

Petition: PCCO 2011-001
Petitioner: Charlotte-Mecklenburg Storm Water Services

**AN ORDINANCE AMENDING CITY CODE CHAPTER 18 –
STORMWATER, ARTICLE IV – POST-CONSTRUCTION
STORMWATER ORDINANCE**

ORDINANCE NO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Chapter 18, Article IV "Post-Construction Stormwater" of the Code of the City of Charlotte is hereby amended as follows:

A. DIVISION 3: STANDARDS

1. SECTION 18-147: TOTAL PHOSPHOROUS MITIGATION

- a. Amend Section 18-147, TOTAL PHOSPHOROUS MITIGATION, SUBSECTION (b) "General description" by updating the list of drainage basins included for phosphorous mitigation options. The remaining section shall remain unchanged. The revised text shall read as follows:

(b) *General description.* There are two total phosphorus mitigation options available to development and redevelopment greater than or equal to 24 percent built-upon area, including off-site mitigation and a buy-down option as described in this section. Both off-site and buy-down mitigation will result in the construction of retrofit BMPs in the same river basin (Catawba or Yadkin) as the mitigated site. In the Western Catawba district both forms of mitigation must occur in the watershed of the same named creek system for the purpose of ensuring a balance of total phosphorus loads to lake cove areas where phosphorus is a limiting pollutant with the exception that up to 30 percent of the buy-down money can be spent outside the watershed. In addition, the buy-down option is available provided the city has projects and/or property available for mitigation. There is no total phosphorus requirement in the Central Catawba District so the mitigation option is not necessary. The named creek (or drainage basin) systems referred to above include:

(1) *Western Catawba.* Studman Branch, Porter Branch, Neal Branch, Stowe Branch, Beaverdam Creek, Little Paw Creek, Paw Creek, Long Creek, Gar Creek, and the Lower Mountain Island watershed McDowell Creek.

(2) *Yadkin-Southeast Catawba.* Six Mile Creek, Twelve Mile Creek, Crooked Creek, Stevens Creek, Goose Creek, Duck Creek, Long Branch, Clear Creek, Wylie Branch, Caldwell Creek, McKee Creek, Reedy Creek, Fuda Creek, Back Creek, Mallard Creek, and Lower

Clarke Creek, ~~Ramah Creek, South Prong Rocky River, and West Prong Rocky River.~~

2. SECTION 18-148: DEED RECORDATION AND INDICATIONS ON PLAT

- a. Amend Section 18-148, DEED RECORDATION AND INDICATIONS ON PLAT by adding the text “Mecklenburg County”. The remaining section shall remain unchanged with the exception of correction of proper nouns. The revised text shall read as follows:

Sec. 18-148. Deed recordation and indications on plat.

The approval of the stormwater management permit shall require an enforceable restriction on property usage that runs with the land, such as plat, recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. The location of all designated natural area for a site shall be recorded at the Mecklenburg County ~~Register of Deeds~~ ~~Office~~ as “undisturbed natural area” or “re-vegetated natural area”. Streams and buffer boundaries including the delineation of each buffer zone must be specified on all surveys and record plats. The applicable operations and maintenance agreement pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the Mecklenburg County ~~Register of Deeds~~ ~~Office~~ upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the Mecklenburg County ~~Register of Deeds~~ ~~Office~~ so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded maintenance agreement shall be provided to the stormwater administrator within 14 days following receipt of the recorded document. A maintenance easement shall be recorded for every structural BMP to allow sufficient access for adequate maintenance. The specific recordation and deed restriction requirements as well as notes to be displayed on final plats and deeds shall be contained in the administrative manual.

B. DIVISION 4: DEVELOPMENT AND REDEVELOPMENT MITIGATION

1. SECTION 18-161: MITIGATION PAYMENT

- a. Amend Section 18-161, MITIGATION PAYMENT, SUBSECTION (a) *Lots less than one acre* by adding the text “, except for required stream buffers”. Amend SUBSECTION (b) *Transit station areas and distressed business districts* by adding the text “required stream buffers and”. Change text “site” to “project”. Add SUBSECTION (c) *Redevelopment not within transit station areas or distressed business districts*. The remaining section shall remain unchanged. The revised text shall read as follows:

Sec. 18-161. Mitigation payment.

(a) *Lots less than one acre.* Development and redevelopment on a lot less than one acre in size are ~~is allowed by right~~ to forego meeting the requirements of this article, except for required stream buffers, provided the city is paid a mitigation fee according to rates set forth in the administrative manual and provided such development and redevelopment are not 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.

(b) *Transit station areas and distressed business districts.* Development and redevelopment projects within transit station areas designated by the planning director based on corridor record of decisions, council adopted station area plan or distressed business districts designated by the economic development director are allowed by right to forego meeting the requirements of this article, except for required stream buffers and peak control and downstream analysis requirements on the increased impervious area of the project site, provided one of the following three measures are implemented on the site:

- (1) Provide 85 percent TSS removal from first inch of rainfall for entire project site;
- (2) Provide one-year, 24-hour volume control and ten-year, six-hour peak control for entire project site; or
- (3) Pay the city a mitigation fee according to rates set forth in the administrative manual for the pre-project built upon area and any additional impervious area not to exceed five acres. New impervious area in excess of five acres must comply with this article.

(c) *Redevelopment not within transit station areas or distressed business districts.* For a period of time beginning with approval of this Ordinance amendment and ending April 30, 2014, projects involving redevelopment of existing built-upon-area and the cumulative addition of less than 20,000 square feet of new built-upon-area, are allowed by right to forego meeting the requirements of this article, except for required stream buffers and phosphorous requirements, provided one of the following measures is implemented on the site:

- (1) If an analysis of the downstream storm water conveyance system confirms that volume and peak control facilities may be waived by the Storm Water Administrator, provide 85 percent TSS removal from first inch of rainfall for entire project and pay the city a mitigation fee according to rates set forth in the administrative manual for the pre-project built upon area and any additional impervious area; or
- (2) If an analysis of the downstream storm water conveyance system confirms that volume and peak control facilities may be waived by the Storm Water Administrator, pay the city a mitigation fee according to rates set forth in the administrative manual for the pre-project built upon area and any additional impervious area; or
- (3) Provide one-year, 24-hour volume control and ten-year, six-hour peak control for entire project and pay the city a mitigation fee according to rates set forth in the administrative manual for the pre-project built upon area and any additional impervious area.