

CHAPTER 8. PHASE II STORM WATER ORDINANCE

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SEC. 9-8001 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

- (a) Statutory Authorization.

The Legislature of the State of North Carolina has required local governments to provide for the implementation of storm water runoff rules and regulations. Specifically, N.C.G.S 143-214.7 and the rules promulgated by the Environmental Management Commission there under require cities to implement storm water management programs and N.C.G.S 160A-174 authorizes cities to adopt ordinances to define and regulated conditions detrimental to the health, safety, and welfare. Reference is also made to Session Law 2004-163 and to Session Law 2006-246, Section 9; For additional authority see Chapter 113A, Article 4 (Sedimentation Pollution Control); Article 21, Part 6 (Floodway Regulation); Chapter 160A, Article 19 (Planning and Regulation of Development); all of the General Statutes of North Carolina. Further reference is made to Article 14, Section 5 of the Constitution of North Carolina.

(b) This chapter may be cited as the “Phase II Storm Water Ordinance”. Throughout this chapter, reference to the term “ordinance” or “chapter” shall mean this Phase II Storm Water Ordinance unless the context requires otherwise.

(c) Findings of Fact. It is hereby determined that:

- (1) Development and redevelopment alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, soil erosion, stream channel erosion, non-point and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;
- (2) These changes in storm water 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
- (3) These effects can be managed and minimized by applying proper design and well-planned controls to manage storm water runoff from development sites.
- (4) Further, the Federal Water Pollution Control Act of 1972 (“Clean Water Act”) and federal Phase II Storm water 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 the City of Morganton, to adopt minimum storm water controls such as those included in this ordinance.
- (5) Therefore, the City of Morganton establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of storm water runoff and discharge.

(d) Statement of Purpose.

The purpose of this ordinance is to establish minimum requirements and procedures to control the adverse effects of increased *post-development* storm water runoff and non-point and point source pollution associated with new *development* and *redevelopment* discharges into municipal storm water systems. It has been determined that proper management of construction-related and *post-development* storm water 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.

This ordinance seeks to meet its general purpose by the following means and objectives :

- (1) Establish a decision-making process for *development* that protects the integrity of watersheds and preserves the health of water resources;
- (2) Require *development* to implement practical storm water design approaches that maintains pre-developed off site hydrologic conditions in a *post-development* environment which prevents: downstream flooding, stream bank erosion, pollution, stream temperature fluctuation; and generally maintain the integrity of downstream channels and the aquatic habitat existing within those channels;
- (3) Establish minimum *post-development* storm water management standards and design criteria that regulates storm water runoff quantity and quality;
- (4) Establish design and review criteria for the construction, function, and use of structural storm water BMP's that complies with minimum *post-development* storm water management standards;
- (5) Encourage site development design practices such as : the use of vegetated storm water conveyance systems; the preservation of natural open areas and green spaces; and, the use of riparian buffers and conservation areas to the maximum extent practical;
- (6) Establish provisions for the long-term responsibility and maintenance of *structural and nonstructural storm water BMP's* to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
- (7) Establish administrative procedures for the submission, review, approval and disapproval of *storm water management plans*, the inspection of approved projects, and assurance of appropriate long-term maintenance.

SEC. 9-8002 DEFINITIONS.

When used in this ordinance, the following words and terms shall have the meaning set forth in this section, unless the context clearly indicates otherwise.

Best Management Practice (BMP). A structural or nonstructural device or management-based practice used singularly or in combination to reduce non-point source pollution to receiving waters in order to achieve water quality protection goals.

Built-upon area. (BUA) That portion of a project site 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.

Board of Adjustment. The Morganton Board of Adjustment, as established by the Zoning Ordinance of the City of Morganton in 9-4015.

Department. The North Carolina Department of Environment and Natural Resources.

Design Manual. The storm water design manual, as amended or revised, approved for use in Phase II jurisdictions by the Department. All references herein to the Design Manual are to the latest published edition or revision.

Development. Any land altering activity that increases the amount of built-upon area and decreases the infiltration of precipitation into the soil.

Development Plan. A single *development* scheme for a *project site* that has received appropriate approvals and that has obtained necessary vested rights to be constructed.

Division. The Division of Water Quality in the Department.

Existing development. Those project sites that as of the effective date of this ordinance have been built or those residential subdivisions that have received verifiable and documented preliminary approval, or those project sites that have been established as having a vested right under one of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project,
- (2) Having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1, 160A-385.1, and 113A-64), or
- (3) Having an approved preliminary plat, site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and 160A-385.1).

High-density project. Any project site that exceeds the low-density threshold when calculated .

Low-density project. Any project site that has a density less than two dwelling units per acre or a built-upon area (BUA) of less than twenty-four percent when calculated. A project site 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.

One inch storm. The first inch of rainfall that occurs upon a project site within a 24 hour period.

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* that removes *built-upon area (BUA)* from a *project site* for the purpose of replacing it with new *built-upon area*, within 180 days of the removal or other properly approved vesting period, and that results in no net increase in *built-upon area* and provides equal or greater storm water control than the previous development.

Phased Development Plan. A single *development* scheme that has received appropriate approvals on a *project site* and has also obtained necessary *vested rights* to be constructed in multiple, separate and pre-defined stages.

Project Site. A specific area of land that is under unified ownership or control upon which *development* has or will occur.

Structural BMP. A physical device designed to trap, settle out, or filter pollutants from storm water runoff; to alter or reduce storm water runoff velocity, amount, volume, or other characteristics that approximate the pre-development hydrology on a project site; or to achieve a combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative buffers, filter strips, grassed swales, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice," "storm water control facility," "storm water control structure," "storm water treatment practice," "storm water management practice," "storm water control measures," "structural storm water 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 development plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur:

- (1) obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days
- (2) installation and approval of on-site infrastructure
- (3) obtaining a building permit for the construction and approval of a building foundation.

SEC. 9-8003 GENERAL PROVISIONS.

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 the following:

- (a) *Development* that cumulatively disturbs less than one acre and is not part of a larger *phased development plan* is exempt from the provisions of this ordinance.
- (b) *Redevelopment* that cumulatively disturbs less than one acre and is not part of a larger *phased development plan* is exempt from the provisions of this ordinance.
- (c) 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.

SEC. 9-8004 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.

SEC. 9-8005 MAP

The provisions of this ordinance shall apply within the areas designated on the official map titled "Phase II Storm Water Map of the City of Morganton, North Carolina" ("the Storm Water Map"), which is adopted simultaneously herewith and as amended or replaced from time to time. The Storm Water Map and all explanatory matter contained thereon are hereby made a part of this ordinance.

The Storm Water Map shall be kept on file by the Storm Water 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 BMP's 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.

SEC. 9-8006 DESIGN MANUAL

- (a) The Storm Water Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the *Design Manual* as the basis for decisions about storm water permits and about the design, implementation and performance of structural and non-structural storm water BMP's. The *Design Manual* includes a list of acceptable storm water treatment practices, including specific design criteria for each storm water practice. Storm water 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) 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) 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.
- (d) The *Design Manual* may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.

SEC. 9-8007 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS

- (a) *Conflict of Laws.* This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.
- (b) *Private Agreements.* This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall the City of Morganton be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

SEC. 9-8008 SEVERABILITY

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be judged 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.

SEC. 9-8009 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

- (a) All *development* and *redevelopment* projects for which complete and full applications were submitted and approved by the City of Morganton prior to the effective date of this ordinance and which remain valid, unexpired, non-revoked 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.
- (b) 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, and remains valid, unexpired, non-revoked and not otherwise terminated.

SEC. 9-8010 STORM WATER ADMINISTRATOR

- (a)
- (b) *Designation.* A Storm Water Administrator shall be designated by the City Manager to administer and enforce this ordinance.
 - (1) *Powers and Duties.* In addition to the powers and duties that may be conferred by other provisions of the Morganton Code of Ordinances and other laws, the Storm Water Administrator shall have the following powers and duties under this ordinance:
 - (2) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
 - (3) 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 Morganton 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 Morganton City Council and other appropriate boards and commissions.
- (g) To designate appropriate other person(s) who shall carry out the powers and duties of the Storm Water Administrator.
- (h) To take any other action necessary to administer the provisions of this ordinance.

SEC. 9-8011 REVIEW PROCEDURES

- (a) *Permit Required.* A storm water 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 storm water permit shall govern the design, installation, and construction of storm water management and control practices on the site, including structural BMP's and elements of site design for storm water management other than structural BMP's. 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 storm water for the development or redevelopment site consistent with the requirements of this ordinance, whether the approach consists of structural BMP's 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 Storm Water Administrator by the *owner*.
- (d) *Application Contents and Form.* The Storm Water Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the storm water permit application shall describe in detail how post-development storm water runoff will be controlled and managed, the design of all storm water facilities and practices, and how the proposed project will meet the requirements of this ordinance.
- (e) *Submission Schedule.* The Storm Water 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.

- (f) *Permit Review Fees* The Morganton 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. All fees shall be published in the schedule of fees and charges.
- (g) *Administrative Manual*. For applications required under this Ordinance, the Storm Water 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.
- (h) *Submittal of Complete Application*. Applications shall be submitted to the Storm Water Administrator pursuant to the application submittal schedule in the form established by the Storm Water 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 Storm Water 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.
- (i) *Review*. Within 30 working days after a complete application is submitted, the Storm Water Administrator shall review the application and determine whether the application complies with the standards of this ordinance.
- (j) *Approval*. If the Storm Water Administrator finds that the application complies with the standards of this ordinance, the Storm Water Administrator shall approve the application. The Storm Water Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.
- (k) *Failure to Comply*. If the Storm Water Administrator finds that the application fails to comply with the standards of this ordinance, the Storm Water 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.
- (l) *Revision and Subsequent Review*. A complete revised application shall be reviewed by the Storm Water Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved. 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 an additional permit review fee, as established pursuant to this ordinance.

SEC. 9-8012 APPLICATIONS FOR APPROVAL

- (a) *Concept Plan and Consultation Meeting*. Before a storm water management permit application is deemed complete, the Storm Water Administrator or applicant may request a consultation on a concept plan for the post-construction storm water 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 storm water management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to storm water 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 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. 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 storm water management.

3. A written or graphic concept plan of the proposed post-development storm water management system including: preliminary selection and location of proposed structural storm water 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) *Storm Water Management Permit Application.* The storm water management permit application shall detail how post-development storm water runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including Section 9-8003 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 storm water 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 Storm Water Administrator. Incomplete submittals shall be treated pursuant to Section 9-8011

- (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 storm water management plans and designs, and shall submit actual “as built” plans for all storm water management facilities or practices after final construction is completed.

The plans shall show the final design specifications for all storm water 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 storm water management measures and plans shall certify, under seal, that the as-built storm water measures, controls, and devices are in compliance with the approved storm water management plans and designs and with the requirements of this ordinance. A final inspection and approval by the Storm Water Administrator shall occur before the release of any performance securities.

- (d) *Other permits.* No certificate of occupancy shall be issued by the Building Inspections office without final as-built plans, a final inspection and approval by the Storm Water Administrator, except where multiple units are served by the storm water facilities, in which case the Building Inspections Office 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.

SEC. 9-8013 APPROVALS

- (a) *Effect of Approval.* Written notification of 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 Storm Water 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 Storm Water 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.

SEC. 9-8014 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 Storm Water 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 the City of Morganton. The Storm Water 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 in the office of the Storm Water Administrator; 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 Secretary of the Board of Adjustment at the time of its hearing of the case.

SEC. 9-8015 GENERAL STANDARDS

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

(a) DEVELOPMENT STANDARDS FOR LOW-DENSITY PROJECTS

All low density development projects shall comply with each of the following standards:

- (1) Storm water runoff from the *development* shall be transported from the *development* by vegetated conveyances to the maximum extent practicable.
- (2) All *built-upon area* shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. 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.
- (3) All perennial and intermittent surface waters shall be shown on all submitted plans

The approval of the storm water 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.

(b) DEVELOPMENT STANDARDS FOR HIGH-DENSITY PROJECTS

- (1) All high density development projects shall comply with each of the following standards:
- (2) 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.
- (3) The measures shall discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the first inch of rainfall.
- (4) All structural storm water treatment systems used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS);
- (5) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Design Manual*;
- (6) All *built-upon area* shall be at a minimum of 30 feet landward of all 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 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.

The approval of the storm water 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.

SEC. 9-8016 STANDARDS FOR STORMWATER CONTROL MEASURES

- (a) All storm water control measures and storm water treatment practices (also referred to as Best Management Practices, or BMP's) required under this ordinance shall be evaluated by the Storm Water Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each storm water practice, in the *Design Manual*. The Storm water Administrator shall determine whether proposed BMP's will be adequate to meet the requirements of this ordinance.
- (b) Storm water treatment practices that are designed and 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 Storm water Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Storm water Administrator to determine whether such an affirmative showing is made.
- (c) For BMP's 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.

SEC. 9-8017 DEDICATION OF BMPS, FACILITIES & IMPROVEMENTS

- (a) The Morganton City Council may by resolution authorize and accept by dedication any existing or future storm water management facility for maintenance, provided such acceptance is determined to serve as a regional facility and upon determination that the storm water management 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.

SEC. 9-8018 VARIANCES

- (a) *Application*. Any owner may petition the Board of Adjustment for a variance granting permission to use land in a manner otherwise prohibited by this ordinance.
- (b) *Qualification*. 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 and unique 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.
 - (5) The Board of Adjustment may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
- (c) *Statutory Exceptions*. Notwithstanding paragraph (a) of this section, the Storm Water Administrator shall issue an exception from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements, 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 BMP's .
- (2) When there is a lack of practical alternatives for a storm water management facility; a storm water 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 BMP's .
- (3) A lack of practical alternatives is 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.

SEC. 9-8019 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 operation and maintenance requirements of the Burke County Environmental Health Department.
- (b) *Standards for Operation and Maintenance.* Onsite systems for domestic wastewater shall be operated and maintained so as to avoid adverse effects on surface water and groundwater. Operation and maintenance of onsite systems for domestic wastewater shall be in accordance with the standards of the Burke County Environmental Health Department.
- (c) *Enforcement.* The Burke County Environmental Health Department shall be responsible for the enforcement of the installation, operation and maintenance standards for onsite systems for domestic wastewater within the limits of the City and the extraterritorial jurisdiction.

SEC. 9-8020 MAINTENANCE

- (a) *Function of BMP's 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 storm water 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 Storm Water 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 storm water treatment practice inspection and maintenance. Annual inspection reporting shall begin one year from the date of as -built certification and each year thereafter on or before the date of the as -built certification.
- (c) The inspection report shall contain all of the following information and shall be submitted to the Storm Water Administrator on the forms supplied:
 - (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 BMP's*;
 - (4) The date the inspection was made;

- (5) A statement that all inspected *structural BMP*'s 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 inspector.

SEC. 9-8021 OPERATION AND MAINTENANCE AGREEMENT

- (a) 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.
- (b) 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 the City of Morganton a right of entry in the event that the Storm Water 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 the City of Morganton to assume responsibility for the *structural BMP*.
- (c) The operation and maintenance agreement shall provide that the City of Morganton has the right to recover from the owner any and all costs the City of Morganton expends to maintain, repair or replace the *structural BMP*'s or to correct any operational deficiencies. The failure of the owner or other responsible person to pay the City of Morganton all of its expended costs within forty-five (45) days written notice, shall constitute a breach of the agreement. In order to secure the payment of such costs, the written agreement shall clearly grant to the City a contractual lien against the owner's property and authorize the City to file the lien with the Burke County Clerk of Court and otherwise collect such lien as if the lien were a statutory lien on real property under Article 2, Chapter 44A of the General Statutes of North Carolina, as amended or replaced.
- (d) In the event the owner fails to pay such costs when due or otherwise violates the terms of the Operation and Maintenance Agreement, the City shall have the right, at its option, to (i) bring a civil action against the owner to collect all sums due including interest, collection costs, attorneys fees, or (ii) bring an equitable action to enforce the terms of the Operation and Maintenance Agreement, or (iii) file, perfect and collect its lien in the same manner as a statutory lien, or (iv) any combination of the foregoing. The Operation and Maintenance Agreement shall provide that the City is entitled to collect not only its actual expenditures, but interest thereon at the legal rate of interest, and reasonable collection costs including attorney fees.
- (e) The operation and maintenance agreement must be approved by the Storm Water 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 Storm Water Administrator within fourteen (14) days following its recordation.
- (f) Special Requirement for Homeowners' and Other Associations
 - (1) For all *structural BMP*'s required pursuant to this ordinance that are owned or will be owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:
 - a. Acknowledgment that the association shall continuously operate and maintain the storm water control and management facilities.
 - b. Granting to the City of Morganton a right of entry to inspect, monitor, maintain, repair, and reconstruct *structural BMP*'s.
 - c. The Operation and Maintenance Agreement shall provide that the City of Morganton has the right to recover from the association and its members any and all costs the City of Morganton expends to maintain, repair or replace the *structural BMP*'s or to correct any operational deficiencies. The failure of the owner or other responsible person to pay the City of Morganton all of its expended

costs within forty-five (45) days written notice, shall constitute a breach of the agreement. In order to secure the payment of such costs, the written agreement shall clearly grant to the City a contractual lien against the owner's property and authorize the City to file the lien with the Burke County Clerk of Court and otherwise collect such lien as if the lien were a statutory lien on real property under Article 2, Chapter 44A of the General Statutes of North Carolina, as amended or replaced.

- d. In the event the owner fails to pay such costs when due or otherwise violates the terms of the Operation and Maintenance Agreement, the City shall have the right, at its option, to (i) bring a civil action against the owner to collect all sums due including interest, collection costs, attorneys fees, or (ii) bring an equitable action to enforce the terms of the Operation and Maintenance Agreement, or (iii) file, perfect and collect its lien in the same manner as a statutory lien, or (iv) any combination of the foregoing. The Operation and Maintenance Agreement shall provide that the City is entitled to collect not only its actual expenditures, but interest thereon at the legal rate of interest, and reasonable collection costs including attorney fees.
- e. A statement acknowledging that the City of Morganton shall not be obligated to maintain or repair any *structural BMP's*, and the City of Morganton shall not be liable to any person for the condition or operation of *structural BMP's* unless the device is duly authorized and accepted in accordance with Section 9-8017.
- f. A statement indicating the agreement shall not in any way diminish, limit, or restrict the right of the City of Morganton to enforce any of its ordinances as authorized by law.
- g. A provision indemnifying and holding harmless the City of Morganton for any costs and injuries arising from or related to the structural BMP, unless the City of Morganton 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.

SEC. 9-8022 INSPECTION PROGRAM

- (a) Inspections and inspection programs by City of Morganton 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 BMP's; and evaluating the condition of BMP's.

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

SEC. 9-8023 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

- (a) *Defects guarantee.* Upon final inspection and approval of the storm water management facility by the Storm Water Administrator, the developer shall deposit a one year defects guarantee with the City prior to a Certificate of Occupancy being issued. This guarantee will secure against installation failure during the first year of operation. A financial instrument equal to 25% of the total costs of the all storm water improvements, as approved by the Storm Water Administrator, shall be deposited in escrow with the City of Morganton or with a financial institution. Financial instruments shall include: cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value. The use of any instrument other than cash shall be subject to the approval of the city attorney.
- (b) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the city an agreement between the financial institution and himself guaranteeing the following:
 - (1) That the escrow account shall be held in trust until released by the city and may not be used or pledged by the developer for any other purpose during the term of the escrow arrangement; and
 - (2) That in the case of a failure of the storm water improvements within the time allotted, the financial institution shall, upon notification by the city and submission by the city to the financial institution of an estimate of the amount needed to complete the improvements, immediately either pay to the city the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the city any other instruments fully

endorsed or otherwise made payable in full to the city.

- (3) Governmental guarantee. In any case where a required improvement is to be provided by the state or any local government other than the city, the developer may provide, in lieu of the types of financial guarantee as provided for above, a letter from the appropriate state or local government official guaranteeing the installation of the improvement in the required manner and within the time allotted. Provided, however, in any case where the cost of such improvement exceeds \$10,000 as determined by the city, such governmental guarantee shall be in the form of an approved Project Budget Ordinance where local government is to be the provider and an equivalent document where the state is to be the provider.
- (c) *Release of guarantee security.* Upon the one-year inspection if a determination is made by the Storm Water Administrator that the storm water management facility is working properly and being appropriately maintained by the responsible party, the city shall release all of any security posted.

SEC. 9-8024 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 an appropriately approved plat and said plat shall be recorded with the Burke County Register of Deeds, but only after approval by the City.
- (b) *Operation and Maintenance Agreement.* An Operations and Maintenance Agreement that references the required storm water improvements, conservation easement, or dedication, whichever is applicable shall also be recorded with the Burke County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.
- (c) *Signage.* Where appropriate in the determination of the Storm Water Administrator to assure compliance with this ordinance, *structural BMP*'s 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.

SEC. 9-8025 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

- (a) 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 Storm Water Administrator.

SEC. 9-8026 NUISANCE

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

SEC. 9-8027 MAINTENANCE EASEMENT

- (a) Every *structural BMP* installed pursuant to this ordinance shall be made accessible for the purpose of maintenance and repair. A maintenance easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes. The City shall be included as a party having the right to use the easement.

SEC. 9-8028 ENFORCEMENT AND VIOLATIONS

- (a) *Authority to Enforce.* The provisions of this ordinance shall be enforced by the Storm Water Administrator, his or her designee, or any authorized agent of City of Morganton. Whenever this section refers to the Storm Water Administrator, it includes his or her designee as well as any authorized agent of City of Morganton.
- (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. Each day that a violation continues shall constitute a separate and distinct violation or offense.

- (c) *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) Any person maintaining the condition resulting in or constituting the violation such as 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) Any person responsible for the project site or using the project site such as the *owner* of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water 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.

SEC. 9-8029 REMEDIES AND PENALTIES

- (a) 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.
- (b) Remedies
 - (1) *Withholding of Certificate of Occupancy*. The Storm Water 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 storm water 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 Storm Water Administrator or other authorized agent may withhold, and 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) *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 City may cause the violation to be corrected and the costs to be assessed as a lien against the property, to be collected as unpaid taxes.
 - (4) *Stop Work Order*. The Storm Water 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.
 - (5) *Civil Penalties*. 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 Storm Water Administrator. Civil penalties may be assessed up to the full amount of penalty to which City of Morganton is subject for violations of its Phase II Storm Water permit, or if no Phase II Storm Water permit exists for the jurisdiction, civil penalties may be assessed up to the full amount set out in the published schedule of fees and charges as amended from time to time.
 - (6) *Criminal Penalties*. Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

SEC. 9-8030 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 Storm water Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Storm water Administrator.
- (b) *Inspection.* The Storm Water 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.* When the Storm Water Administrator finds that any building, structure, or land is in violation of this ordinance, the Storm Water 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 Storm Water Administrator may deliver the notice of violation and correction order personally, 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 Storm Water Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

- (d) *Order to Correct.* If a violation is not corrected within a reasonable period of time, as provided in the notification, the Storm Water Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.
- (e) *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 Storm Water 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 Storm Water 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 Storm Water 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 Storm Water 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.
- (f) *Enforcement After Time to Correct.* After the time has expired to correct a violation, including any extension(s) if authorized by the Storm Water Administrator, the Storm Water Administrator shall determine if the violation is corrected. If the violation is not corrected, the Storm Water Administrator may act to impose one or more of the remedies and penalties authorized by this ordinance.
- (g) *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 Storm Water Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Storm Water Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this ordinance.

SEC. 9-8031 LEGAL STATUS PROVISIONS.

- (a) *Effect Upon Outstanding Development Permits.* Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this chapter, provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.
- (b) *Effective Date.* This chapter shall become effective upon adoption.
- (c) It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances for the City of Morganton and to accomplish such intention, the referred in this Ordinance may be renumbered, captions added or changed, sections retitled, and section references corrected and all repealed provisions deleted.

(Ord. No. 07- , passed 12-3-2007)