

**ORDINANCE NUMBER EIGHT HUNDRED NINETY-EIGHT
TOWN OF MINT HILL, NORTH CAROLINA
BOARD OF COMMISSIONERS MEETING SEPTEMBER 12, 2024**

Upon the motion of Commissioner Holton, seconded by Commissioner Long, the Board unanimously approved #ZC24-4, Filed by the Town of Mint Hill, to Amend Section 6.8 of the Post Construction Ordinance and Section 8.3 Procedural Requirements.

Amendment to Section 6.8 of the PCO

This amendment will remove Town maintenance of Best Management Practices (BMPs—otherwise generally known as stormwater ponds) from the PCO. Instead, the responsibility of BMPs will remain with the respective Homeowners Associations (as they are currently).

Amendment to Section 8.3 of the UDO

This amendment makes two changes related to traffic study requirements performed by developers. The first lowers the threshold for requiring a Traffic Impact Analysis (TIA) from 2,000 trips per day/200 trips in a peak hour to 1,000 trips per day/100 trips in a peak hour. The second is the creation of a Traffic Technical Memo (TTM). The TTM will be required when a development does not warrant a TIA, but still produces 50 or more trips in a peak hour. These UDO changes are recommended by the Town's Traffic Planning Study funded in part by a grant from the Charlotte Regional Transportation Planning Organization (CRTPO).

- location, type and size of all trees and ground cover to be planted as well as contain a warranty statement for the trees. An off-site mitigation application shall show the location and description including acreage, etc. of the property to be used for mitigation and contain a legally valid instrument demonstrating that the applicant has legal title to the property for transfer to the Town of Mint Hill. A payment-in-lieu application shall at a minimum contain the location and description of the site to be mitigated and an approved appraisal by a licensed, independent real estate appraiser
- Pre-Approved Undisturbed Open Space Mitigation. The following is pre-approved for on-site mitigation and does not require the submittal of an application to the Storm Water Administrator; however, these mitigation areas shall be described on the Storm Water Management Permit Application.
- Residential, Commercial and Multifamily Uses. Twenty-five (25) percent of the required Undisturbed Open Space area as described in Section 403 above is pre-approved for on-site mitigation provided the size of mitigation area is one hundred fifty (150) percent of the disturbed

area. Other forms of mitigation as described above must receive approval from the Storm Water Administrator.

- Industrial Uses. One hundred (100) percent of the required Undisturbed Open Space area as described in Section 403 above is pre-approved for on-site mitigation with no increase in total required Undisturbed Open Space area. Other forms of mitigation as described above must receive approval from the Storm Water Administrator.

(E) Undisturbed Open Space Designation. All designated Undisturbed Open Space areas included as part of an approved mitigation must be recorded at the Register of Deeds Office as "Undisturbed Open Space" and any future disturbance of this area is strictly prohibited except for greenway trails with unlimited public access, Charlotte-Mecklenburg Utility lines and channel work/maintenance activities by Charlotte-Mecklenburg Storm Water Services. Other utility work may be allowed in the Undisturbed Open Space area provided it will not result in loss of Undisturbed Open Space as approved by the Town of Mint Hill.

6.8.5 Maintenance.

(501) Dedication of BMPs, Facilities and Improvements.

(A) Single-Family Residential BMPs Accepted for Maintenance. The Town of Mint Hill shall accept maintenance responsibility (as specified in the Administrative Manual) of structural BMPs that are installed pursuant to this ordinance following a warranty period of two (2) years from the date of as-built certification described in Section 203(C), provided the BMP:

- (1) Only serves a single family detached residential development or townhomes all of which have public street frontage,
- (2) Is satisfactorily maintained during the two-year warranty period by the owner or designee,
- (3) Meets all the requirements of this ordinance and the Design Manual; and
- (4) Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance, repair or reconstruction.

The Storm Water Administrator must receive an application for transfer of maintenance responsibilities for the structural BMP along with the Storm Water Management Permit Application. The Storm Water Administrator will develop and distribute this application as a component of the Administrative Manual (see Section 202(D)(4)).

(BA) Maintenance and Operation of BMPs. The owner of a structural BMP installed pursuant to this ordinance and not covered under Section 501(A) above shall maintain and operate the BMP 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.

(CB) Damage or Removal of Trees. The following provisions apply to trees contained in permitted Undisturbed Open Space areas or in BMPs that are damaged or removed:

1. For trees damaged or removed due to natural disasters, the owner shall be required to replace the trees in accordance with the undisturbed open space mitigation criteria described in Section 405(C)(1)(c) of this ordinance within a timeframe specified by the Storm Water Administrator.

2. For trees damaged or removed due to reasons other than (1) above, the owner shall be required to replace the trees in accordance with the open space mitigation criteria described in Section 405(C)(1)(c) of this ordinance within a timeframe specified by the Storm Water Administrator with the following exception, the trees shall be replaced at twice the specified density. In addition, the owner may be subject to fines as described in Section 6, Violations and Enforcement.

(DC) Annual Maintenance Inspection and Report. The person responsible for maintenance of any BMP installed pursuant to this ordinance and not covered under Section 501(A) above shall submit to the Storm Water Administrator an inspection report from a qualified registered North Carolina professional engineer or landscape architect performing services only in their area of competence. All inspection reports shall be on forms supplied by the Storm Water Administrator that are contained in the Administrative Manual. An original inspection report shall be provided to the Storm Water Administrator beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

(502) Operation and Maintenance Agreement.

(A) General. At the time that as-built plans are provided to the Storm Water Administrator as described in Section 203(C) and prior to final approval of a project for compliance with this ordinance, but in all cases prior to placing the BMPs in service, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Failure to execute an operation and maintenance agreement within the time frame specified by the Storm Water Administrator may result in assessment of penalties as specified in Section 6, Violations and Enforcement. 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. At the discretion of the Storm Water Administrator, certificates of occupancy may be withheld pending receipt of an operation and maintenance agreement. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the Town of Mint Hill 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 Town of Mint Hill to assume responsibility for the structural BMP.

Standard operation and maintenance agreements for BMPs shall be developed by the Storm Water Administrator and made available in the Administrative Manual. 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 as described in Section 311.

(B) Special Requirement for Homeowners' and Other Associations. For all structural BMPs required pursuant to this ordinance not covered under Section 501(A) above, and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include the provisions described in the Administrative Manual.

(503) Inspection Program. Inspections and inspection programs by the Town of Mint Hill may be conducted or established on any reasonable basis, including, but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

If the owner or occupant of any property refuses to permit such inspection, the 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.

(504) Performance Security for Installation and Maintenance. The Town of Mint Hill may require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in accordance with the provisions contained in the Administrative Manual.

(505) Records of Installation and Maintenance Activities. The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five (5) years from the date of creation of the record and shall submit the same upon reasonable request to the Storm Water Administrator.

(506) Maintenance Easement. Every structural BMP installed pursuant to this ordinance shall be made accessible for adequate inspection, maintenance, reconstruction and repair by a maintenance easement. The easement shall be recorded as described in Section 311 and its terms shall specify who may make use of the easement and for what purposes.

6.8.6 Violations and Enforcement.

(601) General.

(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 the Town of Mint Hill. Whenever this Section refers to the Storm Water Administrator, it includes his or her designee as well as any authorized agent of the Town of Mint Hill.

(B) Violation Unlawful. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

(C) Each Day a Separate Offense. Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) Responsible Persons/Entities. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this ordinance, as well as any 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

Proposed Changes to Section 8.3 of the Mint Hill Unified Development Ordinance

Traffic Impact Analysis (Mandatory if Thresholds for Traffic are Met for Major Subdivisions, Conditional Zoning Applications and Nonresidential By-Right Developments). All applicants for Major Subdivision, Conditional Zoning applications and Nonresidential By-Right Development approvals shall obtain and submit a Traffic Impact Assessment only when either peak hour trips from the proposed development project are estimated to exceed two hundred (200) one hundred (100) or the total daily trip volume from the proposed development project is estimated to exceed two thousand (2,000) one thousand (1,000). If either of those thresholds is estimated to be met, a Traffic Impact Analysis prepared by a North Carolina licensed engineer shall be required. The Traffic Impact Analysis shall meet the requirements set forth in the Town's traffic report guidance memorandum. Contact the Town Engineer for information.

The traffic impact assessment shall include at a minimum:

- a. Existing traffic conditions within the study area boundary;
- b. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak and average annual daily traffic levels;
- c. The distribution of existing and proposed trips through the street network;
- d. Analyses of the capacities of intersections located within the study area boundary;
- e. Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and
- f. Other information reasonably requested by the Administrator that is reasonably related to the traffic impact of a proposed development.

Note: NCDOT has separate guidelines for when a TIA is required. When NCDOT requires a TIA, a single TIA, meeting both NCDOT's requirements and the requirements of this Ordinance may be prepared and submitted.

If a development does not meet the minimum threshold for a TIA but does generate fifty (50) or more trips during a peak hour, then a Traffic Technical Memorandum will be required. The Traffic Technical Memorandum shall meet the requirements set forth in the Town's traffic report guidance memorandum. Contact the Town Engineer for information.



Town of
MINT HILL
North Carolina

PLANNING BOARD TRANSMITTAL

CASE:	ZC24-4
MEETING DATE:	July 15, 2024
MEMBERS:	TOM GATZ KENNY DRAFFEN SCOTT FANDEL ROGER HENDRIX RHONDA WALKER JENNIFER MANCHESTER (Absent) ERIC TYSON
RECOMMENDATION:	FAVORABLE
MOTION:	Upon a motion made by Mr. Hendrix, seconded by Mr. Fandel, the Board unanimously agreed to send a favorable recommendation for #ZC24-4, Filed by the Town of Mint Hill, to Amend Section 6.8 of The Post Construction Ordinance and Section 8.3 Procedural Requirements.

Scan QR Code with your Smartphone Camera for Meeting Agenda Packets



MEMORANDUM

DATE: July 11, 2024
SUBJECT: **ZC24-4 Text Amendments to Sec. 6.8 of the Post Construction Ordinance and Sec. 8.3 of the Unified Development Ordinance**
FROM: Steve Frey, PE, Town Engineer & Director of Public Works
TO: Mayor and Commissioners

Mr. Mayor and Commissioners,

Staff are proposing two updates to the Town's Post Construction Ordinance (PCO) and the Unified Development Ordinance (UDO). Supporting documents are attached to this memo for each proposed change.

Amendment to Section 6.8 of the PCO

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- (E) *Undisturbed Open Space Designation.* All designated Undisturbed Open Space areas included as part of an approved mitigation must be recorded at the Register of Deeds Office as "Undisturbed Open Space" and any future disturbance of this area is strictly prohibited except for greenway trails with unlimited public access, Charlotte-Mecklenburg Utility lines and channel work/maintenance activities by Charlotte-Mecklenburg Storm Water Services. Other utility work may be allowed in the Undisturbed Open Space area provided it will not result in loss of Undisturbed Open Space as approved by the Town of Mint Hill.

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- ~~(2) Is satisfactorily maintained during the two-year warranty period by the owner or designee,~~
- ~~(3) Meets all the requirements of this ordinance and the Design Manual; and~~
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(C) *Each Day a Separate Offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) *Responsible Persons/Entities.* Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this ordinance, as well as any 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

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