

# Stormwater Ordinance

## For

# Gaston County, North Carolina



# **STORMWATER ORDINANCE FOR GASTON COUNTY, NORTH CAROLINA**

## **Article I**

### **Section 1     Title**

This Ordinance may be cited as the Gaston County Stormwater Ordinance.

### **Section 2     Purpose**

This ordinance is adopted for the purposes of:

- a.     The stormwater management regulations of this article shall protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of stormwater runoff associated with new development. Proper management of stormwater runoff will protect property, control stream channel erosion, prevent increased flooding associated with new development, protect floodplains, wetlands, water resources, riparian and aquatic ecosystems, and otherwise provide for environmentally sound use of the county's natural resources; and
- b.     Establishing procedures through which these purposes can be fulfilled.

### **Section 3     Jurisdiction**

The Gaston County Board of Commissioners hereby adopts this Ordinance. The ordinance applies to all portions of Gaston County, except for that property within water supply watersheds or the city limits of the incorporated municipalities of Gaston County. However, this Ordinance may later be adopted to also apply within other regions upon proper resolution duly adopted by the governing bodies of the respective regions and the Commissioners. Wherever conflicts exist between federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.

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.

**Section 4**      **Definitions**

As used in this ordinance, unless the context clearly indicates otherwise, the following definitions apply:

- a.      Applicant - An owner or developer of a site who executes the Stormwater Permit application pursuant to Gaston County's Stormwater Ordinance.
- b.      Buffer Zone - means the strip of land adjacent to a lake or natural watercourse.
- c.      Connection. Any ditch, pipe, or other device for the diversion or transmission of storm drainage, which will in any way affect the operation or maintenance of the drainage ways.
- d.      Conveyance - Any feature of the landscape or earth, manmade or natural, that carries water in a concentrated flow.
- e.      Detain. To store and slowly release stormwater runoff following precipitation by means of a surface depression or tank and an outlet structure.
- f.      Development. Any land disturbing activity which adds to or changes the amount of impervious or partially pervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil, or increases total runoff from the site, other than a rebuilding activity that does not qualify as redevelopment. Drainage structures shall include swales, channels, storm sewers, curb inlets, yard inlets, culverts, and other structures designed or used to convey stormwater.
- g.      Final Certificate of Occupancy - means the document required by the North Carolina State Building Code certifying that a new building shall not be occupied or a change made in occupancy, nature or use of a building until after all required building and services systems have been inspected for compliance with the technical codes and other applicable laws and ordinances and released by the Gaston County Code Enforcement Department.
- h.      Gaston County Environmental Review Board - means the Gaston County Environmental Review Board.
- i.      High-Density Development – A project is high-density if it contains more than twenty-four percent (24%) built-upon area or more than two dwelling units per acre or in the case of lots less than one acre, if more than 10,000 square feet of impervious surface exists.
- j.      High Quality Waters - means those classified as such in 15A NCAC 2B.0101 (e) (5) - General Procedures, which is incorporated herein by reference to include further amendments.

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- k. High Quality Water (HQW) Zones - means areas in the Coastal Counties that are within 575 feet of High Quality Waters and for the remainder of the state areas that are within one mile and drain to HQW's
- l. Impervious surface. Any surface that, in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but are not limited to, gravel, concrete, asphalt or other paving material, and all areas covered by the footprint of buildings or structures.
- m. Lake or Natural Watercourse - means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.
- n. Land disturbing activity- Any use of, or operations on, the land by any person in residential, industrial, educational, institutional, or commercial development, including road construction and maintenance, that results in a change in the natural cover or topography.
- o. Local Government - means any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
- p. Low-density Development – A project is low-density if it has no more than twenty-four percent (24%) built-upon area or no more than two dwelling units per acre.
- q. May – means contingent upon the discretion of the Gaston Natural Resources Department Director.
- r. One-year, 24-hour storm. The surface runoff resulting from a 1year, 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 and 25-year, 24-hour storm means a precipitation event that has a probable recurrence interval of once in 25 years as determined by the National Weather Service of the National Oceanic and Atmospheric Administration of the United States Department of Commerce.
- s. Parent - an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
- t. Person - means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
- u. Plan - means a Stormwater Control Plan.
- v. Recurring Violation – means a violation that has not been corrected within the time specified by the Gaston Natural Resources Department, or, a reoccurrence of a violation from which a previous notice has been issued, notwithstanding

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natural occurrences exceeding design requirements.

- w. Retain. To capture and hold stormwater runoff following precipitation by means of surface depression allowing the water to infiltrate into the soil, thus reducing the hydrologic and pollution impacts downstream.
- x. Shall – means a requirement.
- y. Stormwater - Any surface flow, runoff, and drainage consisting entirely of water from rainfall events.
- z. Velocity – means the average speed of flow through the cross-section of the main channel at the peak flow of the storm of interest. The cross-section of the main channel shall be that area defined by the geometry of the channel plus the area of the flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

**Section 5**      **Scope and Exclusions**

The stormwater management regulations of this article do not apply to any of the following development activities:

- a. Activities including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to:
  - Forages and sod crops, grains and feed crops, tobacco, cotton and peanuts.
  - Dairy animals and dairy products.
  - Poultry and poultry products.
  - Livestock, including beef cattle, sheep, swine, horses, ponies, mules and goats.
  - Bees and apiary products.
  - Fur producing animals.
- b. Activities undertaken on forestland for the production or harvesting of timber and timber products and conducted in accordance with best management practices as set out in Forest Practice Guidelines Related to Water Quality.
- c. Activities for which a permit is required under the mining act, G.S. 74-46 et seq.
- d. Commercial development on lots less than one acre that are not part of a larger common plan of development or sale.
- e. Residential development that disturbs less than one acre, including total buildout of the site that are not part of a larger common plan of development or sale.

- f. Any development in which the owner has accrued a vested right. A vested right is recognized if either a preliminary plan has been approved by the Planning Board that meets the required specifications and standards of Gaston County ordinances, or a Land Disturbing Permit has been issued pursuant to Gaston County Soil Erosion and Sedimentation Control ordinance in effect on or before the effective date of this ordinance, and that such plan or permit remains unexpired.
- g. A party in interest to a particular plan found to have no vested right to construct or develop on or before the effective date of this ordinance may appeal to the Gaston County Board of Adjustment for a hearing de novo. Such hearing shall be expedited and shall be limited to the issue of whether the landowner has a vested right to construct or develop his site under plans submitted prior to the effective date of this ordinance.
- h. Redevelopment or expansions to uses included in the above categories are not subject to the stormwater requirements unless it would result in an expansion of impervious surface on commercial lots in size equal to or greater than one acre, would result in commercial redevelopment where more than 50% of the square footage of a structure is replaced on a lot in size equal to or greater than one acre, or would result in a total developed acreage of one acre for residential development.

**Section 6      Review and Decision-Making Entities**

Gaston County Natural Resources Department will administer this ordinance. The Director of Natural Resources will designate a Stormwater Administrator. In addition to the powers and duties that may be conferred, the Stormwater Administrator shall have the following powers and duties under this ordinance:

- a. To review and approve 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 approve applications.
- d. To enforce the provisions of this ordinance in accordance with its enforcement provisions.
- e. To make records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this ordinance.
- f. To provide expertise and technical assistance to Gaston County.
- g. To designate appropriate other person(s) who shall carry out the

powers duties of the Stormwater Administrator.

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

**Section 7      Review and Appeals Procedures**

- a. A stormwater permit is required for all development and redevelopment which equals or exceeds one acre of disturbance for residential or commercial development and projects less than an acre that are part of a larger common plan of development or sale, unless exempt pursuant to this ordinance.
- b. The Gaston County Board of Commissioners shall establish permit review fees. The Gaston County Environmental Review board shall recommend fees and the Gaston County Natural Resources Department shall establish policies and procedures.
- c. For all activities which are subject to this ordinance, no person shall initiate, proceed, or undertake any land disturbing or development activity for which a permit is required without first being issued a written stormwater control permit. All other required applications must be received and permits must be obtained prior to the start of the work. These may include but are not limited to Soil Erosion and Sedimentation Control, Flood Damage Prevention, Subdivision, Building Permits and Inspections, NC Department of Transportation, NC Division of Water Quality, US Army Corps of Engineers, and NC DENR-Dam Safety.
- d. Plan review fees shall be double the amount when activity subject to this ordinance begins before a stormwater permit is obtained from the county. Re-inspection fees will be charged for follow-up inspections when required, due to deficiencies discovered upon initial routine inspections.
- e. Two (2) copies of the stormwater plan submittal shall be submitted to Natural Resources for review.
- f. The Department shall review the plan for completeness and for compliance with the requirements of this ordinance. An incomplete or nonconforming stormwater plan will be returned to the applicant prior to review with an explanation of issues requiring resolution before plan review can be initiated.
- g. Within forty-five (45) days of receipt of application for stormwater plan approval, Natural Resources shall take action on the plan.
- h. Approval, approval with modifications, or denial of the proposed stormwater plan shall be in writing. In the case of denial, the reasons for denial shall be clearly stated. The applicant may appeal the decision of the Stormwater Administrator to the Gaston County Environmental Review Board within 15 days after receipt of written notice of disapproval or approval with modifications. Only the applicant can appeal the decision of the Stormwater Administrator. A condition of plan approval will be the right to physical inspection of the drainage structures and

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stormwater management measures during and after construction.

- i. Hearings held pursuant to this section shall be conducted by the Environmental Review Board within 30 days after the date of the appeal or request for hearing.
- j. The Environmental Review Board shall decide appeals within 15 days after the date of the hearing on any stormwater plan.
- k. The Environmental Review Board will conduct a hearing in the nature of a quasi-judicial proceeding with all findings of fact supported by material evidence.
- l. Decisions appealing the final decision by the Environmental Review Board may be filed in Gaston County Superior Court, to be reviewed by proceedings in the nature of certiorari, within thirty (30) days of the final decision of the Environmental Review Board.
- m. The Stormwater Administrator shall take action on revisions to a stormwater plan which has been previously denied, within fifteen (15) days of receipt of the revised plan application for approval.
- n. If a revised application is not re-submitted within sixty (60) 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 and pursuant to the current standards.
- o. Application for an amendment to a stormwater plan in written and graphic form may be made at any time. Until such time that any amendment is approved by the Stormwater Administrator, it shall be unlawful to deviate from the approved plan.
- p. An approved plan shall become null and void if the applicant has failed to make progress on the site within six months after the date of approval. The Stormwater Administrator may grant a single, six-month extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.
- q. Residential High density development plans located in unincorporated parts of the county shall not be approved until a variance is received from the Gaston County Planning Board.
- r. 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.

**Section 8      Penalties for Violation**

- a.      Civil penalties may be imposed as follows:
1.      Any person who violates any of the provisions of this article, or rules or orders adopted or issued pursuant to this article, or who initiates or continues a development for which a stormwater plan is required, except in accordance with the terms, conditions and provisions of an approved plan, is subject to a civil penalty. Each day of a continuing violation shall constitute a separate violation. Additional fees may be charged for remedies and enforcement of this ordinance.
  2.      Violation of this ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which Gaston County and municipalities with Stormwater Inter-local Agreements with Gaston County is subject for violations of its Phase II Stormwater permit, or if no Phase II Stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.
  3.      No penalty shall be assessed until the applicant has been notified of the violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation can be corrected, and warn that failure to correct the violation within the time period will result in the assessment of further civil penalties or other enforcement actions.
  4.      If the violation has not been corrected within the designated time period, a civil penalty may be assessed from the date the violation is detected.
  5.      Refusal to accept the notice or failure to notify the Stormwater Administrator of a change of address shall not relieve the violator's obligation to pay such a penalty.
  6.      The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for any building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant has taken the remedial measures set forth in the notice of violation and cured the violations described therein.
- b.      Criminal Penalties: Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance

with NCGS 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

**Section 9**      **Permit Application and Plans**

- a.      The stormwater permit application and plan shall refer to the drawings and technical documentation for planned site improvements necessary to fulfill the drainage and stormwater management requirements of this article. This shall include but not be limited to:
  1.      Location and topographic maps with the total drainage area delineated including both on site and off site areas and sufficient information to define all ridges, existing streams, location of the 100-year floodplain and floodway, drainage ways, wetland areas, existing springs, and elevation of any proposed discharge point, and any additional information required to evaluate the existing and proposed drainage system, which may include a soil analysis.
  2.      Architectural and engineering drawings showing plan, profile and details of piping, drainage structures, swales, and channels tying into a network of pre-existing manmade or natural channels.
  3.      Written project specifications governing work performance and materials.
  4.      Computations and assumptions sufficient to support the design of piping, drainage structures, retention/detention ponds, and permanent erosion control measures.
  5.      Whatever other narrative statements necessary to adequately describe the proposed site improvements and the measures planned to comply with the requirements of this article.
- b.      The stormwater permit application and plan shall be prepared by and shall bear the seal and signature of a professional engineer or landscape architect licensed in the state of North Carolina, competent to perform all aspects of design.
- c.      The stormwater permit application and plan shall be prepared to meet the basic objectives and design standards for drainage and stormwater management as described in this ordinance.
- d.      The stormwater permit application and plan shall show the existing site topography and proposed site drainage improvements in sufficient detail to facilitate plan review and construction. The plan drawings shall be presented at a scale no smaller than 1 inch = 50 feet.

**Section 10     Maintenance Manual**

- a.     The stormwater permit application and plan shall be accompanied by an operations and maintenance manual. The manual shall contain a narrative describing each installed measure and device and its design specifications. The manual shall indicate for each installed measure and device what operation and maintenance actions are needed and what specific quantitative criteria will be used to determine when these actions will be taken. The manual must indicate the steps that will be taken to restore a measure or device to the design specifications if a failure occurs.
- b.     After the permit and plan is approved and installation is complete, if changes have been made to any installed measure or device, the manual shall be revised to reflect these changes, and such changes shall be subject to the review and approval of the Stormwater Administrator.

**Section 11     As-built Plans and Specifications**

- a.     The designer of the stormwater control plans shall provide as-built plans of all stormwater control and management plans showing the field location, size, depth, and planted vegetation of all measures and devices as installed. If the previously submitted plans remain unchanged, an as-built certification to the existing plans will be required. No certificate of compliance or occupancy shall be issued without said as-built plans.
- b.     The designer shall certify, under seal, that the as-built stormwater measures and devices and their installation are in compliance with the County's stormwater ordinance.
- c.     The designer shall submit a final electronic file of the stormwater plan that is readable by GIS systems, geo-referenced to the NC State Plane 1983 (Feet).

**Section 12     Stormwater Management Objectives**

- a.     In order to reduce drainage related damage and hazards, adequate natural drainage systems or stormwater management installations are required to collect and transmit stormwater flows into either existing drainage facilities or a natural drainage system.
- b.     All storm drainage facilities shall be designed, constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such improvements. Specifically:
  - 1.     Offsite areas which drain to or across a site proposed for development must be accommodated in the stormwater plans for the development. The stormwater management system must be capable of conveying the existing offsite flows through or around the development such that the volume and rate of flow from the adjacent property is not altered. If offsite flows are carried in the site system any detention system shall be sized to

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accommodate this flow. The flow must be released to the original drainage area.

2. Storm drainage facilities shall be designed to limit the discharge from the site to the rate for the 1 year, 24 hour storm that existed prior to development of the site. For projects that are redeveloping a developed site, the discharge will be limited to that which occurs before any new development. The type and location of the discharge will be as occurred before the current development unless the discharge is to a manmade conveyance system.
- c. All site improvements shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site.
  - d. These goals for discharge can be accomplished by designing, constructing and maintaining all stormwater management installations to the extent practicable:
    1. Avoid increases in surface runoff volume and velocity by including measures which promote the infiltration of stormwater,
    2. Maximize the time of concentration of stormwater runoff, and
    3. Promote the filtration and precipitation of pollutants from stormwater runoff in order to protect the water quality of the receiving watercourse.
  - e. Whenever practicable, the drainage system of a development site shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets. Permission must be received from other applicable entities for connection.
  - f. To the extent practicable, all site improvements shall conform to the natural contours of the land, and without disturbance, utilize the preexisting natural and preexisting manmade drainage ways.
  - g. To the extent practicable, lot boundaries within subdivisions shall be made to coincide with natural and preexisting man made drainage ways to avoid creation of lots that can only be built upon by altering such drainage ways.
  - h. Stormwater shall not be diverted from one natural drainage basin into another.
  - i. Stormwater shall not be channeled or directed into sanitary sewers.
  - j. Stormwater controls shall not be located within the designated floodway.
  - k. Stormwater controls shall not be located within 30 feet landward from any perennial and intermittent surface waters. 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 US Department of Agriculture or the most recent version of the quadrangle

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topographic maps prepared by the USGS.

- I. Streams shall not be relocated unless it is demonstrated that the relocation of the stream will have a positive impact on water quality while reducing velocity. All other applicable permits must be received.
- m. High-density projects shall be required to adopt or install storm drainage facilities pursuant to this section, paragraph b.2.

**Section 13 Stormwater Management Design Standards**

- a. Design standards are established for the purpose of promoting sound development practices which respect, preserve and enhance the County's watercourses and are not intended to prohibit the use of innovative and alternative techniques which can be demonstrated to have the potential for successfully achieving the objectives stated in Section 1.
- b. Design Storm:
  - 1. The measures shall control and treat at a minimum the stormwater runoff from the first inch of rainfall volume leaving the project site. Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours.
  - 2. All structural stormwater treatment systems used to meet the requirements of this ordinance shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS).
  - 3. The design of drainage facilities in flood hazard areas shall be consistent with the requirements of Gaston County's Flood Damage Prevention Ordinance. No stormwater controls shall be allowed within the floodway. No stormwater controls shall be within 30 feet landward of any perennial and intermittent surface water.
  - 4. The computation of stormwater runoff shall follow established engineering practice. Acceptable methods of computation include the Rational Method, the Peak Discharge Method as described in USDA Technical Release Number 55 (TR-55), and USGS Regression Equations, where applicable. If an alternate method is proposed, the method should be described and justification for using this method should be provided. The same method must be used for both the pre- and post-development conditions.
  - 5. Runoff coefficients shall be based on full development of the project and of the watershed to the extent of the current zoning or land use patterns,

and shall include the complete development of the site through build-out, including roof tops and other impervious areas that may be proposed.

6. Stormwater detention shall be provided to insure that the rate of discharge for the 1 year, 24 hour storm does not exceed the pre-development rate of discharge. In order to demonstrate this, inflow-outflow calculations shall also be submitted for any stormwater detention ponds.
7. All Stormwater systems shall be designed and built to route at a minimum the 25 year 24 hour storm safely.

**Section 14: Stormwater Design Manual**

The Gaston County Natural Resources Department may furnish additional guidance and standards for the proper implementation of the regulations of this article and may provide such information in the form of a Stormwater Design Manual. Stormwater management practices that are designed, constructed, or maintained in accord with the Stormwater Design Manual must be presumed to comply with these regulations. However, the Stormwater Administrator shall have the right to consult other engineers and duly qualified professionals, and to impose any conditions or require any modifications deemed necessary to meet the purpose, intent and requirements of this ordinance.

**Section 15 Construction of Stormwater Management Structures**

- a. Stormwater management facilities shall be constructed in accordance with approved plans and maintained in proper working condition. The applicant/property owner is responsible for ensuring that the construction of drainage structures and stormwater management measures are completed in accordance with the approved plan and specifications. Inspections which may be performed by Gaston County during construction will not relieve the developer of the responsibility to install stormwater management and drainage facilities in accordance with the approved plan.
- b. In response to a complaint, or as a compliance check with the requirements of the ordinance, the Stormwater Administrator or the designee shall perform a physical inspection of the construction of drainage structures and stormwater management measures, or monitor long term maintenance procedures.
- c. The property owner will be notified in writing of any substandard and/or nonconforming work identified by the Stormwater Administrator. The notification shall state the specific work that is out of compliance, the specific reasons for noncompliance, and the corrective measures necessary to bring the work into compliance.
- d. Failure of the property owner or developer to correct substandard and/or nonconforming work identified by the Stormwater Administrator shall be sufficient reason to refuse any action or services such as, but not limited building permits, or occupancy permits for buildings serviced by said work. Appeals on determination of nonconforming or substandard work and/or the adequacy of the corrective measures executed shall be made in accordance with Section 2, of this

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ordinance. Pending the ruling on the appeal, the determination of the Stormwater Administrator remains in effect.

- e. Revisions which affect the intent of the design or the capacity of the system shall require prior written approval by the Stormwater Administrator.

**Section 16**      **Performance Security for Installation**

- a. Gaston County will require the submittal of a surety performance bond made by a surety bonding company licensed and authorized to do business in North Carolina, a bond of the owner/developer with an assignment to the county of a certificate of deposit as security for the bond, a bond of the owner/developer by an official bank check drawn in favor of the county and deposited with the county, or cash or an irrevocable letter of credit deposited with the county prior to issue of a permit in order to ensure that the stormwater system is installed by the developer and functions as required by the approved stormwater plan.
- b. The amount of an installation performance security shall be the total estimated construction cost of the system and devices approved under the permit, plus 25%. Bonds may be reviewed 24 months after issuance and subsequent 24 month periods.
- c. 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 in accordance with this ordinance.
- d. Upon default of the applicant to construct, maintain, repair, and if necessary reconstruct any stormwater device in accordance with the applicable permit, 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 applicant to comply with the permit. In the event of a default triggering the use of installation of performance security, Gaston County shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.
- e. If Gaston County takes action upon such failure by the applicant, Gaston County may collect the difference should the amount of the reasonable cost of such action exceed the amount of the security held. This difference will be collected from the applicant.
- f. Notwithstanding default, within sixty (60) days of the expiration of the guarantee, the installation performance security shall be refunded to the applicant or terminated.

**Section 17**      **Completion**

The property owner/developer is responsible for completing all stormwater improvements

in accordance with the requirements of this article and other applicable ordinance and laws.

**Section 18     Assurance that Improvements will be Maintained**

All stormwater improvements must be maintained so they will continue to serve their intended functions.

- a.     The developer must maintain stormwater improvements until accepted by a property owners association or lot owner. The developer must disclose which party will be responsible for continued maintenance on the record plat and on the stormwater management plan. The developer will be responsible for the installation, operations, and maintenance of the stormwater controls until ownership is conveyed. The responsibility and agreement for operations and maintenance for the stormwater system is transferred with title, as each property is conveyed. The developer will guarantee the stormwater improvements for 2 years after transfer of ownership.
- b.     Before improvements are accepted for maintenance by the property owners association or lot owner, the developer or the developer's engineer or landscape architect, must certify to the property owners association or lot owner and to the County that improvements are complete and functioning as designed.
- c.     The developer must record, and reference on the record plat, an operations and maintenance plan that instructs the property owners association or lot owner about the required operations and maintenance tasks.
- d.     The person responsible for maintenance of any stormwater structure or feature installed pursuant to this ordinance shall submit to the Stormwater Administrator an inspection report annually from a qualified registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence. The report shall contain the following:
  1.     The name and address of the land owner.
  2.     The recorded book and page number of the lot of each stormwater control.
  3.     A statement that an inspection was made of all stormwater controls and features.
  4.     The date the inspection was made.
  5.     A statement that all inspected controls and features are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance.
  6.     The 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

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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. It will be the responsibility of the property owners association or lot owner to update the plan annually.

- e. The developer must record, and reference on the record plat, a maintenance agreement, or restrictive covenant that sets forth the property owners association's or lot owner's continuing responsibilities for maintenance, including specifying how cost will be apportioned among lot owners served.
- f. The maintenance agreement must provide that the association and its individual members are jointly and severably liable for maintenance.
- g. The developer must record easements for access, maintenance, inspections and conduct monitoring or other activities approved by the Stormwater Administrator by any property owners association and by the Gaston County Government and or the municipality.
- i. All maintenance documents required by this article must be submitted to the Stormwater Administrator before record plat approval, and such documents must be referenced on the record plat, or, in the case of single-lot developments not requiring record plats, documentation must be submitted to the Stormwater Administrator before building permit issuance. This ordinance shall be effective upon adoption.
- j. Gaston County or the municipality may create special tax assessments for residential subdivisions to fund maintenance. Municipalities may choose to fund maintenance for stormwater systems through their respective stormwater utilities.
- k. Municipalities within Gaston County may have additional requirements such as maintenance escrow accounts, additional design standards and vested rights claims.

**Article II**

**Section 19 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, 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 they do not significantly impact water quality. The Following discharges are allowable:

- 1. Water line flushing;
- 2. Landscape irrigation;
- 3. Diverted stream flows;
- 4. Rising ground waters;

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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. Air conditioning condensation;
10. Irrigation water;
11. Springs;
12. Water from crawl space pumps
13. Footing drains;
14. Lawn watering;
15. Individual residential car washing;
16. Flows from riparian habitats and wetlands;
17. Dechlorinated swimming pool discharges;
18. Street wash water; and
19. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the state of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by Gaston County or municipality.

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

b. Illicit Connections

1. Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in section 18 above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water 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 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 material or other discharges which pose and 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

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- ii. Was made in violation of any applicable regulations or ordinance, other than this section;

The non-stormwater connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

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

4. Spills

Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to a stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to preexisting conditions.

Persons in control of the polluting substances and persons owning the property on which the substances were released or discharged shall immediately notify Gaston County Emergency Management 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 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.

5. Nuisance

Illicit discharges and illicit connections which exist within the jurisdiction of Gaston County and this provision are hereby found, deemed and declared to be dangerous or prejudiced to public health or public safety and are found, deemed, and declared to be public nuisances.

**Section 19**     **Severability**

If any section or sections of this Ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

**Section 20**     **Effective Date**

This ordinance shall become effective on the 1st day of July 2007.