

**LENOIR CITY COUNCIL
TUESDAY, NOVEMBER 12, 2019
6:00 P.M.**

PRESENT: Mayor Gibbons presiding. Councilmembers present were Beal, Perdue, Perkins, Prestwood, Stevens, Thomas and Willis. Also in attendance were City Manager Hildebran, City Clerk Cannon and City Attorney Rohr.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance led by Mayor Gibbons.

**EXPRESSION OF
SYMPATHY:**

- B. On behalf of City Council, Mayor Gibbons extended sympathy to the family of Becky Phillips. Ms. Phillips served as the Executive Director of Fort Defiance for many years.

**SPECIAL RECOGNITION; RETIRING OF
SERVICE ANIMALS (K-9 CERIK AND K-9 MATO):**

- C. Pursuant to N.C.G.S. §20-187.4 Disposition of Retired Service Animals, Staff respectfully recommended City Council declare K-9 Cerik and K-9 Mato as surpluses by the City to be transferred into the personal care of their current handlers, Corporal Justin Reid and Sergeant Nathaneal Blache, as recommended by Police Chief Brent Phelps and to adopt the appropriate resolutions.

On behalf of City Council, Mayor Gibbons presented Corporal Reid and Sergeant Blache with a resolution commending Mato and Cerik for their years of service to the citizens of Lenoir. He stated Council was proud of the program and thanked the Department for doing such a great job.

Copies of the resolutions are hereby incorporated into these minutes by reference. (Refer to pages 550-551).

On behalf of the Police Department, Chief Phelps commended Cerik and Mato for their outstanding service to the Department and City. He stated they were a valuable part of the Department and worked hard every day along with conducting daily training exercises. He stated their services are a valuable tool for the Department and pointed out they work hard in all types of weather and situations. Chief Phelps commended Sergeant Blache and Corporal Reid for all their time and dedication plus their accomplishments as handlers of the animals.

In addition, Chief Phelps stated the City's K-9 program is recognized across the state as a top notch program and he also referred to the Department's popular

Citizens Academy that is held annually. He further shared that two new dogs have been purchased and they will have new handlers.

Sergeant Blache stated Cerik was certified at 11 months of age and has worked over 1,000 events. He shared the most memorable event during Cerik's career was assisting with a narcotics search that resulted in him locating over three pounds of methamphetamine with a street value of over \$217,000.

Corporal Reid reported that Mato's biggest drug find was 10.2 pounds of marijuana with a street value of \$36,556. At the request of narcotics officers, Mato checked several packages at UPS and focused on a package that contained marijuana that was vacuum sealed and wrapped in plastic with dryer sheets.

In addition, Corporal Reid stated Mato's most memorable track involved a jump and run on the Dry Ponds Road where he tracked a suspect who was located when he fell out of a tree. Another suspect was also apprehended at this time.

Upon a motion by Mayor Pro-Tem Willis, Council voted 7 to 0 to declare K-9 Cerik and K-9 Mato as surpluses and adopted the resolutions as submitted and as recommended by City Staff.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

PHASE II STORMWATER ORDINANCE:

- A. A public hearing was held to consider adoption of a Phase II Stormwater ordinance and to direct the City Clerk to codify the ordinance as Appendix C of the Lenoir Code of Ordinances.

The City of Lenoir is subject to Phase II requirements of the Clean Water Act which includes maintaining the legal authority to enforce certain land development and code enforcement provisions related to the management of stormwater run-off and the prevention of illicit discharge and non-source point stream pollution. The attached ordinance was prepared by the Western Piedmont Council of Governments (WPCOG) in consultation with Lenoir Planning Staff and the Public Works Director to comply with the state and federal requirements for Phase II communities.

A copy of the ordinance is hereby incorporated into these minutes by reference. (Refer to pages 552-593).

Mayor Gibbons opened the public hearing to receive public comments regarding approval of the Phase II Stormwater Ordinance.

Director Wheelock recommended that Council change the effective date of the proposed ordinance to November 12, 2019 and reiterated adoption of this ordinance is part of the City's requirement to come into compliance with the Stormwater Program. Director Wheelock further recognized Mr. John Wear

and Mr. Jack Cline with the Western Piedmont Council of Governments (WPCOG) who were in attendance and participated in drafting the ordinance.

Mayor Gibbons thanked Director Wheelock, Public Works Director Jared Wright, plus the Staff of the Western Piedmont Council of Governments for all their hard work in completing this important project.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Perdue, Council voted 7 to 0 to adopt the Phase II Stormwater Ordinance with an effective date of November 12, 2019 and directed the City Clerk to codify the ordinance as Appendix C of the Lenoir Code of Ordinances as recommended by City Staff.

TABLED; REZONING REQUEST; 103 VIRGINIA STREET SW:

- B. A rezoning request for property located at 103 Virginia Street SW to be rezoned from R-9 (Mixed Density Residential) to B-6 (Transitional Business) was tabled until the City Council meeting of Tuesday, December 3 as recommended by Planning Director Jenny Wheelock.

Upon a motion by Mayor Pro-Tem Willis, Council voted 7 to 0 to table the rezoning request for property located at 103 Virginia Street SW as described above and as recommended by Planning Director Wheelock.

III. CONSENT AGENDA ITEMS

- A. Upon a recommendation by City Manager Hildebran, the following Consent Agenda items were submitted for approval:
 - 1. Minutes: Approval of the minutes of the City Council Meeting of Tuesday, October 15, 2019, as submitted.
 - 2. Minutes: Approval of the Committee of the Whole minutes of Tuesday, October 22, 2019 as submitted.
 - 3. Amended; Capital Project Budget Ordinance; Biosolids Project: Approval of an amended Capital Project Budget Ordinance in the amount of \$7,134,900.00 to appropriate funds for the Biosolids Facility Improvements Project as submitted. (A copy of the Capital Project Budget Ordinance is hereby incorporated into these minutes by reference. Refer to page 594).
 - 4. Sanitation Automated Collection Study; WPCOG: Approval of the Lenoir Sanitation Automated Collection Study in the amount of \$27,500.00 as prepared by the Western Piedmont Council of Governments (WPCOG). The revised proposal includes updated customer counts, route re-design and logistics, current and future operation and maintenance budgeting, solid waste ordinance review and public education assistance. (A copy of the Sanitation Automated Collection Study is hereby incorporated into these minutes by reference. Refer to pages 595-602).

5. Request for Meeting Time Change: City Council was in consensus to change the time of the December 3 Council Meeting to 5:00 p.m. in lieu of the regular scheduled time of 6:00 p.m. due to a meeting conflict.

Upon a motion by Councilmember Stevens, Council voted 7 to 0 to approve the above listed items on the Consent Agenda as recommended by City Manager Hildebran.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

FOOTHILLS REGIONAL AIRPORT

AUTHORITY:

1. The Foothills Regional Airport Authority will meet on Wednesday, November 20 at noon.

ANNUAL LIGHT-UP LENOIR

EVENT:

2. The annual Light-Up Lenoir Event is scheduled for Thursday, November 21 from 4:00 p.m. – 6:00 p.m. in downtown Lenoir.

ANNUAL MUSICAL LIGHT

SHOW:

3. The annual Musical Light Show on the downtown square begins daily on Thursday, November 21 through Wednesday, January 1 from 6:00 p.m. – 10:00 p.m.

ANNUAL COMMUNITY TURKEY

TUESDAY:

4. The 6th Annual Community Turkey Tuesday is scheduled for Tuesday, November 26 at 5:00 p.m. at the Martin Luther King, Jr. Center to assist families in need.

PLANNING

BOARD:

5. The Planning Board will meet on Monday, November 25 at 5:30 p.m. at the City/County Chambers.

COMMITTEE OF THE

WHOLE:

6. The Committee of the Whole will meet on Tuesday, November 26 at 8:30 a.m. at City Hall, Third Floor.

CALDWELL ROTARY CLUB

CHRISTMAS FESTIVAL:

7. The annual Caldwell Rotary Club Christmas Festival will be held on Saturday, November 23 from 10:00 a.m. – 4:00 p.m. in downtown Lenoir.

HOLIDAY

CLOSING: 8. City offices will be closed on Thursday, November 28 and Friday, November 29 in observance of the Thanksgiving holidays.

ANNUAL CHRISTMAS

PARADE: 9. The annual Christmas Parade will be held on Friday, December 6 at 6:30 p.m. in downtown Lenoir.

B. ITEMS FOR COUNCIL ACTION**RESOLUTION; HISTORIC PROPERTIES:**

1. Pursuant to N.C.G.S. §160A-458.3, City Council does hereby resolve that the properties depicted in Exhibit A as attached are considered part of Lenoir's Central Business District (CBD) and the rehabilitation and re-use of the buildings and associated site improvements are considered by the Lenoir City Council to be "downtown development projects". Staff recommended approval of the attached resolution.

A copy of the resolution and Exhibit A are hereby incorporated into these minutes by reference. (Refer to pages 603-604).

City Manager Hildebran stated that funding may be approved for the project at a later date.

Upon a motion by Councilmember Perdue, Council voted 7 to 0 to adopt the proposed resolution depicting the CNR Freight Station, Lenoir Cotton Mill/Blue Bell, Inc. site and the Steele Cotton Mill as part of Lenoir's Central Business District (CBD) and the rehabilitation and re-use of the buildings and associated site improvements are considered by the Lenoir City Council to be "downtown development projects" as recommended by City Staff.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY**VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR****BOARD APPOINTMENTS;****PARKS AND RECREATION ADVISORY BOARD:**

- A. Mayor Gibbons recommended that Scott Barnett be re-appointed to serve a two-year term on the Parks and Recreation Advisory.

This re-appointed was announced at the October 15 Council meeting.

Upon a motion by Councilmember Thomas, Council voted 7 to 0 to re-appoint Mr. Barnett to serve a two-year term on Parks Recreation Advisory Board.

ALTERNATE; WESTERN PIEDMONT COUNCIL OF GOVERNMENTS**TRANSPORTATION ADVISORY COMMITTEE:**

- B. Mayor Gibbons recommended that Council appoint Councilmember Ralph Prestwood to

serve as the City's Alternate on the Western Piedmont Council of Governments (WPCOG)'s Transportation Advisory Board. Councilwoman Crissy Thomas currently serves as the City's Delegate.

Upon a motion by Mayor Pro-Tem Willis, Council voted 7 to 0 to appoint Councilmember Prestwood to serve as the City's Alternate on the Western Piedmont Council of Governments (WPCOG)'s Transportation Advisory Board as recommended by Mayor Gibbons.

COMMENDED; CITY

STAFF: C. On behalf of City Council, Mayor Gibbons commended Economic Development Director Kaylynn Horn, Kyle Case and other City Staff for the City of Lenoir being selected by Business Monthly magazine as the best in the state for its branding logo of "Together We Create". Mayor Gibbons stated the City was proud and excited about receiving this award.

IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS

CONGRATULATIONS; MUNICIPAL ELECTION:

A. On behalf of City Council, Councilmember Stevens commended Mayor Joe Gibbons, Mayor Pro-Tem Ben Willis, Councilmember Todd Perdue and Councilmember Ralph Prestwood upon winning the municipal election on Tuesday, November 5.

CLOSED SESSION:

B. Pursuant to N.C.G.S§143-318.11(a),(4) and upon a motion by Councilmember Stevens, which carried unanimously, City Council entered into closed session to discuss economic development.

OPEN SESSION:

C. Upon a motion by Mayor Pro-Tem Willis, City Council voted unanimously to re-enter into open session.

X. ADJOURNMENT

A. There being no further business, the meeting was adjourned at 6:53 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

RESOLUTION

WHEREAS, the City of Lenoir, North Carolina City Council, in accordance with § 20-187.4, desires to dispose of a retired service animal, Police K-9 Cerik of the City of Lenoir and award the service animal to Sergeant Nathaniel Blache for the purchase price of one dollar (\$1.00) from the City of Lenoir.

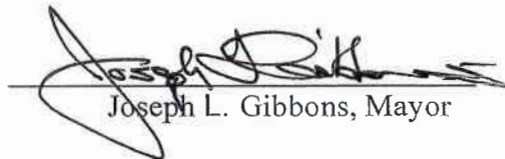
NOW, THEREFORE BE IT RESOLVED,

- 1) the Mayor and City Council of the City of Lenoir acknowledges Police K-9 Cerik's loyal and dedicated service to the citizens of Lenoir, and
- 2) the Mayor and City Council declare the badge of Police K-9 Cerik, upon retirement, as surplus and no longer has any additional use to the City of Lenoir.
- 3) the Mayor and City Council authorize the City Manager to proceed with the procedures as outlined in N.C.G.S. § 20-187.4 regarding the disposition of retired service animals.

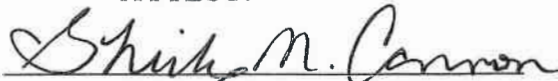
NOW, THEREFORE BE IT FURTHER RESOLVED that, I, Joseph L. Gibbons, Mayor of the City of Lenoir, and on behalf of the Lenoir City Council and all the citizens, do hereby wish the very best for Police K-9 Cerik in his retirement and commend him for the service.

Adopted this the 12th day of November, 2019

SEAL


Joseph L. Gibbons, Mayor

ATTEST:


Shirley M. Cannon, City Clerk





CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

RESOLUTION

WHEREAS, the City of Lenoir, North Carolina City Council, in accordance with § 20-187.4, desires to dispose of a retired service animal, Police K-9 Mato of the City of Lenoir and award the service animal to Corporal Justin Reid for the purchase price of one dollar (\$1.00) from the City of Lenoir.

NOW, THEREFORE BE IT RESOLVED,

- 1) the Mayor and City Council of the City of Lenoir acknowledges Police K-9 Mato's loyal and dedicated service to the citizens of Lenoir, and
- 2) the Mayor and City Council declare the badge of Police K-9 Mato, upon retirement, as surplus and no longer has any additional use to the City of Lenoir.
- 3) the Mayor and City Council authorize the City Manager to proceed with the procedures as outlined in N.C.G.S. § 20-187.4 regarding the disposition of retired service animals.

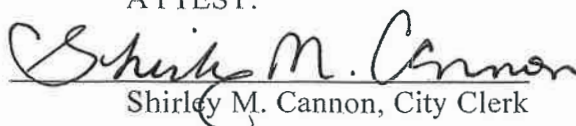
NOW, THEREFORE BE IT FURTHER RESOLVED that, I, Joseph L. Gibbons, Mayor of the City of Lenoir, and on behalf of the Lenoir City Council and all the citizens, do hereby wish the very best for Police K-9 Mato in his retirement and commend him for the service.

Adopted this the 12th day of November, 2019

SEAL


Joseph L. Gibbons, Mayor

ATTEST:


Shirley M. Cannon, City Clerk



APPENDIX C
City of Lenoir, North Carolina
Phase II Stormwater Ordinance

Phase II Stormwater Ordinance

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SECTION 1: GENERAL PROVISIONS

101 TITLE

This ordinance shall be officially known as “The Phase II Stormwater Ordinance.” It is referred to herein as “this ordinance.”

102 AUTHORITY

The City of Lenoir 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; City of Lenoir; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185.

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; and

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 of Lenoir 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.

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 and point source pollution associated with new *development* and *redevelopment* [as well as illicit discharges into municipal stormwater systems]. 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, streambank 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 BMPs* 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 stormwater BMPs* 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 City of Lenoir,
9. Controlling illicit discharges into the municipal separate stormwater system.

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

Development that cumulatively disturbs less than one acre and does not exceed 20,000 square feet or impervious area and does not include disturbances within a stream buffer, filling or excavation in excess of 1,000 cubic yards or filling and excavation that would impact an adjoining parcel through alteration or drainage paths, ponding or water or velocity of stormwater flow is not part of a *larger common plan of development or sale* is exempt from the provisions of this ordinance.

Redevelopment that cumulatively disturbs less than one acre and does not have a net increase in impervious area and is not part of a larger common plan of *development or sale* is exempt from the provisions of this ordinance.

Development and *redevelopment* that disturb less than one acre are not exempt if such activities are part of a *larger common plan of development or sale*, even though multiple, separate or distinct activities take place at different times on different schedules.

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 Lenoir, 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 BMPs* permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

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 Lenoir Code of Ordinances, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.¹

(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 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 *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.

(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 Lenoir, 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 Lenoir. 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 Lenoir 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.

107 DESIGN MANUAL

(A) Reference to Design Manual

The Stormwater Administrator 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 *structural and non-structural stormwater BMPs*.

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.

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

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*.

(C) Changes to Standards and Specifications

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 ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

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 City of Lenoir be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

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.

110 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

(A) Effective Date

This Ordinance shall take effect on November 5, 2019.

(B) Final Approvals, Complete Applications

All *development* and *redevelopment* projects for which complete and full applications were submitted and approved by the City of Lenoir prior to the effective date of this ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of *development* or *redevelopment* shall be exempt from complying with all provisions of this ordinance dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions.

A phased development plan shall be deemed approved prior to the effective date of this ordinance if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

1. 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 approved.
2. For any subsequent phase of development, sufficient detail so that implementation of the requirements of this ordinance to that phase of development would require a material change in that phase of the plan.

(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

201 REVIEW AND DECISION-MAKING ENTITIES

(A) Stormwater Administrator

(1) Designation

A Stormwater Administrator shall be designated by the City Council to administer and enforce this ordinance.

(2) Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the City 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 Council 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 relate to the adoption, amendment, enforcement, and administration of this ordinance.
- f. To provide expertise and technical assistance to the City Council, 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.

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 BMPs* and elements of site design for stormwater management other than *structural BMPs*.

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 BMPs* 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

(1) Application Contents and Form

The Stormwater Administrator [Stormwater Advisory Board] 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.

(2) 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.

(3) Permit Review Fees

The City Council shall establish permit review fees, as well as, policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

(4) 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 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 30 working 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.

(1) 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.

(2) 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.

(3) Revision and Subsequent Review

A complete revised application shall be reviewed by the Stormwater Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within thirty (30) calendar days 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.

One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal

shall be accompanied by a permit review fee additional fee, as established pursuant to this ordinance.

203 APPLICATIONS FOR APPROVAL

(A) Concept Plan and Consultation Meeting

Before a stormwater management permit application is deemed complete, 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. Local watershed plans and other relevant resource protection plans should be consulted in the discussion of the concept plan.

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

(1) 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.

(2) 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.

(3) 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 *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 2-202(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.

The 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. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

(D) Other Permits

No certificate of compliance or occupancy shall be issued by the Caldwell County Building Inspectors 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 Caldwell County Building Inspections Department 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.

204 **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-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.

205 **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 30 days.

(B) Filing of Appeal and Procedures

Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by City of Lenoir. 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 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 after the latter of the following:

- (1) The decision of the Board of Adjustment is filed; or
- (2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Chair of the Board of Adjustment at the time of its hearing of the case.

SECTION 3: STANDARDS

301 GENERAL STANDARDS

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

302 DEVELOPMENT STANDARDS FOR LOW-DENSITY PROJECTS

Low-density projects shall comply with each of the following standards:

- (A) Stormwater runoff from the *development* shall be transported from the *development* by vegetated conveyances to the maximum extent practicable.
- (B) Stream buffers shall be maintained on all sides of perennial and intermittent surface waters. The size of the buffer for perennial surface waters shall be an undisturbed width of 30 feet, plus a vegetated setback of 20 feet. Buffers for intermittent surface waters shall be an undisturbed width of 30 feet. The buffer width is measured perpendicularly from the top of the streambank. A perennial or intermittent surface water shall be deemed present if the feature is approximately 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 version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic 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.
- (C) The approval of the stormwater permit 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.

303 DEVELOPMENT STANDARDS FOR HIGH-DENSITY PROJECTS

High-density projects shall implement stormwater control measures that comply with each of the following standards:

- (A) The measures shall control and treat runoff from the first inch of rain, runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours.
- (B) All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS);
- (C) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Design Manual*;

- (D) Stream buffers shall be maintained on all sides of perennial and intermittent surface waters. The size of the buffer for perennial surface waters shall be an undisturbed width of 30 feet, plus a vegetated setback of 20 feet. Buffers for intermittent surface waters shall be an undisturbed width of 30 feet. The buffer width is measured perpendicularly from the top of the streambank. A surface water shall be deemed present if the feature is approximately 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 version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic 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.
- (E) On-site verification of intermittent and **perennial** streams by a qualified professional is required for all development exceeding a cumulative 5 acres and 24 percent impervious coverage, or any commercial development.
- (F) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

304 STANDARDS FOR STORMWATER CONTROL MEASURES

(A) Evaluation According to Contents of Design Manual

All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) 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 *Design Manual*. The Stormwater Administrator shall determine whether proposed BMPs 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 *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 *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 BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

305 DEDICATION OF BMPs, FACILITIES & IMPROVEMENTS

The Lenoir City Council 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.

306 VARIANCES

(A) Any person may petition the City of Lenoir for a variance 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 Lenoir may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(C) Statutory exceptions

Notwithstanding subdivision (A) of this section, exceptions from the 30-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 BMPs.
- (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 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 BMPs.

(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.

307 ADDITIONAL STANDARDS FOR SPECIAL SITUATIONS

Pet waste

- (1) It shall be unlawful for the owner or custodian of any dog to take it off the owner's own property limits without the means to properly remove and dispose of the dog's feces from any public or private property.
- (2) It is the responsibility of a dog's owner or custodian to clean up the dog's feces from any public or private property outside of the dog's owner's own property limits. Such property includes, but is not limited to, parks, rights-of-way, paths, and public access areas.
- (3) "Means to properly remove and dispose of feces" shall consist of having on or near one's person a device such as a plastic bag, or other suitable plastic or paper container, that can be used to clean up and contain dog waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce these ordinances.
- (4) This provision shall not apply to handicapped persons assisted by trained guide or assistance dogs.
- (5) "Public nuisance" is defined to include "a dog which deposits feces on public property or on private property without the consent of the owner or person in lawful possession of the private property, and the person owning, possessing, harboring or having the care, charge, control or custody of the dog fails to remove the feces so deposited. Provided, however, this definition shall not apply to any dog assisting a handicapped person. Reference Section 5 for abatement and penalty.

308 ONSITE WASTEWATER

(A) Operation and Maintenance Requirements

New and replaced onsite systems for domestic wastewater installed after the effective date of this ordinance shall be subject to the same requirements for operation and maintenance as *structural BMPs* for stormwater, including, at a minimum, annual inspection reports and a recorded operation and maintenance agreement, pursuant to Section 4 of this ordinance.

(B) Standards for Operation and Maintenance

Onsite systems for domestic wastewater covered by this ordinance shall be operated and maintained so as to avoid adverse effects on surface water and groundwater, including eutrophication of surface water and microbial or nitrate contamination of groundwater. Septic tank residuals shall be pumped

whenever necessary to assure the proper operation of the system to meet these standards, and the septage shall be reused or disposed of in a manner that does not present significant risks to human health, surface water or groundwater.

SECTION 4: MAINTENANCE

401 GENERAL STANDARDS FOR MAINTENANCE

(A) Function of BMPs As Intended

The *owner* of each *structural BMP* 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 BMP* was designed.

(B) Annual Maintenance Inspection and Report

The person responsible for maintenance of any *structural BMP* installed pursuant to this ordinance shall submit to the Stormwater Administrator an inspection report 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 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 BMP*;
- (3) A statement that an inspection was made of all *structural BMPs*;
- (4) The date the inspection was made;
- (5) A statement that all inspected *structural BMPs* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- (6) The original signature and seal of the engineer, surveyor, or landscape architect.

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.

402 OPERATION AND MAINTENANCE AGREEMENT

(A) In General

Prior to the conveyance or transfer of any lot or building site to be served by a *structural BMP* pursuant to this ordinance, and prior to issuance of any permit for *development* or *redevelopment* requiring a *structural BMP* pursuant to this ordinance, the applicant or *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 BMP*. Until the transference of all property,

sites, or lots served by the *structural BMP*, the original *owner* or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement shall require the *owner* or *owners* to maintain, repair and, if necessary, reconstruct the *structural BMP*, and shall state the terms, conditions, and schedule of maintenance for the *structural BMP*. In addition, it shall grant to City of Lenoir 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 BMP*; however, in no case shall the right of entry, of itself, confer an obligation on City of Lenoir to assume responsibility for the *structural BMP*.

The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within fourteen (14) days following its recordation.

(B) Special Requirement for Homeowners' and Other Associations

For all *structural BMPs* required pursuant to this ordinance and that 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:

- (1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
- (2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the *structural BMPs*. If *structural BMPs* are not performing adequately or as intended or are not properly maintained, the City of Lenoir, in its sole discretion, may remedy the situation, and in such instances the City of Lenoir 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 *structural BMPs*, provided that the City of Lenoir shall first consent to the expenditure.
- (3) Both developer contribution and annual sinking funds shall fund the escrow account. 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 fifteen (15) per cent of the initial construction cost of the *structural BMPs*. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the *structural BMPs*. 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.

- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the City of Lenoir depending on the design and materials of the stormwater control and management facility.
- (5) Granting to the City of Lenoir a right of entry to inspect, monitor, maintain, repair, and reconstruct *structural BMPs*.
- (6) Allowing the City of Lenoir to recover from the association and its member's any and all costs the City of Lenoir expends to maintain or repair the *structural BMPs* or to correct any operational deficiencies. Failure to pay the City of Lenoir all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, the City of Lenoir 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.
- (7) A statement that this agreement shall not obligate the City of Lenoir to maintain or repair any *structural BMPs*, and the City of Lenoir shall not be liable to any person for the condition or operation of *structural BMPs*.
- (8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City of Lenoir to enforce any of its ordinances as authorized by law.
- (9) A provision indemnifying and holding harmless the City of Lenoir for any costs and injuries arising from or related to the structural BMP, unless the City of Lenoir has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

403 INSPECTION PROGRAM

Inspections and inspection programs by City of Lenoir 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 BMPs; and evaluating the condition of BMPs.

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.

404 **PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE**

(A) May Be Required

The City of Lenoir may, at its discretion, require the submittal of a performance security or bond with surety or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the *structural* BMPs are

(1) Installed by the permit holder as required by the approved stormwater management plan, and/or

(2) Maintained by the *owner* as required by the operation and maintenance agreement.

(B) Amount

(1) Installation

The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.

(2) Maintenance

The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

(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* BMP 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. In the event of a default triggering the use of installation performance security, the City of Lenoir shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(3) Costs in Excess of Performance Security

If City of Lenoir takes action upon such failure by the applicant or *owner*, the City of Lenoir 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.

(4) Refund

Within sixty 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%) of landscaping installation and ongoing maintenance associated with the BMPs 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.

405 NOTICE TO OWNERS

(A) Deed Recordation and Indications On Plat

The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance (whichever is applicable) pertaining to every *structural BMP* 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, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable 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 in the determination of the Stormwater Administrator to assure compliance with this ordinance, *structural BMPs* 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.

406 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The *owner* of each *structural BMP* 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.

407 NUISANCE

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

408 MAINTENANCE EASEMENT

Every *structural BMP* installed pursuant to this ordinance shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be

recorded and its terms shall specify who may make use of the easement and for what purposes.

SECTION 5: ENFORCEMENT AND VIOLATIONS

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 Lenoir. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of City of Lenoir.

(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, BMP, 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 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 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, 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.

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 authorized agent may withhold, and the City of Lenoir Planning Board may disapprove, any request for permit or *development* approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

(3) Injunction, Abatements, etc.

The Stormwater Administrator, with the written authorization of the City Administrator, 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, with the written authorization of the City Administrator, 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.

(B) Civil Penalties

Violation of this ordinance shall follow the procedure for notice of violation and civil penalty schedule outlined in Section 1-15 of the Lenoir City Code. If the violation of the ordinance causes the City of Lenoir to incur a penalty for violation of its Phase II Stormwater permit, civil penalties may be assessed up to the full amount of penalty to which City of Lenoir is subject.

(C) Criminal Penalties

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

503 PROCEDURES

(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

The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

(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 notify, in writing, the property *owner* or other person 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 violation 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 law enforcement or code enforcement personnel, 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.

(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 15-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

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 Quality.

Design Manual

The stormwater design manual approved for use in Phase II jurisdictions by the *Department* and certified by this jurisdiction for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the *Design Manual* are to the latest published edition or revision.

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 Energy, Mineral and Land Resources in the *Department*.

High-density project

Any project that exceeds the *low-density* threshold for dwelling units per acre or *built-upon area*.

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.

Low-density project

For a project that is not located within one-half mile of and draining to Shellfish Resource Waters: the project is a low -density project if it has no more than two dwelling units per acre or twenty-four percent *built-upon area* (BUA) for all residential and non-residential *development*.

A project with an overall density at or below the relevant low-density threshold, but containing areas with a density greater than the overall project density, may be considered low density as long as the project meets or exceeds the post-construction model practices for

low-density projects and locates the higher density in upland areas and away from surface waters and drainage ways to the maximum extent practicable.

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 BMP

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 BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," 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.²

SECTION 7: ILLICIT DISCHARGES

701 TITLE AND PURPOSE

(A) Title

This ordinance shall be officially known as "The Phase II Stormwater Illicit Discharge Detection and Elimination Ordinance." It is referred to herein as "this ordinance."

(B) Purpose

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City Lenoir through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by Stormwater discharges by any user
- (2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

702 AUTHORITY

The City of Lenoir 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 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A § 174, 185.

703 DEFINITIONS

For the purposes of this section, the following shall mean:

Best Management Practices (BMPs)

schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to Stormwater, receiving waters, or Stormwater conveyance systems BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks sludge or water disposal, or drainage from raw materials storage.

Clean Water Act

The federal Water Pollution Control Act (33 U.S. C. 5 1251 et seq.), and any subsequent amendments thereto.

Hazardous Materials

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported disposed of, or otherwise managed.

Illegal Discharge

Any direct or indirect non-storm water discharge to the storm drain system.

Illicit Connections

An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system, which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity

Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

Municipal Separate Storm Sewer System (MS4)

Pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets catch basins, curbs, gutters, ditches, manmade channels, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures or storm drains):

- (i) Owned or operated by a City, city, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, Stormwater, or other wastes, that discharges to waters of the United States or waters of the State.
- (ii) Designed or used for collecting or conveying Stormwater;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a Publicly Owned Treatment Works (POTW), as defined in 40 CFR 122.2

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit

A permit issued by the North Carolina Department of Environment and Natural Resources, Division of Water Quality* that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge

Any discharge to the storm drain system that is not composed entirely of storm water.

Person

Means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting either as the owner or as the owner's agent.

Pollutant

Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises

Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Water

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan

A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater

Means water or other liquid, other than uncontaminated storm water, discharged from a facility.

*Ultimately the federal Environmental Protection Agency regulates the NPDES permit, but it has been delegated to the state for any non-tribal lands within North Carolina

704 ILLICIT DISCHARGES AND CONNECTIONS

(A) Illicit Discharges

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any Stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a Stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than Stormwater; provided that non-Stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Water line flushing,
- (2) Landscape irrigation,
- (3) Diverted stream flows,
- (4) Rising ground waters,
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
- (6) Uncontaminated pumped ground water,
- (7) Discharges from potable water sources,
- (8) Foundation drains,
- (9) Flows from emergency firefighting,
- (10) Air conditioning condensation,
- (11) Irrigation water,
- (12) Springs,
- (13) Water from crawl space pumps,
- (14) Footing drains,
- (15) Lawn watering,
- (16) Individual residential car washing - Designated vehicle wash areas at multi-family residential complexes are not allowed if they connect, directly or indirectly, to the Stormwater System or surface waters. Charity Vehicle Washing performed by the same organization or at the same location on a routine basis (more than one time in a thirty-day period) is not allowed under this article.
- (17) Flows from riparian habitats and wetlands,

(18) Dechlorinated swimming pool discharges - "Salt Water" swimming pools cannot be directly discharged into the storm drain due to the salinity, bromoform/bromine concentration, and chlorine generated.

(19) Street wash water, and

(20) Other non-Stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and if any such discharges to the municipal separate storm, The City of Lenoir shall authorize sewer system.

(21) Removal of Stormwater System blockages with Unmodified Potable Water.

Prohibited substances include but are not limited to oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(B) Illicit Connections

(1) Connections to a Stormwater conveyance or Stormwater conveyance system that allows the discharge of non-Stormwater, other than the exclusions described in section (a) above, are unlawful. Including but not limited to: prohibited washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this ordinance, However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Where it is determined that said connection:

- i. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or
- ii. Was made in violation of any applicable regulation or ordinance, other than this section:

The Stormwater Administrator/ Illicit Discharge Officer shall designate the time within which the connection shall be removed - in setting the time limit for compliance the Stormwater Administrator/ Illicit Discharge Officer shall take into consideration:

- i. The quantify and complexity of the work,
- iii. The consequences of delay,
- iv. The potential harm to the environment, to the public health, and to public and private property, and
- v. The cost of remedying the damage.

(C) Spills

Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the Stormwater conveyance system, shall be contained, controlled, collected, and properly disposed of. All affected areas shall be restored to their pre-existing condition.

Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Lenoir Fire Department of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

(D) Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit; Proof of compliance with said permit may be required in a form acceptable to the City of Lenoir prior to the allowing of discharges to the MS4.

705 RIGHT OF ENTRY/POWERS AND AUTHORITY FOR INSPECTION

(A) Authority to Inspect and Monitor

The Stormwater Administrator/ Illicit Discharge Officer, bearing proper identification, may enter public or private properties at all reasonable times to inspect, investigate, or monitor activities and conditions subject to this article. Persons occupying premises to be inspected shall allow the Stormwater Administrator/ Illicit Discharge Officer ready access at all times to all parts of the premises to perform inspection, monitoring, records examination, copying, photography, video recording or other duties. Stormwater Administrator/ Illicit Discharge Officer shall have the right to set up on the Person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a Person has security measures in force that would require identification and clearance before entry into the premises, the Person shall make arrangements with security personnel so that, upon presentation of identification, personnel from Stormwater Administrator/ Illicit Discharge Officer will be permitted to enter and perform their specific responsibilities without delay. Denial of Stormwater Administrator/ Illicit Discharge Officer access to the Person's premises or portions thereof shall be a violation of this article. Denial of access may also occur if a Person fails to provide, without unreasonable delay, such facilities, equipment, or devices as are reasonably necessary to permit Stormwater Administrator/ Illicit Discharge Officer personnel to perform their duties in a safe manner. Unreasonable delays may constitute denial of access. Any delay of more than five minutes may be considered unreasonable.

(B) Search Warrants

To the extent permitted by law, Administrator/ Illicit Discharge Officer may seek the issuance of a search warrant to determine compliance with this article.

(C) Confidential Information

- (1) To the extent permitted by applicable law and except as otherwise provided in this section, information and data on a Person obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other government agencies without restriction, unless the Person specifically requests, and is able to demonstrate to the satisfaction of Administrator/ Illicit Discharge Officer, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Person. Any such request must be asserted at the time of submission of the information or data.
- (2) To the extent permitted by applicable law, when requested by a Person furnishing a report, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this article provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the Person furnishing the report.
- (3) Documents that are not public records and the information set forth therein may be withheld and released only as provided by applicable law.

(D) Obstruction

No person shall obstruct, hamper, or interfere with Administrator/ Illicit Discharge Officer while carrying out official duties. Upon presentation of credentials by Administrator/ Illicit Discharge Officer, necessary arrangements shall be made to allow immediate access onto premises or into an area protected by security measures. Any obstruction to the safe and easy access to property, a facility or enclosure on property, or to monitoring devices shall immediately be removed. Unreasonable delays in providing safe and reasonable access or removing obstructions shall be a violation of this article.

706 ENFORCEMENT

(A) Notice of Violation

Whenever the Stormwater Administrator/ Illicit Discharge Officer finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Stormwater

Administrator/ Illicit Discharge Officer may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring analyses, and reporting,
- (2) The elimination of illicit connections or discharges,
- (3) That violating discharges, practices, or operations shall cease and desist,
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property, and
- (5) Payment of a fine to cover administrative and remediation costs, and
- (6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or the City or a contractor designated by the Stormwater Administrator/ Illicit Discharge Officer will perform the restore, within the established deadline, the work and the expense thereof shall be charged to the violator.

(B) Violations Deemed a Public Nuisance

Illicit discharges and illicit connections which exist within the Lenoir City Limits and Extra-territorial Jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

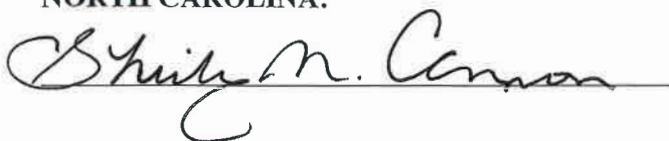
DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 12th day of November, 2019.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:



Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:



Clerk

City Clerk

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Capital Project Ordinance for the City of Lenoir

Biosolids Facility Improvements Project - Amended

BE IT ORDAINED by the City Council Members of the City of Lenoir, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorizes activities for the Biosolids Facility Improvements Project to include the expenditure of loan and local funds to improve the handling and treatment the City's sludge generated from wastewater treatment. Funding will be received from the Division of Water Infrastructure's State Reserve Project Loan and local funds.

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following amounts are appropriated for the project:

Administration Costs	52,725
Engineering Costs	780,000
Construction Cost	5,970,275
Closing Fees	139,900
Contingency	<u>192,000</u>
Total	\$ 7,134,900

Section 4: The following revenues are anticipated to be available to complete this project:

Division of Water Infrastructure's State Reserve Project Loan	6,995,000
Local Funds	<u>139,900</u>
Total	\$ 7,134,900

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the Project Ordinance.

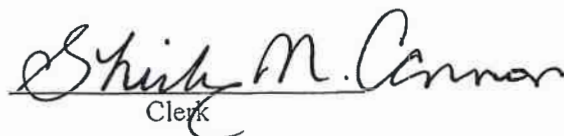
Section 6: The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 7: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 8: Copies of this capital project ordinance shall be furnished to the Budget Officer and the Finance Officer for direction in carrying out this project.

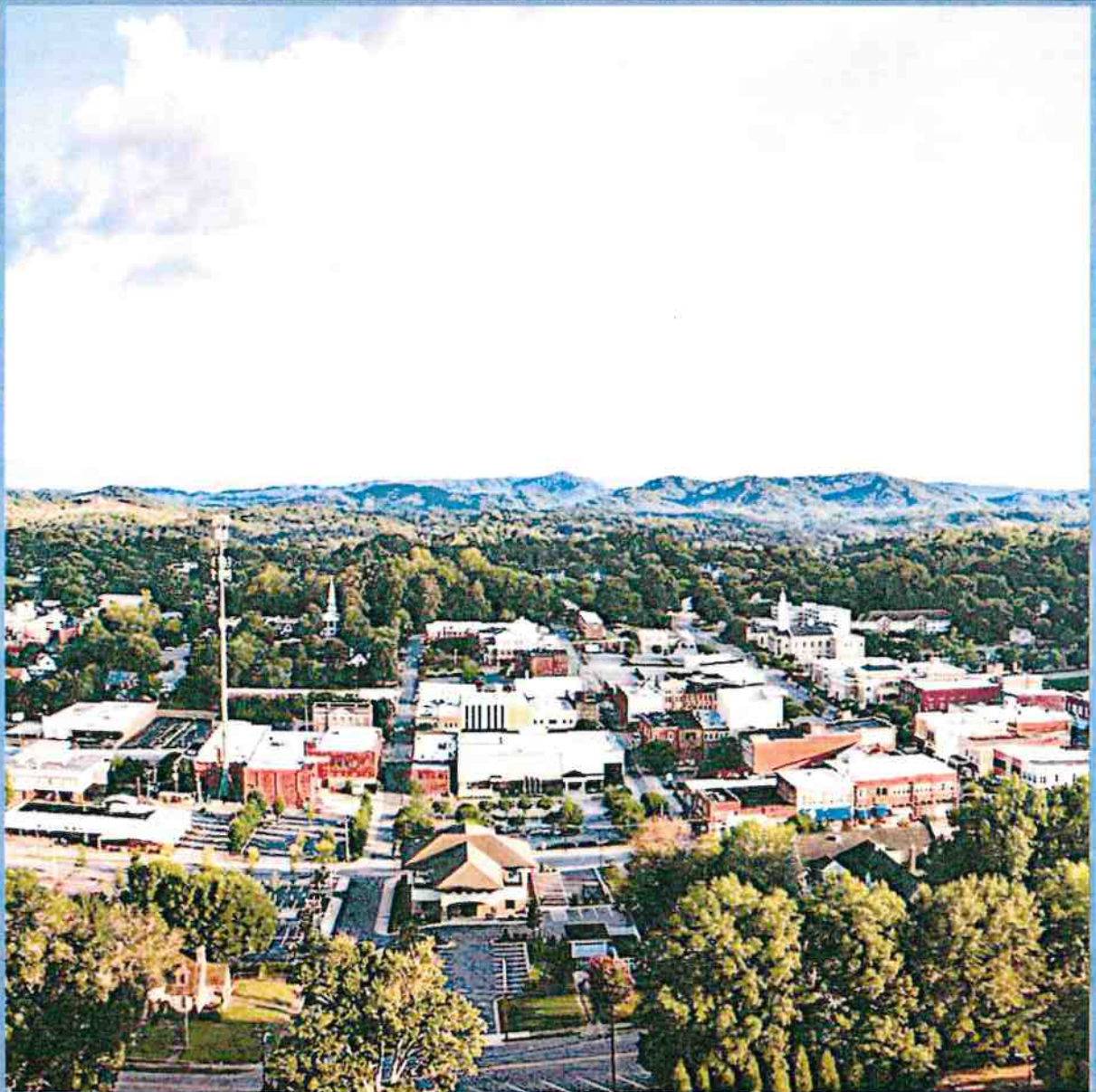
Adopted this 12th day of November 2019.


Mayor


Clerk

City of Lenoir

Solid Waste Automated Collection Study



Western Piedmont
Council of Governments

Proposal Submitted by:

Planning & Transportation

1. Agency information

The Western Piedmont Council of Governments (WPCOG) will be the lead agency to prepare the Lenoir Solid Waste Automated Collection Study. Name, address, and contact information are listed in the tables below.

Name of Organization:	Western Piedmont Council of Governments, Community & Regional Planning Department	
Street Address:	1880 Second Avenue, NW	
City, State, Zip:	Hickory, NC 28601	
Phone Number:	828-322-9191	Fax Number: 828-322-5991
Email:	hunter.nestor@wpcog.org	

2. Established

Regional Councils of Governments were established by the State of North Carolina in 1968.

The WPCOG is a regional planning organization which serves 28 local governments in the four-county area of Alexander, Burke, Caldwell, and Catawba Counties.

Since 1968, WPCOG has provided planning services, project administration, and technical assistance to member governments throughout the region. Its professional staff of 58 persons is located in Long View, North Carolina.

3. Personnel

WPCOG Personnel who will work on the Lenoir Solid Waste Automated Collection Study are listed below:

- Alison Adams, MSSL, Director of Community and Regional Planning
- Taylor Dellinger, GISP, Senior Data Analyst
- Brian Horton, AICP, Transportation Planning Manager
- Averi Ritchie, Transportation Planner/ADA Administrator
- Duncan Cavanaugh, AICP, Transportation/ Planner Data Analyst
- Dustin Millsaps, Transportation/Planning Tech
- Todd Stroupe, GIS Technician
- Hunter Nestor, MPA, Community and Regional Planner
- Ashley Kale, Community and Regional Planner
- Brad Moody, Code Enforcement Officer

4. Statement of Qualifications

The Western Piedmont Council of Governments has extensive experience in planning and project management at the local and regional levels. WPCOG's expertise ranges from GIS mapping and economic analysis to transportation policy development and data analysis. Section 8 of this document contains a sample listing of projects which summarize WPCOG's overall project management experience.

WPCOG is a non-profit regional planning entity that maintains a strong day-to-day working relationship with the municipalities and counties within the region. Local governments are deeply familiar with WPCOG, and frequently contact WPCOG for planning and project management assistance. This distinctive relationship, cultivated over 50 years, sets WPCOG from other entities that may seek to work with local governments in the region. WPCOG's inclusive planning process ensures buy-in from key decision makers – which helps ensure that strategies are implemented. As a regional Data Center, WPCOG also has access to a significant amount of local, state and national data, and also has offers a broad array of GIS mapping services.

5. Overview of the Study

The purpose of the Lenoir Solid Waste Automated Collection Study is to evaluate the City's solid waste operations, and make recommendations regarding possible cost savings and implementation alternatives in the following specific areas:

- Study and analyze a conversion to automated solid waste collection for the City's residential customers.
- Develop a cost estimate and an implementation timeline for the automated program.

Background

For the past several years Lenoir has considered moving to automated (one-arm) residential garbage collection. Their current collection method utilizes traditional, rear loading compactor trucks and is supplemented by a small (non-CDL) truck to perform service on narrow and dead-end streets. The City has purchased two automated trucks from a neighboring municipality. One-arm collection will be used for a large part of the City. Lenoir should plan, budget, and prepare staff and the community for a shift to automated collection.

Many solid waste agencies have transitioned from the manual collection of solid waste to semi/fully-automated methods. In order evaluate the advantages and disadvantages of automated collection, WPCOG Staff will conduct a solid waste collection analysis which will take into account the following factors:

- Current budget implications for automation and projected budget requirements for automated service.
- Existing sanitation routes and street analysis.
- New route design for automated collection and optimized existing rear loading
- Fleet replacement and maintenance planning for current and future trucks.
- Full-cost analysis of all capital requirements.
- Current staffing and recommend staffing for automation.
- Sanitation staff work environment/safety and associated costs.
- Transition and implementation timelines.
- Solid waste collection public education initiatives.

Scope of Work/Study Process

The Lenoir Solid Waste Automated Collection Study will result in a report that analyzes the current state of residential solid waste collection in Lenoir and provides recommendations to establish an automated collection program. The Lenoir Solid Waste Automated Collection Study will be developed by the WPCOG using multiple data sources provided by City Staff and additional resources from the public and private sectors.

Evaluating Lenoir's solid waste system will begin with a detailed system analysis. This analysis will enable the City to select collection improvement strategies that make the most sense for the community. The analysis will also allow the City to establish a baseline measurement that can be used to develop a cost-effective, long-range plan that creates a method for continuous program improvement and re-evaluation. In addition, this plan will provide the City with the strategic flexibility it needs to address the rapid changes occurring within the solid waste management industry.

WPCOG will begin the system analysis by gathering background information, data, and other materials relevant to solid waste collection operations. WPCOG will review this information and conduct an analysis of the department's existing financial structure, procedures, and applicable ordinances.

Implementation of the automated collection program will be achieved using a phased approach – by adding subdivisions and areas of the City to the program over time. The City will begin with a pilot program where a small sector of the City is converted to the new system. This sector's size will be based roughly on the collection capacity of one vehicle (900 – 1200 households per route each day), and will be comprised of residents who are highly engaged in community activities.

WPCOG will conduct field observations of the City's collection operations. The team will first identify current routes that are suitable for automated collection and identify areas for a pilot program. Set-out volumes and pick up time will be observed. The City's current rear-end load workers are collecting materials in a variety of containers. In many cases, waste is contained in plastic or metal garbage cans, including oversized containers. In other cases, waste is being collected in bags, or loose solid waste is picked up from the ground. 95 or 96-gallon carts (depending on the supplier) are the standard sizes used in automated container programs nationwide. In cases of above average generation (e.g. large families), WPCOG will provide the City with cost projections for the provision of a second container and fee recommendations.

WPCOG staff will identify how many trash collection routes the City should plan to develop. These routes will be developed with considerable input from Sanitation Division staff. WPCOG will also examine the performance of collection vehicles and containers under various roadway, weather and traffic conditions. Narrow streets, one-way streets, streets with "bumper-to-bumper" on-street parking, and dead ends or tight cul-de-sacs present special challenges for automated collection vehicles. WPCOG staff will then provide the City with an updated route design for Solid Waste Collection. WPCOG staff will also provide policy recommendations for Solid Waste Collection and other ordinance sections that will need to be updated for optimized efficiency.

Educating the public will be a significant component of both the pilot program and the new solid waste collection routes. Community meetings, mailings, and promotional activities will be conducted by the City and WPCOG staff. These outreach efforts will begin a month and a half to two months prior to any new service, and should clearly communicate all of the requirements of the new program, information about why the City is making the change, and should proactively anticipate how the change in service will impact residents. Once the pilot community is established, public outreach planning can begin for the project's full scale implementation.

This study will be comprised of the following:

- I. Existing Solid Waste System – (November 2019- January 2019)
 - a) Residential Collection
 - b) Updated house count
 - c) Municipal solid waste tonnages
 - d) Daily productivity
- II. System Operations - (November 2019- January 2019)
 - a) Staffing
 - b) Equipment
 - c) Health and Safety
 - d) Current Municipal Codes and Policies
- III. Financial Overview - (December 2019- February 2020)
 - a) Operating Cost and Revenues
 - b) Capital requirements
- IV. Solid Waste Collection Automation Implementation – (January 2020-June 2020)
 - a) Pilot Program (Begin by May 1, 2020)
 - b) Full Implementation Route Design
 - c) Education and Outreach
 - d) Staffing
 - e) Fleet Plan
- V. Recommendations – (March 2020 – July 2020)
 - a) Ordinance and Policy Recommendations
 - b) Staffing
 - c) Financials

6. Unique Qualifications

The WPCOG has served the Unifour Region since 1968, and has extensive planning experience in the region with projects involving utility services, transportation, community planning, data and many other areas. WPCOG has established a record of success with the region's local governments by:

- Customizing the process to meet the local government's needs.
- Serving as the region's central data warehouse.
- Utilizing in-house GIS mapping capabilities to serve the local governments.
- Demonstrating a history of successfully managing projects and meeting necessary deadlines.
- Conducting public meetings and integrating public participation into the planning process.

The members of the WPCOG team have extensive professional experience across a range of planning expertise. Personnel biographies of staff working on the Lenoir Solid Waste Automated Collection Study can be provided.

7. Project Track Record

The following table is a list of projects that the WPCOG completed on over the past ten years.

Project	Client	Year
Economic Indicators Newsletter	Unifour	1998-Present
Catawba County Student Growth Model	Catawba County, Catawba County Schools, Newton-	2000-Present

	Conover Schools, Hickory Public Schools	
Morganton Water, Sewer, Stormwater & Electric GPS/GIS Creation	City of Morganton	2004-2009
Western Piedmont Comprehensive Economic Development Strategy	US Economic Development Administration (EDA), WPCOG Policy Board	2007 2012 2017
Hildebran Zoning Ordinance	Town of Hildebran	2008
Redwood Park Master Plan	Town of Hudson	2008
Western Piedmont Industry Growth Analysis	Western Piedmont Workforce Development Board	2004 2009 2013
Greenway Transit – Locally Coordinated Transportation Plan	Unifour Region	2009
Rocky Face Park Master Plan	Alexander County	2009
Urban Corridor Small Area Plan	Burke County	2009
Lake Rhodhiss Watershed Plan	Carolina Land and Lakes RC&D	
Hickory Stormwater GPS	City of Hickory	2009/2010
Regional Trails Plan	Unifour Region	2009-2010
An Analysis of Catawba County Hotel's Property and Visitor Related Taxes	Hickory Metro Visitor and Convention Bureau	2010
2035 Greater Hickory Long Range Transportation Plan	Unifour Region	2010
Oak Hill Small Area Plan	Burke County	2010
Hildebran Comprehensive Plan	Town of Hildebran	2010
Rutherford College Zoning Ordinance	Town of Rutherford College	2010
Unifour Strategic Air Quality Plan	Unifour Region	2010
Lake Rhodhiss Watershed Management Plan	Unifour Region	2010
Burke County Broadband Commission	Burke County	2010
Burke County CAD/GIS Data Conversion	Burke County	2010
Youth Gang activity Assessment	Juvenile Crime Prevention Councils, Burke Caldwell and Catawba Counties	2010
Caldwell County Student Growth Model	Caldwell County Schools, Caldwell County Government	2011 2014 2017
Rutherford College Comprehensive Plan	Town of Rutherford College	2011
Maiden Stormwater GPS/GIS Creation	Town of Maiden	2011
Claremont Water/Sewer Utility Mapping GPS	Town of Claremont	2011
Claremont Utility Mapping GPS Updates	Town of Claremont	2014 2017
Triple Community Water Service Mapping GPS	Unifour Region	2011
LOS Green Energy Initiative	Unifour Region	2011-2012
Hildebran subdivision Ordinance	Town of Hildebran	2012
Lower Creek Source Water Protection Plan	Caldwell County and Burke County	2012
Valdese Comprehensive Parks and Recreation Plan	Town of Valdese	2013
City of Hickory Economic Indicators Report	City of Hickory	2013-Present
Burke County School Growth Model (BurkeGEM)	Burke County Schools, Burke County Government	2014

Greenway Passenger Sampling and Analysis	Greenway Transportation	2014-Present
Catawba County Early Head Start Community Assessment	Catawba Early Head Start, Catawba County Schools, Hickory Public Schools, Newton-Conover Schools	2011, 2014
Western Piedmont Source Water Protection Plan	US EPA	2014
City of Newton Strategic Growth Plan	City of Newton	2015
Maiden Water, Sewer & Electric GPS/GIS Creation	Town of Maiden	2015
Annual Report	WPCOG	2015-2018
WP Workforce Development Board - Website	Western Piedmont Workforce Development	2016
Sawmills Comprehensive Parks and Recreation Plan	Town of Sawmills	2017
Drexel Comprehensive Parks and Recreation Plan	Town of Drexel	2017
Taylorsville Water GPS/GIS Creation	Town of Taylorsville	2017
Catawba Chamber Young Professionals Survey Analysis	Catawba County Chamber	2017
Comprehensive Economic Development Strategy	WPCOG	2017
McGalliard Creek Watershed Plan	EPA/Valdese	2017
Town of Long View, NC - Website	Town of Long View	2018
North Carolina Area Agencies on Aging - Website	NC4A	2018
Rutherford College Water GPS/GIS Creation	Town of Rutherford College	2018
Drexel Water, Sewer & Electric GPS/GIS Creation	Town of Drexel	2018
Hickory Trails Report	City of Hickory	2018
Hudson Comprehensive Parks and Recreation Plan	Town of Hudson	2018
Catawba County Chamber Business Survey Analysis	Catawba County Chamber	2018
Bethlehem Community Plan	Alexander County	2019
Caldwell County Comprehensive Plan	Caldwell County	2019
Jacob Fork and Henry Fork Watershed Study	Foothills Conservancy	2019-Present
Glen Alpine Town Code/Zoning/Subdivision Rewrite	Town of Glen Alpine	2019-Present

8. List of previous clients

Alexander County • Taylorsville	Burke County • Connelly Springs • Drexel • Glen Alpine • Hildebran • Morganton • Rutherford College • Valdese
Caldwell County • Cahah's Mountain • Cedar Rock	Catawba County • Brookford • Catawba

• Gamewell • Granite Falls • Hudson • Lenoir • Rhodhiss • Sawmills	• Claremont • Conover • Hickory • Long View • Maiden • Newton
Catawba County Schools Caldwell County Schools Newton-Conover City Schools Hickory City Schools	Burke Development Inc. Catawba County Chamber of Commerce Foothills Conservancy Greenway Public Transportation System Hickory Metro Visitor and Convention Bureau US Environmental Protection Agency US Economic Development Administration

9. Lenoir Solid Waste Automated Collection Study Cost

The cost for the Western Piedmont Council of Governments to complete a **Lenoir Solid Waste Automated Collection Study Cost** for the City of Lenoir will be **\$27,500.00**. This includes 520 hours of staff time, travel, subsistence, and supplies. All deliverables will be provided to the City in digital format.



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

CITY OF LENOIR

RESOLUTION

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

WHEREAS, The Lenoir City Council recognizes the need for high density housing and mixed-use developments in the Downtown area; and,

WHEREAS, the properties shown in Exhibit A are located adjacent to the City's B-3 Central Business zoning district, and were recently re-zoned to Residential-Commercial (R-C) zoning, a newly created zoning classification specifically intended to facilitate high density housing and mixed-use developments; and,

WHEREAS, one of the properties is a historic rail freight depot, and all three properties abut a public multi-use greenway trail constructed on the former rail bed, forming a vital public pedestrian connection to the City's greenway network and the Downtown, as well as serving as a western gateway to the Downtown as depicted in the City's Comprehensive Plan; and,

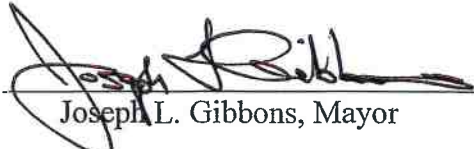
WHEREAS, the three properties have all been listed on the National Register of Historic Places as well as designated as Historic Landmarks by the local Historic Preservation Commission and the City Council; and

WHEREAS, the properties are commonly thought of as being a part of the Lenoir's Downtown, with Lenoir's Main Street Director spending time on economic development efforts related to the preservation and re-use of these historic buildings, similar to her duties on other preservation and economic development projects located elsewhere in the Downtown area; and

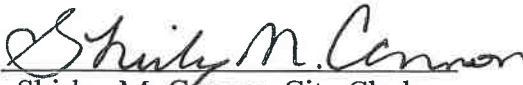
NOW BE IT THEREFORE RESOLVED THAT, the Lenoir City Council, pursuant to the provisions of N.C.G.S. § 160A-458.3, does hereby resolve that the properties depicted in Exhibit A are considered part of Lenoir's Central Business District (CBD) and the rehabilitation and re-use of the buildings and associated site improvements are considered by the Lenoir City Council to be "downtown development projects."

Adopted this the 12th day of November, 2019.

SEAL


Joseph L. Gibbons, Mayor

ATTEST:


Shirley M. Cannon, City Clerk





- Downtown District**
- Downtown Development Area
 - Central Business District (B-3)
 - Residential - Commercial (R-C)

Exhibit A

