTS

The City of Monroe may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this Ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. Decision to accept dedication shall be based on formal action of the Monroe City Council at their sole discretion.

159.307 VARIANCES

(A) Any person may petition the City of Monroe for a variance heard by the Monroe Board of Adjustment pursuant to the provisions of NC GS 160D-405 and 406 granting permission to use the person's land in a manner otherwise prohibited by this Ordinance. To qualify for a variance, the petitioner must show all of the following:

(1) Unnecessary hardships would result from strict application of this Ordinance.

(2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

(3) The hardships did not result from actions taken by the petitioner.

(4) The requested variance is consistent with the spirit, purpose, and intent of this Ordinance; will secure public safety and welfare; and will preserve substantial justice.

- (B) The City of Monroe may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
- (C) Statutory exceptions

Notwithstanding subsection (A) of this section, exceptions from the thirty-five- (35) foot landward location of built upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

- (1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCMs.
- (2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located fifteen(15) feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCMs.
- (3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

159.308 STORMWATER PEAK FLOW CONTROL STANDARDS

(A) Applicability

This section applies to the following type developments or redevelopments:

- (1) All non-residential sites containing new development and/or redevelopment including road construction, grading, paving, gravel placement, and construction of buildings and other structures, which include the creation of 20,000 square feet or more of new impervious area, within the corporate limits and the extraterritorial jurisdiction of the City of Monroe. Impervious areas in existence prior to the effective date of this Ordinance shall not be included in the computation of impervious area; and

- (2) All new high-density residential development and/or redevelopment.

Exemption: Properties that directly abut regulated floodways as designated by the Federal Emergency Management Agency shall be considered exempt from requirements of this Section.

(B) General Requirements

- (1) The engineer or landscape architect of record shall conduct hydrologic and hydraulic engineering studies for the site for both pre-development and post-development conditions. The engineer or landscape architect of record shall provide a certification that the development or redevelopment will not cause increased off-site flooding, drainage, or erosion problems

- (2) Where it is determined that the development of the site does increase the peak discharge rate, stormwater quantity control improvements must be implemented. The stormwater quantity control improvements must limit the two (2)-year and ten (10)-year post-development peak discharge rates to pre-development peak discharge rates, to minimize flooding, drainage, and erosion problems. These improvements may consist of nonstructural approaches such as natural swales, depressions in the land and other natural approaches, or structural approaches such as detention structures (wet and dry basins), extended detention facilities and alternative best management practices (SCMs) with provisions for stormwater quantity control. The emergency overflow and outlet works for any pond or wetland constructed as a SCM shall be capable of safely passing a discharge with a minimum recurrence frequency as specified in the Stormwater Design Manual. Requirements of the Dam Safety Act shall be met when applicable. A combination of nonstructural and structural approaches is encouraged.

- (3) For stormwater management improvements proposed to achieve compliance with quantity control requirements of this section, a hydrologic-hydraulic analysis of the site drainage system in the pre-development condition and the post-development condition shall be performed. The analysis should be included with the stormwater management plan and should demonstrate that the quantity control requirements stated in this section will be achieved by the proposed improvements. These improvements shall be subject to review and approval by the Stormwater Administrator.

- (4) If site characteristics indicate that complying with the minimum stormwater management requirements of this section will not provide adequate engineering designs or protection for local residents, and downstream property, it shall be the site designer's responsibility to exceed the minimum requirements as necessary.

159.309 PERMANENT POND DAM EVALUATION

- (A) All preliminary plats that include storm water runoff to any existing or proposed permanent ponds, shall be subject to the review of the State Dam Safety Engineer.

An evaluation of the pond dam shall be made by the designer, in accordance with the Dam Safety Law of 1967, G.S. sections 143-215.23 through 143-215.37, and shall be submitted to the State Dam Safety Engineer for review.

- (B) All existing ponds shall be evaluated and rehabilitated as required to ensure the safety and stability of the facility, to include the following:
- (1) Hydrologic and hydraulic analysis to ensure that the pond will safely withstand the 25-year storm with a minimum of one foot of freeboard at the dam and safely pass the 100-year storm. Design calculations shall include the assumption of future buildout of the drainage basin.
 - (2) Geotechnical investigations of the dam embankment to assess the condition of the embankment materials and foundation.
 - (3) Structural analysis to assess the stability and integrity of the dam embankment and make recommended repairs as required.

SECTION 4: MAINTENANCE

159.401 GENERAL STANDARDS FOR MAINTENANCE

(A) Function of SCMs As Intended

The *owner* of each *structural SCM* installed pursuant to this Ordinance 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 *structural SCM* was designed.

(B) Annual Maintenance Inspection and Report

The person responsible for maintenance of any *structural SCM* installed pursuant to this Ordinance shall submit to the Stormwater Administrator an inspection report annually from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina State University Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

- (1) The name and address of the land *owner*;
- (2) The recorded book and page number of the lot of each *structural SCM*;
- (3) A statement that an inspection was made of all *structural SCMs*;
- (4) The date the inspection was made;

- (5) A statement that all inspected *structural SCMs* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this Ordinance;
- (6) The original signature and seal of the engineer, surveyor, or landscape architect; and
- (7) A financial statement documenting the available funding established in the escrow account for operation and maintenance of the stormwater control and management facilities.

All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

159.402 OPERATION AND MAINTENANCE AGREEMENT

(A) *In general.*

- (1) Prior to the conveyance or transfer of any lot or building site to be served by a structural SCM pursuant to this Ordinance, and prior to issuance of any permit for development or redevelopment requiring a structural SCM pursuant to this Ordinance, the applicant and owner of the site must 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 structural SCM. Until the transference of all property, sites, or lots served by the structural SCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.
- (2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural SCM, and shall state the terms, conditions, and schedule of maintenance for the structural SCM. In addition, it shall grant to the City of Monroe a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural SCM; however, in no case shall the right of entry, of itself, confer an obligation on the City of Monroe to assume responsibility for the structural SCM.
- (3) The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval and shall be recorded with the county Register of Deeds. The deed book and page shall be referenced on all plats, including the final plat. A copy of

the recorded maintenance agreement shall be given to the Stormwater Administrator within fourteen (14) days following its recordation.

(B) *Operation and Maintenance Agreements.*

A required Operation and Maintenance agreement shall include all of the following provisions:

- (1) Acknowledgment that the owner or homeowners' association shall continuously operate and maintain the Stormwater control and management facilities.
- (2) Upon acceptance of the structural SCM, the owner or homeowners' association shall establish and maintain a segregated escrow account held by the owner or homeowners' association to hold funds for the purpose of sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural SCMs. The amount of the escrow account shall not exceed ten (10%) percent of the structural SCM project's original cost of construction as indicated by a sealed engineer's estimate. The owner or homeowners' association shall have a period of five (5) years from the time the structural SCM is accepted by the City to fully deposit escrow funds in the account, and shall deposit and retain in the account at least two (2%) percent of the project's original cost of construction annually for five years until fully funded. Once fully funded at ten (10%) of the engineer's estimated cost, that amount shall be retained and maintained in the segregated escrow account, and the owner or homeowners' association shall annually provide the City of Monroe verification of the amount held in the escrow account.
- (3) Granting to the City of Monroe a right of entry to inspect, and monitor the SCMs and the right of entry and access for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural SCMs upon failure of the owner to take necessary action after notice by the City and a reasonable opportunity to correct.
- (4) Allowing the City of Monroe to recover from the escrow account any and all costs the City of Monroe expends to maintain or repair the structural SCMs or to correct any operational deficiencies. Failure to pay the City of Monroe all of its expended costs, after forty-five (45) days' written notice, shall constitute a breach of the agreement. In case of a deficiency, the City of Monroe shall thereafter be entitled to bring an action against the owner or

homeowners' 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.

- (5) A statement that this agreement shall not obligate the City of Monroe to maintain or repair any structural SCMs, and the City of Monroe shall not be liable to any person for the condition or operation of structural SCMs.
- (6) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City of Monroe to enforce any of its Ordinances as authorized by law.
- (7) A provision indemnifying and holding harmless the City of Monroe for any costs and injuries arising from or related to the structural SCM, unless the City of Monroe 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.
- (8) A provision that a financial statement shall be provided and included as part of the annual inspection report documenting the available funding established in the escrow account for operation and maintenance of the stormwater control and management facilities.

159.403 INSPECTION PROGRAM

Inspections and inspection programs by City of Monroe 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.

If the *owner* or occupant of any property refuses to permit such inspection, the Stormwater Administrator 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 Administrator while carrying out his or her official duties.

159.404 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

- (A) ***May be required.*** The City of Monroe may, at its discretion, 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 structural SCMs are installed by the permit holder as required by the approved Stormwater management plan.

(B) *Amount.*

- (1) Installation. The amount of an installation performance security shall be the total estimated construction cost of the SCMs approved under the permit, plus 10%.
- (2) Maintenance. The owner and applicant shall keep the property on which the SCM's are located reasonably maintained and in a fit and proper condition prior to being accepted by the City of Monroe.

(C) *Uses of performance security.*

- (1) 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 Ordinance, approvals issued pursuant to this Ordinance, or an operation and maintenance agreement established pursuant to this Ordinance.
- (2) Default. Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural SCM in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator 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.
- (3) Costs in excess of performance security. If the City of Monroe takes action upon such failure by the applicant and owner, the City of Monroe may collect from the applicant and owner the difference between the amount of the reasonable cost of such action in addition to any other penalties or damages due to the City of Monroe.
- (4) Refund. Within sixty days of acceptance by the City, the installation performance security shall be refunded to the applicant or terminated.

159.405 NOTICE TO OWNERS

- (A) *Deed Recordation and Indications On Plat.*** The applicable operations and maintenance agreement or dedication and acceptance into public maintenance

pertaining to every *structural SCM* shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement or dedication and acceptance into public maintenance shall be 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.

- (B) *Signage.* Where appropriate, to assure compliance with this Ordinance, *structural 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.

159.406 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The *owner* of each *structural SCM* shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

159.407 NUISANCE

The *owner* of each stormwater SCM, whether *structural* or *non-structural SCM*, shall maintain it so as not to create or result in a nuisance condition.

SECTION 5: ENFORCEMENT AND VIOLATIONS

159.501 GENERAL

(A) Authority to Enforce

The provisions of this Ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of City of Monroe. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of City of Monroe.

(B) Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other *development* or *redevelopment* approval or authorization granted pursuant to this Ordinance, is unlawful and shall constitute a violation of this Ordinance.

(C) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) 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 Ordinance 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 owner, 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; such person may also 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 Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists. or,

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

(1) Person Maintaining Condition Resulting in or Constituting Violation

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 Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists.

(2) Responsibility For Land or Use of Land

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.

159.502 REMEDIES AND PENALTIES

The remedies and penalties provided for violations of this Ordinance, 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) Remedies

(1) Withholding of Certificate of Occupancy

The Stormwater Administrator or other authorized agent 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 cured the violations described therein.

(2) Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this Ordinance continues and remains uncorrected, the Stormwater Administrator or other issuing authority may withhold, and may disapprove, any request for permit or *development* approval or authorization requested for the land on which the violation occurs.

(3) Injunction, Abatements, etc.

The Stormwater Administrator, in conjunction with the Monroe City Attorney's Office may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance. Any person violating this Ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) 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 North Carolina G.S. § 160A-193, the Stormwater Administrator, in conjunction with the Monroe City Attorney's Office may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) Stop Work Order

The Stormwater Administrator may issue a stop work order to the person(s) violating this Ordinance. 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.

(6) Restoration of Areas Affected by Failure to Comply

By issuance of an order of restoration, the Storm Water Administrator may require a Person(s) who engaged in a land development activity and failed to comply with this ordinance to take such remedial actions needed to minimize the detrimental effects of the resulting pollution. This authority is in addition to any other civil penalty or injunctive relief authorized under this ordinance.

(B) Civil Penalties

Any Person who conducts an act or action, allows directly or indirectly, acts in concert with, participates, directs, or assists directly or indirectly in the creation of a Violation of this Ordinance is subject to a civil penalty.

- (1) A civil penalty may be assessed for the time period from the date the Violation first occurs until the date that the Violation ceases, as verified by the City. Refusal to accept the notice shall not relieve the Violator of the obligation to pay such penalty.
- (2) Payment of a civil penalty does not relieve the Violator of the obligation to correct the violation.
- (3) Upon failure of a Violator to correct a violation within the time period stated in a Notice of Violation, each day's continuing violation thereafter shall constitute a separate and distinct offense for the purpose of assessing a civil penalty. The maximum civil penalty for each violation of this Ordinance shall be \$1,000 per day and/or \$30,000 total.
- (4) In determining the amount of the penalty, the City shall consider the degree and extent of harm to the environment, public health and public and private property; the cost of remedying the damage; the duration of the violation; whether the violation was intentional; the prior record of the Person responsible for the violation in complying with this Ordinance; the City's enforcement costs, and the amount of money saved by the violator through his, her or its noncompliance.

- (5) Civil penalties may be assessed up to the full amount of penalty to which the City of Monroe is subject for violations of its National Pollutant Discharge Elimination System (NPDES) Permit.
- (6) Penalties may be assessed concurrently with a Notice of Violation that details the civil penalties, their accrual period, and the payment deadline if any of the following occur:
 - (a) Failure to submit a storm water management plan.
 - (b) Conducting land disturbing activities without an approved plan.
 - (c) Failure to install or maintain best management practices per the approved plan.
 - (d) Repeating a violation on the same project by the same responsible party.
 - (e) Obstructing an authorized representative performing official duties.
 - (f) Willful violation of this ordinance.

159.503 PROCEDURES FOR INSPECTIONS AND INVESTIGATIONS

(A) Initiation/Complaint

Whenever a violation of this Ordinance 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 Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

(B) Inspection

Upon presenting proper credentials, the Stormwater Administrator may enter any land, building, or premises—public or private—to inspect for compliance with this ordinance. The Administrator is empowered to conduct necessary investigations, perform inspections at reasonable times, and require written statements or sworn reports. By applying for or receiving a stormwater permit, the owner grants limited access for these purposes.

(C) Notice of Violation and Order to Correct

When the Stormwater Administrator finds that any building, structure, or land is in violation of this Ordinance, the Stormwater Administrator shall issue a Notice of Violation, in writing, to the property *owner* or other responsible persons/entities violating this Ordinance. 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 civil penalties or Notice of V shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Monroe Police 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.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this Ordinance to correct and abate the violation and to ensure compliance with this Ordinance.

The Stormwater Administrator may, within their professional discretion, issue a written warning that specifies the violation and requires prompt investigation and resolution within the stated period. This warning does not relieve the violator of liability for offenses committed before or after its issuance, nor does it limit the City's authority to take further enforcement action, including emergency measures.

(D) 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 Administrator 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 Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days. The Stormwater Administrator may grant thirty (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 Ordinance. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(E) Enforcement After Time to Correct

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this Ordinance.

(F) Emergency Enforcement

If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The

Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

SECTION 6: DEFINITIONS

159.601 TERMS DEFINED

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.

Built-upon area (BUA)

That portion of a *development* project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. “Built-upon area” does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Department

The North Carolina Department of Environment and Natural Resources.

Stormwater Design Manual

The stormwater design manual approved for use in Phase II jurisdictions by the North Carolina Department of Environmental Quality for the proper implementation of the requirements of the Federal Phase II stormwater program. All references herein to the *Stormwater Design Manual* are to the latest published edition or revision. The *Stormwater Design Manual* is not part of the City of Monroe Standard Specifications and Detail Manual.

Development

Any land-disturbing activity that increases the amount of *built upon area* or that otherwise decreases the infiltration of precipitation into the soil.

Division

The Division of Water Quality in the *Department*.

Floodplain

The one percent Annual Chance Floodplain as delineated by the North Carolina Floodplain Mapping Program in the Division of Emergency Management.

Larger common plan of development or sale

Any area where multiple separate and distinct construction or land-disturbing activities will occur under one 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.

1-year, 24-hour storm

The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

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.

Redevelopment

Any *development* on previously-developed land, other than a rebuilding activity that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous *development*.

Structural SCM Stormwater Control Measure (SCM)

A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the *pre-development* hydrology on a developed site; or to achieve any combination of these goals. Structural SCM includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural SCM" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," "best management practice (BMP), and similar terms used in this Ordinance.

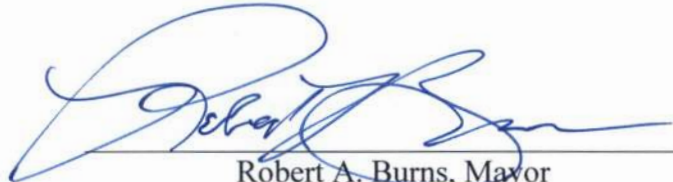
Substantial progress


For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

Section 2. This Ordinance shall be effective upon adoption.

Adopted this 8th day of July, 2025.

Attest:


Robert A. Burns, Mayor


Bridgette H. Robinson, City Clerk

