1. Agenda

Documents:

PB AGENDA 9.4.19.PDF

1.I. Staff Report

Documents:

PLANNING BOARD EC STAFF REPORT 8-19-19.PDF

1.II. Staff Report

Documents:

STAFF REPORT TEXT AMENDMENT LCID_BOC_3RD VERSION.PDF
September 4, 2019
Commissioners Meeting Room
Iredell County Government Center
Statesville, North Carolina
7:00 p.m.

AGENDA

Call to Order

Consideration of Text Amendments (For information only)
  • Soil Erosion and Sedimentation Control Ordinance

Other Business

Reconsideration of Text Amendments (For Recommendation)
  • LCID (Land Clearing Inert Debris) and Source Reduction

Approval of the July 3, 2019 Meeting Minutes

Committee Assignments – Site Visits: Friday, September 13, 2019 (tentative)

Adjournment
IREDELL COUNTY PLANNING & DEVELOPMENT

PLANNING STAFF REPORT

Proposed Text Amendments: Amend the current Soil Erosion and Sediment Control Ordinance to include updates from the 2018 NC Soil Erosion and Sediment Control Model Ordinance and move it to Appendix H of the LDC

EXPLANATION OF THE REQUEST

Staff is proposing amending the Iredell County Soil Erosion and Sediment Control Ordinance to reflect changes found in the 2018 NC Soil Erosion and Sediment Control Model Ordinance, in order to provide consistency with the model ordinance and for clarity.

In addition, we request sections specific to the Iredell County Soil Erosion and Sediment Control Ordinance be removed from individual sections of the Iredell County Land Development Code (LDC) and for the Iredell County Soil Erosion and Sediment Control Ordinance to become a stand-alone document, housed as Appendix H of the LDC.

STAFF COMMENTS

The 2018 NC Soil Erosion and Sediment Control Model Ordinance has been revised to meet the requirements of Sedimentation Pollution Control Act of 1973 as amended through the year 2017 (North Carolina General Statutes 113A-50 et. Seq.) by the General Assembly. The 2018 update includes additions to the Scope and Exclusions, changes to First Time Recipients of Civil Penalty Assessments (CPAs), Remission of Civil Penalty Requests and Transfers of Plans.

Staff and the public find the current format confusing, due to the fact that the provisions of the Iredell County Soil Erosion and Sediment Control Ordinance are parsed all throughout the LDC. When a customer asks for a copy of the Iredell County Soil Erosion and Sediment Control Ordinance we can only direct them to individual chapters/sections of the LDC. It is our belief that customer service can be improved by keeping the ordinance in the format of the 2018 NC Soil Erosion and Sediment Control Model Ordinance and establishing it as a stand-alone document, Appendix H. The proposed Appendix H is provided in its entirety, exactly as staff recommend it appear in the LDC.

Moving the Iredell County Soil Erosion and Sediment Control Ordinance from the LDC to the Appendix creates a large number of text changes and structural reorganization. Below are the chapters and/or sections of the LDC that will either be removed or amended. Our intent is not to remove every reference with regard to erosion and sediment control from within the chapters of the LDC, but rather those sections which specifically reference and are dedicated to enforcement of our Iredell County Soil Erosion and Sediment Control Ordinance.

We are only listing those chapters and/or sections of the LDC that will be removed in their entirety, rather than providing the customary bold/strike-through format. Chapters and/or sections that will be amended are shown in the traditional bold and strike-through for text to be removed, and red for new text to be added. See additional comments concerning these proposed amendments within the LDC:
1. **Amend Section 1.2.1 Statutory References**

   The recommended changes will assure consistency between text found in the LDC and text in the Iredell County Soil Erosion and Sediment Control Ordinance to be added as Appendix H.

2. **Amend Section 1.3.1 Jurisdiction**

   Amend to add Town of Harmony for Erosion and Sedimentation Control.

3. **Amend Chapter 8 Article IV. Erosion Control Plans and Permits**

   Amend Chapter 8 (Sections 8.11, 8.11.1, 8.12 and 8.13) to be consistent with 2018 NC Soil Erosion and Sediment Control Model Ordinance and for clarity. Direct customers to Appendix H.

4. **Remove all of Chapter 8 Article IV. Erosion Control Plans and Permits**

   This information, in its entirety, is part of Iredell County Soil Erosion and Sediment Control Ordinance to be added as Appendix H.

5. **Amend Chapter 9 Article VIII. Erosion and Sediment Control**

   Amend Chapter 9 (Sections 9.6, 9.6.1, 9.6.2, 9.6.3, 9.6.5, 9.6.6, 9.6.13 and 9.7) to be consistent with the 2018 NC Soil Erosion and Sediment Control Model Ordinance and for clarity. Require self-inspections of sites after 1 inch of rainfall. Direct customers to Appendix H.

6. **Remove All of Chapter 9 Article VIII. Erosion and Sediment Control**

   This information, in its entirety, is part of Iredell County Soil Erosion and Sediment Control Ordinance to be added as Appendix H.

7. **Amend Chapter 10 Article XIII. Erosion Control**

   Amend Chapter 10 (Sections 10.18.1, 10.18.2 and 10.18.6) to be consistent with the 2018 NC Soil Erosion and Sediment Control Model Ordinance and for clarity. Direct customers to Appendix H.

8. **Remove All of Chapter 10 Article XIII. Erosion and Sediment Control**

   This information, in its entirety, is part of Iredell County Soil Erosion and Sediment Control Ordinance to be added as Appendix H.

9. **Amend Chapter 12 Section 12.2.5 Erosion Control Plan Appeals**

   Amend Chapter 12 section 12.2.5 to be consistent with the 2018 NC Soil Erosion and Sediment Control Model Ordinance and for clarity. Amend to guide customers to Appendix H.
10. Remove Chapter 12 Section 12.2.5  Erosion Control Plan Appeals

This information, in its entirety, is part of Iredell County Soil Erosion and Sediment Control Ordinance to be added as Appendix H.

11. Amend Chapter 14 Section 14.6.1  Land Disturbing Activity Violations

Amend Chapter 14 Section 14.6.1 to be consistent with the 2018 NC Soil Erosion and Sediment Control Model Ordinance and for clarity. Amend to guide customers to Appendix H.

12. Remove Chapter 14 Section 14.6.1  Land Disturbing Activity Violations

This information, in its entirety, is part of Iredell County Soil Erosion and Sediment Control Ordinance to be added as Appendix H.

TEXT AMENDMENTS

1.  Amend Section 1.2.1 Statutory References

Section 1.2.1  Statutory References
This ordinance is adopted pursuant to the authority contained in the following North Carolina General Statutes:

- Chapter 153A, Article 18, Part 3 – Zoning
- Chapter 153A, Article 18 – Planning and Regulation of Development
- Chapter 113A, Article 4, Part 60 and the North Carolina Administrative Code, Title 15A, Chapter 4 Subchapter A-E – Erosion and Sedimentation Control
- Chapter 153A, Article 6, Section 121, General Ordinance Authority, and Chapter 143, Article 21, Watershed Protection Rules – Water Supply Watershed Protection Rules delegated to Iredell County by the State of North Carolina
- Chapter 63, Article 4, Model Airport Zoning Act
- Chapter 143, Article 21, Part 6; Chapter 153A, Article 18, Part 3 and 4; Chapter 153 A, Article 6 Part 121 –Statutory Authorization for floodplain management regulations for participation in the National Flood Insurance Program (amended 9/18/18, TA-2018-01)

2.  Amend Section 1.3.1  Jurisdiction

Section 1.3.1  Jurisdiction
Portions of this ordinance dealing with zoning, subdivision, airport hazards, and flood damage protection shall apply to all areas outside of the incorporated limits and municipal extraterritorial jurisdictions within Iredell County. The portions specifically
addressing erosion and sedimentation control issues shall apply to all lands of the County except the towns of Harmony and Love Valley. The portions of this ordinance addressing water supply watersheds shall apply to the unincorporated areas and the towns of Love Valley and Harmony.

<table>
<thead>
<tr>
<th>Table 1.1 Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Zoning</strong></td>
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<tr>
<td><strong>Subdivision</strong></td>
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<tr>
<td><strong>Flood</strong></td>
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<tr>
<td><strong>Erosion</strong></td>
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<tr>
<td><strong>Watershed</strong></td>
</tr>
</tbody>
</table>

3. Amend Chapter 8 Article IV. Erosion Control Plans and Permits

Erosion Control Plans and Permits can be found within Appendix H: Iredell County Soil Erosion and Sedimentation Control Ordinance. (amended __/__/__, TA-2019-____)

Section 1.1 Purpose

Geographical Scope of Regulated Land-Disturbing Activity. Article IV shall apply to land-disturbing activity within the territorial and extraterritorial jurisdictions of Harmony, Mooresville, Statesville and Troutman, and Iredell County as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

Two types of permits are required for land-disturbing activities. Erosion control permits are required for projects that will disturb more than one (1) acre or more than one half (1/2) acre, one (1) acre or more, or one half (1/2) acre or more in a water supply watershed area. Grading permits are required for projects that do not meet the erosion control threshold for a permit and where grading that takes place for the construction of a residential dwelling, and any non-residential principal structure, or any land-disturbing activity over 5,000 square feet.

Section 1.1.1 Exclusions from Regulated Land-Disturbing Activity

Notwithstanding the general applicability of this ordinance to all land-disturbing activity, this ordinance shall NOT apply to the following types of land-disturbing activity:

A. Agricultural activity, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man and for personal consumption or commercial resale, including, but NOT limited to:

   (a) Dairy and milk producing animals.
   (b) Poultry and poultry products.
   (c) Livestock, including beef cattle, sheep, swine, horses, ponies, mules, and goats.
(d) Bees and apiary products.
(e) Fur producing animals.

B. Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.

C. An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.

D. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is NOT conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.

E. An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

F. A land-disturbing activity over which the State has exclusive regulatory jurisdiction. This includes activities that are conducted by the State of North Carolina, the United States, entities having power of eminent domain, local governments, or are funded in whole or in part by the United States or the State as provided in G.S. 113A-56(a).

G. An activity that is essential to protect human life during an emergency.

H. Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

A. Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

1. Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.
2. Dairy animals and dairy products.
4. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
5. Bees and apiary products.
6. Fur producing animals.
7. Mulch, ornamental plants, and other horticultural products. For purposes of this section, “mulch” means substances composed primarily of plant remains or mixtures of such substances.

B. An Activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by
the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.

C. An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

D. A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).

E. An activity which is essential to protect human life during an emergency.

F. Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.

G. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2.

Section 1.1.2 Protection of Property
Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

Section 1.1.3 More Restrictive Rules Shall Apply
Whenever conflict exists between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.

Section 1.2 Erosion Control Permit Approval Process

No person shall undertake any land-disturbing activity that will disturb more than one (1) acre (more than one half (1/2) acre in a water supply watershed area), one (1) acre or more, or one half (1/2) acre or more in a water supply watershed area, on a tract unless, thirty (30) or more days prior to initiating the activity, a Plan for the activity is filed with and approved by the County. This shall include the aggregation of smaller lots within a subdivision or development that are under the same ownership and which are equal to or greater than one (1) acre (equal to or greater than one half (1/2) acre in a water supply watershed). The process for gaining plan approval is found in the steps detailed on the following pages as follows:

The County shall forward to the Director of the Division of Water Quality a copy of each Plan for a land-disturbing activity that involves the utilization of ditches for the purpose of
Section 1.2.1 Major Erosion Control Permit Approval Process

Step 1. (Optional) Pre-application meeting is held with Erosion Control Administrator.

Step 2. Erosion Control Plan is submitted to the Erosion Control Administrator and an Erosion Control Permit is issued.

Step 3. Plan is reviewed by the Administrator and any necessary changes are made.

Step 4. Erosion control plan is approved and Letter of Approval sent.

Step 5. Pre-Construction meeting, Permit & Certificate of Approval issued.

I. Step 1. Pre-Application Meeting

Depending upon the size and scope of the project the applicant may schedule a pre-application meeting with the Erosion Control Administrator to review the proposed plan and control measures.

Step 2. Plan is Submitted

The Erosion Control Plan is submitted to the Administrator and an Erosion Control Permit is issued. This permit acknowledges receipt of the plan but does NOT authorize any work to begin. Work may only commence after Step 4. Work may only commence after Step 5.

Step 3. Plan is Reviewed

The Plan is reviewed by the Administrator and any required changes are made.

Step 4. Plan Approval

The Erosion Control Administrator shall approve the plans and will send the Letter of Approval to the financially responsible party. Work cannot begin until the Certificate of Approval has been issued.

Step 5. Pre-Construction Meeting, Permit & Certificate of Approval

The Erosion Control Administrator shall require a pre-construction meeting prior to beginning any site work. As part of the pre-construction meeting, the Erosion Control Administrator shall issue the Erosion Control Permit and a Certificate of Plan Approval at the site. This shall authorize the applicant to begin work. See Section 9.6.8 for information on the pre-construction meeting.

(amended 7/17/12, TA-2012-01)
Section 1.2.2 Minor Erosion Control Permit Approval Process

J. Step 1. Pre-Application Meeting
The applicant may schedule a pre-application meeting with the Erosion Control Administrator to review the proposed plan and control measures.

Step 2. Plan is Submitted
The Erosion Control Plan is submitted to the Administrator. Work may only commence after Step 5.

Step 3. Plan is Reviewed
The Plan is reviewed by the Administrator and any required changes are made.

Step 4. Plan Approval
The Erosion Control Administrator shall approve the plans and send the Letter of Approval, Certificate of Plan Approval and the Permit to the financially responsible party. Work cannot begin until the Certificate of Approval has been issued.

Step 5. Call for Inspection
Call for an inspection once the measures are installed.

Section 1.3 Grading Permit Process
A grading permit shall be issued by the County prior to grading for the construction of a residential dwelling and any non-residential principal structure, or any land disturbing activity over 5,000 square feet. No building permit for a residential dwelling or non-residential principal structure shall be issued until a grading permit has been issued. The permit includes at least one initial inspection and may require additional inspections throughout the duration of the project. First inspection will be performed prior to a foundation building inspection for all residential or nonresidential principal structures. A final inspection if needed, will take place prior to any final building inspection for a Certificate of Occupancy for all residential or nonresidential principal structures. Further inspections can happen throughout the building process for assurance that the site is in compliance with measures in accordance with Soil and Sediment Control requirements in this Ordinance.
For the purpose of this provision, the following uses shall NOT be included:

- plowing;
- tilling;
- sowing;
- gardening; and
- other such activities in relation to farming or horticulture.

In addition to obtaining the permit; the owner, building contractor, or other responsible party shall:

A. Control run-off as to NOT damage or adversely impact adjoining properties, lakes, and natural watercourses by providing silt fencing and stabilization or utilizing Low Impact Design (drainage swales, functional landscaping, etc.); and

B. Refrain from altering the general direction of the natural drainage flow.
4. Remove all of Chapter 8 Article IV. Erosion Control Plans and Permits

5. Amend Chapter 9 Article VIII. Erosion and Sediment Control

Erosion and Sedimentation Control can be found within Appendix H: Iredell County Soil Erosion and Sedimentation Control Ordinance.

( amended __/__/__ , TA-2019-__)

Section 9.6 Erosion and Sedimentation Control Plan Requirements

Section 9.6.1 Plan Submission
A plan shall be prepared for all land-disturbing activities subject to this ordinance whenever the proposed activity will disturb more than one acre on a tract (one half (1/2) acre in a water supply watershed), one (1) acre or more (one half (1/2) acre or more inside a water supply watershed) on a tract. One (1) Two paper copies and one (1) electronic copy of the plan shall be filed with the County.

Section 9.6.2 Plan Types
Plans shall be broken into two categories, minor and major. The minimum requirements for these plans are shown in Table 9.2.

Major Erosion and Sediment Control Plan
A plan for the location, installation and maintenance of measures to control all anticipated erosion, and prevent sediment and increased runoff from leaving the site of a land disturbing activity of one (1) acre or greater. This plan requires a seal from an Engineer, Architect, or Surveyor.

Minor Erosion and Sediment Control Plan
A plan for the location, installation and maintenance of measures to control all anticipated erosion, and prevent sediment and increased runoff from leaving the site of a land disturbing activity of one half (1/2) acre to but less than one (1) acres inside a water supply watershed. This plan may shall NOT require a seal from an Engineer, Architect, or Surveyor.

<table>
<thead>
<tr>
<th>Table 9.2 H-6.1 Erosion Control Plan Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required Information</strong></td>
</tr>
<tr>
<td>Vicinity Map w/North Arrow and Scale</td>
</tr>
<tr>
<td><strong>General Site Features</strong></td>
</tr>
<tr>
<td>Legend w/North Arrow, Scale, etc.</td>
</tr>
<tr>
<td>Property Lines</td>
</tr>
<tr>
<td>Existing Contours (topo lines)</td>
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<tr>
<td>Proposed Contours</td>
</tr>
<tr>
<td>Limits of Disturbed Area (acreage total, delineated limits, and label)</td>
</tr>
<tr>
<td>Planned and Existing Building Locations and Elevations</td>
</tr>
<tr>
<td>Planned and Existing Road Locations and Elevations</td>
</tr>
<tr>
<td>Lot and/or Building Numbers</td>
</tr>
<tr>
<td>Geologic Features (rock outcrops, seeps, springs, wetlands, streams, lakes, ponds, dams, etc.)</td>
</tr>
<tr>
<td>Required Information</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Easements and Drainage Ways</td>
</tr>
<tr>
<td>Profiles of Streets, Ditch Lines, Utilities, etc.</td>
</tr>
<tr>
<td>Stockpiled Topsoil or Subsoil Locations</td>
</tr>
<tr>
<td>Soil Borrow Info*</td>
</tr>
<tr>
<td>Army Corps 404 Permit and Water Quality 401 Certification (if applicable)</td>
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<tr>
<td>Erosion Control Measures (on Plan)</td>
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<tr>
<td>Legend</td>
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<tr>
<td>Location of Permanent Measures</td>
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<tr>
<td>Location of Temporary Measures</td>
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<tr>
<td>Construction Drawings and Details for Temporary and Permanent Measures</td>
</tr>
<tr>
<td>Maintenance Requirements for Measures</td>
</tr>
<tr>
<td>Contact Person Responsible for Maintenance</td>
</tr>
<tr>
<td>Site Drainage Features</td>
</tr>
<tr>
<td>Existing and Planned Drainage Patterns (include off-site areas that drain through project)</td>
</tr>
<tr>
<td>Method of Determination of and Calculations for Acreage of Land Being Disturbed</td>
</tr>
<tr>
<td>Size and Location of Culverts and Sewers</td>
</tr>
<tr>
<td>Soil Information: type and special characteristics</td>
</tr>
<tr>
<td>Soil Information Below Culvert Storm Outlets</td>
</tr>
<tr>
<td>Name and Classification of Receiving Water Course or Name of Municipal Operator (only where stormwater discharges are to occur)</td>
</tr>
<tr>
<td>Stormwater Calculations</td>
</tr>
<tr>
<td>Pre-construction runoff calculations for each outlet from the site (at peak discharge points)</td>
</tr>
<tr>
<td>Design calculations for peak discharges of runoff (including the construction phase and the final runoff coefficients of the site)</td>
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<tr>
<td>Design calculations of culverts and storm sewers</td>
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<tr>
<td>Discharge and velocity calculations for open channel and ditch flows (easements and rights-of-way)</td>
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<tr>
<td>Design calculations of cross sections and method of stabilization of existing and planned channels (include temporary linings)</td>
</tr>
<tr>
<td>Design calculations and construction details of energy dissipaters below culvert and storm sewer outlets (diameters and apron dimensions)</td>
</tr>
<tr>
<td>Design calculations and dimension of sediment basins</td>
</tr>
<tr>
<td>Surface area and settling efficiency information for proposed sediment traps and/or basins</td>
</tr>
<tr>
<td>Vegetative Stabilization</td>
</tr>
<tr>
<td>Area and acreage to be vegetatively stabilized</td>
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<tr>
<td>Methods of soil preparation</td>
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<tr>
<td>Seed type and rates (temporary and permanent)</td>
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<td>Fertilizer type and rates</td>
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<tr>
<td>Mulch type and rates</td>
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<tr>
<td>Financial Responsibility and Ownership Form</td>
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<tr>
<td>Completed, signed and notarized Financial Responsibility/Ownership form</td>
</tr>
<tr>
<td>Copy of the most current deed for the site</td>
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<tr>
<td>Certificate of assumed name, if the owner is a partnership</td>
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<tr>
<td>Name of registered agent (if applicable)</td>
</tr>
</tbody>
</table>
**Required Information**

<table>
<thead>
<tr>
<th>Narrative and Construction Sequence</th>
<th>Major Plan</th>
<th>Minor Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Narrative describing the nature and purpose of the construction activity</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Construction sequence related to erosion and sedimentation control (including installation of critical measures prior to the initiation of the land disturbing activity and removal of measures after areas they serve are permanently stabilized)</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Bid specifications related only to erosion control</td>
<td>x</td>
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<tr>
<td>If within the municipal limits, a letter from that municipality stating the project meets their zoning requirements.</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Designation on the plans where the 7 or 14 day ground stabilization requirements apply as per Section II.B.2 of the NPDES Construction Stormwater General Permit NCG010000</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Design of basins with one acre or more of drainage area for surface withdrawal as per Section II.B.4 of the NPDES Construction Stormwater General Permit NCG010000</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

* If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity unless the borrow or waste activity is regulated under the Mining Act of 1971, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered separate land-disturbing activities and must be permitted either through the Sedimentation Pollution Control Act as a one-use borrow site or through the Mining Act. *(amended 7/17/12, TA-2012-01)*

**Section 9.6.3 Financial Responsibility and Ownership**

Plans must be accompanied by an authorized statement of financial responsibility and ownership. The person financially responsible for the land-disturbing activity or his attorney in fact shall sign this statement. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents.

If the person financially responsible is NOT a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance.

Except as provided in subsections C.1 or C.1 of this section, if the applicant is NOT the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

1. If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.
Section 9.6.5  Content
The plan required by this section shall contain architectural and/or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance and satisfy the standards contained within the North Carolina Erosion and Sediment Control Planning and Design Manual. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the County, on request.

Section 9.6.6  Timeline for Decisions on Plans
The Erosion Control Administrator will review each complete plan submitted to them and within thirty (30) days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a complete plan within thirty (30) days of receipt shall be deemed approval.

The Administrator will review each revised plan submitted to them and within fifteen (15) days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a revised plan within fifteen (15) days of receipt shall be deemed approval.

A. Approval
The Administrator shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant’s compliance with the federal and state water quality laws, regulations and rules. The Administrator shall conditionally approve plans based upon the applicant’s compliance with federal and state water quality laws, regulations and rules. The Administrator may establish an expiration date, NOT to exceed three (3) years, for Plans approved under this ordinance.

B. Disapproval for Content
The Administrator shall may disapprove a plan or draft plan based on its content. A disapproval based upon a plan’s content must specifically state in writing the reasons for disapproval.

C. Other Disapprovals
The Administrator may shall disapprove a plan or draft plans if implementation of the plan would result in a violation of the rules adopted by either the Environmental Management Commission or Iredell County to protect riparian buffers along surface waters. A local government may disapprove a plan upon finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:

1. Is conducting or has conducted land-disturbing activity without an approved Plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to the Act and has NOT complied with the notice within the time specified in the notice;
2. Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due.

3. Has been convicted of a misdemeanor for knowing or willful violation of any provision(s) of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiated or continued a land-disturbing activity for which an erosion and sedimentation control plan was required, except in accordance with the terms, conditions, and provisions of an approved plan pursuant to G. S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act or;

4. Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to the Act.

5. For purposes of this subsection, an applicant’s record may be considered for only the two years prior to the application date.

6. In the event that a plan is disapproved pursuant to this subsection, the Administrator shall notify the Director of such disapproval within ten (10) days. The Administrator shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved.

In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Administrator pursuant to subsection (C) of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The Administrator shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 17A, the applicant may appeal the local government's disapproval of the plan directly to the Commission.

D. Transfer of Plan
The Administrator may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

The Administrator may transfer a plan if all of the following conditions are met:

1. The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.

2. The Administrator finds all of the following:

   a. The plan holder is one of the following:
      i. A natural person who is deceased.
ii. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

iii. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

iv. A person who has sold the property on which the permitted activity is occurring or will occur.

b. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

c. The successor-owner is the sole claimant of the right to engage in the permitted activity.

d. There will be no substantial change in the permitted activity.

3. The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

4. The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

5. Notwithstanding changes to law made after the original issuance of the plan, the Administrator may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Administrator from requiring a revised plan pursuant to G.S. 113A-54.1(b).

Section 9.6.13 Self-Inspections

The landowner, the financially responsible party, or the landowner’s or financially responsible party’s agent shall perform an inspection of the area covered by the plan after one (1) inch of rain fall, after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1. These self-inspection reports are subject to review by Iredell County when requested at the time of inspection.

(amended 7/17/12, TA-2012-01)

Where inspections are required by Section 9.6.13 of this Ordinance and G.S. 113A-54.1(e), the following apply:
1. The person who performs the inspection shall make a record of the site inspection by documenting the following items:

   a. all of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;

   b. the completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;

   c. the location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;

   d. that maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements); and

   e. any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and
sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.

2. The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

3. The inspection shall be performed during or after each of the following phases of a plan:
   
   a. installation of perimeter erosion and sediment control measures;
   
   b. clearing and grubbing of existing ground cover;
   
   c. completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2);
   
   d. completion of storm drainage facilities;
   
   e. completion of construction or development; and
   
   f. quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

Section 9.7 Basic Control Objectives

An Erosion and Sedimentation Control Plan must may be disapproved if the Plan fails to address the following control objectives:

A. **Identify Critical Areas** - On-site areas that are subject to severe erosion, and off-site areas that are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
B. **Limit Time of Exposure** - All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.

C. **Limit Exposed Area** - All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

D. **Control Surface Water** - Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

E. **Control Sedimentation** – All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

F. **Manage Storm Water Runoff** - When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, a plan is to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

6. Remove all of Chapter 9 Article VIII. Erosion and Sediment Control

7. Amend Chapter 10 Article XIII. Erosion and Sediment Control

Erosion Control can be found within Appendix H: Iredell County Soil Erosion and Sedimentation Control Ordinance.

(amended __/__/__, TA-2019-__)

**Section 10.8 Mandatory Requirements for Land-Disturbing Activity**

Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activities. No land-disturbing activity subject to the control of this ordinance shall be undertaken except in accordance with the following mandatory standards:

**Section 10.8.1 Design and Performance Standards**

A. **Maximum Peak Rate of Runoff**  
Except as provided in Section 10.18.1 B2 of this ordinance, erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures included in but NOT limited to the “North Carolina Erosion and Sediment Control Planning and Design Manual”.

B. **HQW Zones**  
In High Quality Water (HQW) zones the following design standards shall apply:
1. Uncovered areas in HQW zones shall be limited at any time to a maximum total area of twenty acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Administrator.

2. Erosion and sedimentation control measures, structures, and devices within HQW zones shall be planned, designed and constructed to provide protection from the runoff of the twenty-five year storm which produces the maximum peak rate of runoff as calculated according to procedures in the “North Carolina Erosion and Sediment Control Planning and Design Manual” or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

3. Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least seventy percent (70%) for the forty (40) micron (0.04 millimeter) size soil particle transported into the basin by the runoff of that two year storm which produces the maximum peak rate of runoff as calculated according to procedures in the “North Carolina Erosion and Sediment Control Planning and Design Manual” or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

4. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

5. Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within seven (7) days.

<table>
<thead>
<tr>
<th>Site Area Description</th>
<th>Stabilization</th>
<th>Timeframe Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perimeter dikes, swales, ditches, and</td>
<td>7 days</td>
<td>None</td>
</tr>
<tr>
<td>slopes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High Quality Water (HQW) Zones</td>
<td>7 days</td>
<td>None</td>
</tr>
<tr>
<td>Slopes steeper than 3:1</td>
<td>7 days</td>
<td>If slopes are 10’ or less in length and are not steeper than 2:1, 14 days are allowed.</td>
</tr>
<tr>
<td>Slopes 3:1 or flatter</td>
<td>14 days</td>
<td>7 days for slopes greater than 50’ in length.</td>
</tr>
<tr>
<td>All other areas with slopes flatter</td>
<td>14 days</td>
<td>None, except for perimeters and HQW Zones.</td>
</tr>
<tr>
<td>than 4:1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 10.5 H-8.1 Stabilization Timeframes

(AMENDED 7/17/12, TA-2012-01)
Section 10.8.2 Buffer Zone

Figure 10.8 H-5.1 Buffer Zone

Section 10.8.6 Storm Water Outlet Protection

A. **Intent** - Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.

B. **Performance Standard** - Persons shall conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does NOT exceed the greater of:

1. The velocity established by the Maximum Permissible Velocities Table set out within this subsection; or

2. The velocity of the 10-year storm runoff in the receiving watercourse prior to development.

3. If condition (1) or (2) cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the “prior to development” velocity by ten percent (10%).
Table 10.6  **H-9.1 Maximum Permissible Velocities for storm water discharges in feet per second (F.P.S.) and meters per second (M.P.S.)**

<table>
<thead>
<tr>
<th>Material</th>
<th>F.P.S.</th>
<th>M.P.S.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fine sand (noncolloidal)</td>
<td>2.5</td>
<td>0.8</td>
</tr>
<tr>
<td>Sandy loam (noncolloidal)</td>
<td>2.5</td>
<td>0.8</td>
</tr>
<tr>
<td>Silt loam (noncolloidal)</td>
<td>3.0</td>
<td>0.9</td>
</tr>
<tr>
<td>Ordinary firm loam</td>
<td>3.5</td>
<td>1.1</td>
</tr>
<tr>
<td>Fine gravel</td>
<td>5.0</td>
<td>1.5</td>
</tr>
<tr>
<td>Stiff clay (very colloidal)</td>
<td>5.0</td>
<td>1.5</td>
</tr>
<tr>
<td>Graded, loam to cobbles (noncolloidal)</td>
<td>5.0</td>
<td>1.5</td>
</tr>
<tr>
<td>Graded, silt to cobbles (colloidal)</td>
<td>5.5</td>
<td>1.7</td>
</tr>
<tr>
<td>Alluvial silts (noncolloidal)</td>
<td>3.5</td>
<td>1.1</td>
</tr>
<tr>
<td>Alluvial silts (colloidal)</td>
<td>5.0</td>
<td>1.5</td>
</tr>
<tr>
<td>Coarse gravel (noncolloidal)</td>
<td>6.0</td>
<td>1.8</td>
</tr>
<tr>
<td>Cobbles and shingles</td>
<td>5.5</td>
<td>1.7</td>
</tr>
<tr>
<td>Shales and hard pans</td>
<td>6.0</td>
<td>1.8</td>
</tr>
</tbody>
</table>

(Original table data given in feet per second and meters per second for different materials, with the source for these values being the Special Committee on Irrigation Research, American Society of Civil Engineers, 1926.

Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

A. **Acceptable Management Measures** - Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The County recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results.

Some alternatives, while NOT exhaustive, are to:

1. Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;

2. Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;

3. Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;

4. Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and

5. Upgrade or replace the receiving device structure or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.
B. **Exceptions** - This rule shall NOT apply where it can be demonstrated to the County that storm water discharge velocities will NOT create an erosion problem in the receiving watercourse.

C. **Acceptable Management Measures**
Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The County recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results.

Some alternatives, while NOT exhaustive, are to:

1. Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
2. Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;
3. Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
4. Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
5. Upgrade or replace the receiving device structure or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

D. **Exceptions**
This rule shall NOT apply where it can be demonstrated to the County that storm water discharge velocities will NOT create an erosion problem in the receiving watercourse.

8. **Remove All of Chapter 10 Article XIII. Erosion and Sediment Control**

9. **Amend Chapter 12 Section 12.2.5 Erosion Control Plan Appeals**

**Section 12.2.5 Erosion Control Plan Appeals**

Erosion Control Plan Appeals can be found within Appendix H: Iredell County Soil Erosion and Sedimentation Control Ordinance. *(amended __/__/__, TA-2019-__)*
A. Except as provided in Section 12.2.5 A (2) of this ordinance, the appeal of a disapproval or approval with modifications of a Plan shall be governed by the following provisions:

1. The disapproval or modification of any proposed Plan by the County shall entitle the person submitting the Plan to a public hearing if such person submits written demand for a hearing within fifteen (15) days after receipt of written notice of disapproval or modifications.

2. The Board of Adjustment shall, pursuant to this section, conduct a hearing within sixty (60) days of the date of a timely written request for a hearing. If a hearing is NOT conducted within sixty (60) days of the date of a timely written request for a hearing, then the appeal will be found in favor of the appellant.

3. The Board of Adjustment will render its final decision on any Plan following the completion of the hearings.

4. If the Board of Adjustment upholds the disapproval or modification of a proposed Plan following the hearing, the person submitting the Plan shall then be entitled to appeal the County’s decision to the Sedimentation Control Commission as provided in G.S. 113A-61(c) and 15A NCAC 4B .0118(d).

B. In the event that a Plan is disapproved pursuant to Article II, Section 203(i) Section 6.III.I of this ordinance, the applicant may appeal the County’s disapproval of the plan directly to the Commission.

10. Remove All of Chapter 12 Section 12.2.5 Erosion Control Plan Appeals

11. Amend Chapter 14 Section 14.6.1 Land Disturbing Activity Violations

Section 14.6.1 Land Disturbing Activity Violations

Land Disturbing Activity Violations can be found within Section 19 of Appendix H: Iredell County Soil Erosion and Sedimentation Control Ordinance. (amended __/__/__, TA-2019–__)

A. Civil Penalty for a Violation - Any person who violates any of the provisions of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty amount the County may assess per violation is five thousand dollars ($5,000.00). The minimum civil penalty that the County shall assess per violation is two hundred fifty dollars ($250) for the first disturbed acre and one hundred dollars ($100) for each subsequent disturbed acre rounded up to the next whole acre.
For water supply watershed sites under one (1) acre, the minimum civil penalty is one hundred dollars ($100). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars ($25,000).

B. **Civil Penalty Assessment Factors** - In the event of a land-disturbing activity violation the Administrator shall assess the amount of the civil penalty based upon the following factors:

1. The degree and extent of harm caused by the violation,
2. The cost of rectifying the damage,
3. The amount of money the violator saved by noncompliance,
4. Whether the violation was committed willfully, and
5. The prior record of the violator in complying or failing to comply with this ordinance.

C. **Notice of Civil Penalty Assessment** – The Administrator shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment shall direct the violator to either pay the assessment, contest the assessment by filing a petition for contested case in the Office of Administrative Hearing in accordance with Article 3 of Chapter 150B of the General Statutes of any fine within fifteen (15) days after the receipt of the notice in writing to the Board of Adjustment, or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.

D. **Collection** - If payment is NOT received within thirty (30) days after it is due, the County may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of Iredell County. Such civil actions must be filed within three (3) years of the date the assessment was due. An assessment that is NOT contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.
E. **Credit of Civil Penalties** - Civil penalties collected pursuant to this ordinance shall be credited to the Civil Penalty and Forfeiture Fund, in accordance with G.S. 115C-457.2. Penalties collected by the County may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by each County for the prior fiscal year.

[Note: Case law on an air quality delegated program determined that civil penalties assessed by local governments pursuant to a State delegation had to be remitted to the Civil Penalty and Forfeiture Fund for the benefit of the local school boards pursuant to the State Constitution’s provision on State penalties, fines and forfeitures.]

F. **Criminal Penalties** - Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may include a fine NOT to exceed $5,000 as provided in G.S. § 113A-64.

12. **Remove Section 14.6.1 Land Disturbing Activity Violations**

---

**PLANNING BOARD ACTION NEEDED:**

**TO APPROVE:** Motion to recommend approval of Appendix H, the Iredell County Soil Erosion and Sediment Control Ordinance, along with associated zoning text amendments to the current Land Development Code. Make a finding that the approval is consistent with the adopted 2030 Horizon Plan and that said approval is reasonable and in the public interest and furthers the goals of the 2030 Horizon Plan because it aims to create compliance with N.C. General Statutes, the NC Soil Erosion and Sediment Control Model Ordinance, and the requirements of the Federal Sedimentation Pollution Control Act of 1973.

**TO DENY:** Motion to recommend denial of Appendix H, the Iredell County Erosion and Sediment Control Ordinance, along with associated zoning text amendments to the current Land Development Code, based on findings that though the denial is inconsistent
with the adopted 2030 Horizon Plan, N. C. General Statutes, the NC Soil Erosion and Sediment Control Model Ordinance, and the requirements of the Federal Sedimentation Pollution Control Act of 1973, said denial is reasonable and in the public interest and does further the goals of the 2030 Horizon Plan because....
EXPLANATION OF THE REQUEST

Staff is proposing amendments to Chapters 2, 3 and 16 of the Iredell County Land Development Code. The following text amendments to the Land Development Code are being presented for information only at this time.

Existing text that is **bold and with strike through** is text to be removed. Text in **red and underlined** is new text to be added.

Text in **blue** is new from the last review.

ADDITIONAL INFORMATION REQUESTED

The Board of Commissioners requested the following be reviewed:

- **Impacts on attainment issue with air quality**
  - In talking with the State Air Quality Division the following was shared:
    - Any emission source does play a small role in increased ozone formation. A tiny personal home emergency generator could have negative impact in theory.
    - Staff feels the number of these operations in the county will be limited based on need

- **Stream setback requirement and erosion control**
  - An erosion control plan is going to be required for these sites that disturbed either ½ acre in the watershed or 1 acre outside of the watershed. Depending on the individual operations these plans may be closed out if the site is stabilized per the requirements. Some of these sites may continue to stay on the list for monthly erosion and sedimentation inspections. If we add the yearly inspection this should be able to address any sediment issues outside the scope of the erosion and sedimentation requirements.

- **Temporary vs. Permanent operations**
  - We are proposing to add language to distinguish better between temporary and permanent operations.

- **Define or amended language regarding “adversely impacting” in Section R67, D.**
  - Staff has proposed rewording this section and adding the requirement of a dust management plan

- **Adding in review or inspection process**
  - Staff has proposed to add a requirement that these facilities would have an annual review to ensure compliance with the Ordinance and the Special Use Permit
STAFF COMMENTS

Chapter 3 deals with specific land uses and provides additional requirements for those uses above the basic standards of the code.

Landfill, Land Clearing, and Inert Debris facilities are referred to as LCIDs. These facilities are currently allowed in some residential districts through the Special Use Permit process. We have several locations permitted throughout the County. They are also regulated by the North Carolina Department of Environmental Quality (NCDEQ), who issues a separate permit on behalf of the State. With interest in these facilities continuing to grow, due to the increasing development of the southern end of the County, it was felt that the code needed to be further addressed. Therefore, in an attempt to reduce the amount of material (inert debris) that is buried at LCID’s, the staff is of the opinion that there is a need for these facilities to also be able to grind for wood chips or mulch and to be able to pit burn with high heat (air curtain burning). Thus resulting in a reduced amount of material to be buried. Additionally, it is recognized by the NCDEQ that there is a greater need for the ability to accommodate source reduction methods or ways to reduce the amount of material these LCID sites take in and ultimately fill or cover.

Along with the amending of the LCID’s to accommodate more alternatives, the staff is also proposing the addition of a separate provision (R67 Source Reduction Facility) which would involve a more intensive operation, allowing for the processing and repurposing of additional types of materials (i.e. brick, block, concrete, untreated wood), when not associated with an LCID. In addition to the crushing and sifting of said material, this type of facility would include the ability to stockpile materials, store and maintain equipment and contain offices. Although the operation of these types of facilities will likely be of a more permanent nature, it was felt that they should be allowed in some of the county’s more rural areas and not just confined to industrial locations. To help address those potential concerns, increased setbacks and other restrictions have been added.

TEXT AMENDMENTS

Performance Requirements (Chapter 3)

R54 Landfill, Land Clearing and Inert Debris

On-site landfills with a disposal area of a half acre or less will be exempt from these requirements but shall follow all NC Division of Waste Management guidelines per GS 130A-301.1. Beneficial fill including concrete, brick, block and uncontaminated soil, rock and gravel requires no zoning approval when the intent is to improve land use potential and no excavation is involved.

The following guidelines shall be required for all off-site landfills with a disposal area of 600 square feet or more and/or sites over a half acre of on-site items.
A. **Setback**

There shall be 100 foot minimum distance from any property line.

B. **On sites less than two (2) acres** applicant shall have recorded at the Iredell County Register of Deeds a LCID Notification form available from the North Carolina Department of Environmental and Natural Resources.

On sites larger than two (2) acres applicant shall contact the North Carolina Department of Environmental and Natural Resources for final approval.

C. **Use Separation**

1. There shall be a 300 foot minimum separation from any existing residence; and

2. Fifty (50) foot minimum separation from all surface waters; and

3. 100 foot minimum separation from all commercial or public buildings, and wells.

D. **Access**

1. Access to the landfill shall be controlled with gates, chains, fences, ditches and/or trees to prevent unregulated dumping.

2. Driveways and driveway cuts shall be installed to minimize sediment on adjacent roads.

E. **Dust**

All **unpaved** areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

A dust management plan shall be required to prevent dust as part of any application. If approved this plan will become part of the approval. **The dust management plan at a minimum shall include the following:**

1. A list of each dust generating activity or source.

2. A list of each best management practice that will be implemented for each dust generating activity or source.
3. A list of additional best management practices that will be implemented if initial controls are ineffective.

F. Operation

1. No filling is permitted in the 100-year floodplain. No filling is permitted in minor drainage ways unless the drainage has been piped in accordance with approved plans. No filling is permitted in utility easements.

2. The operator shall monitor access road conditions and immediately clear any sediment or debris from the road.

G. Signs

1. An information board sign shall be posted and maintained at the entrance, listing the name and phone number of the current operator, the types of material accepted, and the hours of operation.

2. The sign shall also instruct drivers to contact the operator upon finding any sediment that has been tracked from the site.

H. See Section 4.5.2 for limitations in the water supply watersheds.

I. Ancillary Uses

For the purpose of reducing the amount of inert debris, air curtain burning or grinding operations shall be permitted. Residue and mulch may be stored on site and/or mixed with other organic material prior to its covering or removal. This shall include both the retail and wholesale of the resulting bi-product. All such operations are subject to North Carolina Department of Environmental Quality Approval. The addition of ancillary uses to an existing operation shall require a revision to the Special Use Permit.

J. The Board of Adjustment may add conditions to this type of request to address site specific and neighbor concerns.

K. Planning staff will conduct yearly inspections to confirm compliance with these requirements and the Special Use Permit.
Performance Requirements (Chapter 3)

R67 Source Reduction Facility (processing & wholesale)

These regulations do not apply for operations that are disposing of or processing from on-site products. These regulations do apply to operations where material is being brought from off-site.

A. Setback

1. There shall be a minimum one hundred (100) foot distance from any adjacent residentially zoned properties for all activity areas.

2. There shall be a minimum fifty (50) foot distance from all other property lines.

3. All grinding and crushing of block, stone, gravel, etc., shall be a minimum of two hundred (200) foot distance from any adjacent residentially zoned property and one hundred (100) foot distance from all other property lines.

B. Use Separation

1. All crushing, grinding, and burning shall have a five hundred (500) foot minimum separation from any existing residence.

2. There shall be a one hundred (100) foot minimum separation from all perennial streams.

C. Access

Driveways and driveway cuts shall be installed to minimize sediment on adjacent roads.

D. Dust

All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

A dust management plan shall be required to prevent dust as part of any application. If approved this plan will become part of the approval. The dust management plan at a minimum shall include the following:

1. A list of each dust generating activity or source.
2. A list of each best management practice that will be implemented for each dust generating activity or source.

3. A list of additional best management practices that will be implemented if initial controls are ineffective.

E. Screening

Screening shall be provided around the entire operation, including the road side in the form of one of the following:

1. A four (4) foot berm with shrubs at least 18 inches when planted; or

2. A fifty (50) foot wide strip of existing vegetation at least 6 feet in height.

Screening is not required if the adjacent property is zoned for industrial uses as identified in the Table of Permitted Uses.

F. Must also comply with all other State and/or Federal guidelines.

G. The Board of Adjustment may add conditions to this type of request to address site specific and neighbor concerns.

H. Planning staff will conduct yearly inspections to confirm compliance with these requirements and the Special Use Permit.

Definitions (Chapter 16)

Section 16.4 Definitions

Source Reduction Facility (processing & wholesale). A facility designed to both process and recycle reclaimed material associated with both inert debris and nonhazardous waste, including brush, stumps, concrete, brick, block, stone and other land clearing waste normally received at an LCID (Land clearing and inert debris landfill).

Zoning Districts (Chapter 2)
### Section 2.21.4 Manufacturing, Industrial, & Other High Intensity Uses

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**ACTION NEEDED:**

**TO APPROVE:** Motion to recommend approval the zoning text amendment and to make a finding that the approval is consistent with the adopted 2030 Horizon Plan and that said approval is reasonable and in the public interest and furthers the goals of the 2030 Horizon Plan because it aims address common zoning issues, and address industry changes in a developing county.

**TO DENY:** Motion deny the zoning text amendment and to make a finding that though the denial is inconsistent with the adopted 2030 Horizon Plan, said denial is reasonable and in the public interest and does not further the goals of the 2030 Horizon Plan because....