

ARTICLE 9 ENVIRONMENTAL CONTROL REGULATIONS

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9.1. SEDIMENTATION AND EROSION CONTROL.

9.1.1. PURPOSE.

This Section is adopted for the purpose of:

9.1.1.1. Regulating certain Land-Disturbing Activity to control Accelerated Erosion and Sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by Sedimentation; and

9.1.1.2. Establishing procedures through which these purposes can be fulfilled.

9.1.2. JURISDICTION.

9.1.2.1. This Section is hereby adopted by the Town Board to apply to all incorporated areas of the Town of Mount Pleasant and unincorporated areas within the Town’s extraterritorial jurisdiction.

9.1.2.2. Wherever conflicts exist between federal, state or local laws, ordinances, or rules, the more restrictive provision shall apply.

9.1.3. DEFINITIONS.

9.1.3.1. The words and phrases used in this Section shall have the meaning assigned in this Section provided, however, that words and phrases not defined herein shall have the meaning assigned in Appendix A to this Ordinance. These definitions are derived from the North Carolina Sedimentation Control regulations, 15A NCAC § 4A.005 and the "Sedimentation Pollution Control Act of 1973, NCGS § 113A-52.

Accelerated Erosion – means any increase over the rate of natural erosion as a result of Land-Disturbing Activity.

Act – means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it, as amended from time to time.

Adequate Erosion Control Measure, Structure, or Device – means one which controls the soil material within the land area under responsible control of the person conducting the Land-

Disturbing Activity, as such controls are specified in the Ordinance.

Affiliate – a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of another Person.

Being Conducted – means a Land-Disturbing Activity has been initiated and permanent stabilization of the site has not been completed.

Commissioners – means the Cabarrus County Board of Commissioners.

Barrow – means fill material which is required for on-site construction and is obtained from other locations.

Buffer Zone – means the strip of land adjacent to a lake or natural watercourse.

Cabarrus County Erosion Control Specialist – includes the person designated as such by Cabarrus County who is principally responsible for the administration of this § 9.1. This term shall also include any persons, agents or other representatives of the Town of Mount Pleasant or Cabarrus County so authorized to assist in the administration of this § 9.1

Commission – means the Cabarrus County Watershed Improvement Commission.

Completion of Construction or Development – means that no further Land-Disturbing Activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

County – means Cabarrus County

Department – means the North Carolina Department of Environment and Natural Resources.

Development Services Department – means the County Development Services Department or its successor in interest charged with the responsibility for regulation and enforcement of the Ordinance.

Director – means the Director of the Division of Land Resources of the Department of Environment and Natural Resources.

Discharge Point – means that point at which runoff leaves a Tract.

District – means the Cabarrus Soil and Water Conservation District (also referred to as the “SWCD”) created pursuant to Chapter 139 of the North Carolina Statutes.

Energy Dissipater – means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high Velocity flow.

Erosion – means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

Ground Cover – means any natural vegetative growth or other material which renders the soil surface stable against Accelerated Erosion.

High Quality Waters – means those classified as such in 15A NC 2B.0101(e)(5) – General Procedures, which is incorporated herein by reference to include further amendments.

Lake or Natural Watercourse – means any stream, river, brook, swamp, creek, run, branch, and any reservoir, lake or pond, natural or impounded, in which Sediment may be moved or carried in suspension, and which could be damaged by accumulation of Sediment.

Land-Disturbing Activity – means any use of the land by any Person in residential, industrial, educational, institutional, or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to Sedimentation.

Local Government – means any county, village, town, or city, or any combination of counties, villages, towns and cities acting through a joint program with the County pursuant to the provisions of the Act.

NCSCC – means the North Carolina Sedimentation

Control Commission.

Natural Erosion – means the wearing away of the earth’s surface by water, wind or other natural agents under natural environmental conditions undisturbed by man.

Parent – an Affiliate that directly or indirectly, through one or more intermediaries, controls another Person.

Person – means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person Conducting Land-Disturbing Activity – means any Person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

Person Responsible for the Violation – as used in this Ordinance, and G.S. 113A-64 means:

- a. The developer or other Person who has or holds themselves out as having financial or operational control over the Land-Disturbing Activity; and/or
- b. The landowner or Person in possession or control of the land who has directly or indirectly allowed the Land-Disturbing Activity or has benefited from it or has failed to comply with any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

Phase of Grading – means one of two types of grading, rough or fine.

Plan – means a complete Erosion and Sedimentation Control Plan.

Sediment – means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation – means the process by which

Sediment resulting from Accelerated Erosion has been or is being transported off the site of the Land-Disturbing Activity or into a lake or natural watercourse.

Siltation – means Sediment resulting from Accelerated Erosion which is removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a Land-Disturbing Activity; and which has been deposited in or is in suspension in water.

Storm Drainage Facilities – means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

Storm Water Runoff – means the direct runoff of water resulting from precipitation in any form.

Subsidiary – an Affiliate that is directly or indirectly, through one or more intermediaries, controlled by another Person.

SWCD – means the Cabarrus Soil and Water Conservation District.

Ten-Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the Watershed of interest under average antecedent wetness conditions.

Tract – means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the Watershed of interest under average antecedent wetness conditions.

Two-Year Storm – means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 2

years, and of a duration which will produce the maximum peak rate of runoff, from the Watershed of interest under average antecedent wetness conditions.

Uncover(s)(ed)(ing) – means the removal of Ground Cover from, on, or above the soil surface.

Undertaken – means the initiating of an activity, or phase of activity, which results or will result in a change in the Ground Cover or topography of a Tract.

Velocity(ies) – means the average speed of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Waste – means surplus materials resulting from on-site construction and disposed of at locations either on or off site other than the initial source of the materials.

Watershed – means the region drained by or contributing water to a stream, lake or other body of water.

Working Days – means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit Land-Disturbing Activity to be Undertaken.

9.1.4. EXCLUSIONS.

9.1.4.1. This Section shall not apply to the following Land-Disturbing Activities:

9.1.4.1.1. Activities, including the breeding and grazing of livestock, Undertaken on agricultural land for the production of plants and animals useful to Persons, including, but not limited to:

9.1.4.1.1.1. Forages and sod crops, grains and feed coops, tobacco, cotton and peanuts.

9.1.4.1.1.2. Dairy animals and dairy products.

9.1.4.1.1.3. Poultry and poultry products.

9.1.4.1.1.4. Livestock, including beef cattle, sheep, swine, horses, ponies, mules, and goats.

9.1.4.1.1.5. Bees and apiary products.

9.1.4.1.1.6. Fur producing animals.

9.1.4.1.2. Activities 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. 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.

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

9.1.4.1.4. Land-Disturbing Activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).

9.1.4.1.5. For the duration of an emergency, activities essential to protect human life.

9.1.5. GENERAL REQUIREMENTS AND OBJECTIVES.

9.1.5.1. Plan Required.

No Person shall initiate any Land-Disturbing Activity which meets at least one of the following criteria without having a Plan approved by the Cabarrus County Erosion Control Specialist:

9.1.5.1.1. Uncovers more than one (1) acre of land in areas not classified by the State of North Carolina as a water supply watershed.

9.1.5.1.2. Uncovers more than 10,000 square feet in a Class II Water Supply Watershed area as classified by the State of North Carolina, or

9.1.5.1.3. Uncovers more than 20,000 square feet in a Class IV Water Supply Watershed as

classified by the State of North Carolina.

9.1.5.2. Other Ordinances.

Any Land-Disturbing Activity which Uncovers less than one (1) acre in an area in locations outside of a water supply Watershed, or less than ten thousand (10,000) square feet or twenty thousand (20,000) square feet in a Class II or Class IV water supply Watershed, must be in compliance with all other applicable land-disturbing requirements contained in other ordinances or building development standards adopted by the Town or other applicable local, State and Federal agencies.

9.1.5.3. 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.

9.1.5.4. Basic Control Objectives.

A Plan may be disapproved pursuant to Section 9.1.16 of this Ordinance if the Plan fails to address the following control objectives:

9.1.5.4.1. Identify Critical Areas – On-site areas which are subject to severe Erosion, and off-site areas which are especially vulnerable to damage from Erosion and/or Sedimentation, are to be identified and receive special attention.

9.1.5.4.2. Limit Time of Exposure – All Land-Disturbing Activity is to be planned and conducted to limit exposure to the shortest feasible time.

9.1.5.4.3. Limit Exposed Areas – All Land-Disturbing Activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

9.1.5.4.4. Control Surface Water – Surface water runoff originating upgrate of exposed areas should be controlled to reduce Erosion and Sediment loss during the period of exposure.

9.1.5.4.5. Control Sedimentation – All Land-Disturbing Activity is to be planned and conducted so as to prevent off-site Sedimentation damage.

9.1.5.4.6. 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, Plans are 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.

9.1.6. MANDATORY STANDARDS FOR LAND DISTURBING ACTIVITIES.

No Land-Disturbing Activity subject to the control of this Ordinance shall be Undertaken except in accordance with the following mandatory standard:

9.1.6.1. Buffer Zone.

9.1.6.1.1. No Land-Disturbing Activity during periods of construction or improvement to land shall be permitted within the Buffer Zone, as defined below. Visible Siltation must not discharge into the Buffer Zone. This section shall not apply to a Land-Disturbing Activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

9.1.6.1.2. Unless otherwise provided, the width of a Buffer Zone begins and is measured five feet from the edge of the top of the bank of the watercourse to the nearest edge of the disturbed area. Natural or artificial means of confining visible Siltation must be placed, constructed or installed outside the undisturbed Buffer Zone.

9.1.6.2. Graded Slopes and Fills.

9.1.6.2.1. The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate Erosion control devices or structures. In any event, slopes left exposed will, within 15 Working Days of completion of any Phase of Grading, be planted or otherwise be provided with Ground Cover, devices, or structures sufficient to restrain Erosion.

9.1.6.3. Ground Cover.

9.1.6.3.1. Whenever more than one (1) acre (except as provided in Section 9.1.5.1.2 and 9.1.5.1.3) is Uncovered, the Person conducting the Land-Disturbing Activity shall install such Sedimentation and Erosion control devices and practices as are sufficient to retain the Sediment

generated by the Land-Disturbing Activity within the boundaries of the Tract during construction upon and Development of said Tract, and shall plant or otherwise provide a permanent Ground Cover sufficient to restrain Erosion after Completion of Construction or development. Except as provided in Section 9.1.7.2.5, provisions for a Ground Cover sufficient to restrain Erosion must be accomplished within 15 Working Days or 90 calendar Days, which is shorter following Completion of Construction or Development.

9.1.6.4. Prior Plan Approval .

9.1.6.4.1. No Person shall initiate any Land-Disturbing Activity on a Tract if more than one (1) acre (except as provided in Section 9.1.5.1.2 and 9.1.5.1.3) is to be Uncovered unless, thirty or more days prior to initiating the activity, a Plan is filed with and approved by the Cabarrus County Erosion Control Specialist. The Officer shall forward to the North Carolina 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 de-watering or lowering the water table of the Tract.

9.1.6.5. Pre-Submittal Conference.

9.1.6.5.1. At least ten (10) working days prior to Plan submittal for Land-Disturbing Activities involving five (5) acres or more, the Person initiating the Land-Disturbing Activity shall have a pre-submittal conference with the Cabarrus County Erosion Control Specialist to familiarize them with the proposed Land-Disturbing Activities and proposed mitigation efforts.

9.1.6.6. Zoning Permits.

9.1.6.6.1. Any Person requesting a zoning clearance permit in association with a Land-Disturbing Activity on a Tract which involves the Uncovering of more than one (1) acre of land (except as provided in Section 9.1.5.1), shall be required to have an approved Plan in accordance with this Ordinance.

9.1.6.7. Subdivision Plats.

9.1.6.7.1. Any approved preliminary subdivision plan which involves the Uncovering of

more than one (1) acre of land (except as provided in Section 9.1.5.1) shall become null and void unless a Plan is submitted and finally approved by the Cabarrus County Erosion Control Specialist in accordance with this Ordinance within sixty (60) days following preliminary subdivision plat approval. If such Plan is not approved, preliminary plat approval for said plat shall automatically become null and void.

9.1.7. DESIGN AND PERFORMANCE STANDARDS.

9.1.7.1. Except as provided in Section 9.1.7.2.2., Erosion and Sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of Storm Water Runoff from the Ten Year Storm. Storm Water Runoff rates shall be calculated using the procedures in the USDA, Natural Resources Conservation Service’s “National Engineering Field Manual for Conservation Practices,” or other acceptable calculation procedures.

9.1.7.2. In High Quality Water (HQW) zones, the following design standards shall apply:

9.1.7.2.1. Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the Tract to twenty (20) acres. 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 Director.

9.1.7.2.2. Erosion and Sedimentation control measures, structures, and devices within HQW zones shall be so planned, designed and constructed to provide protection from the Storm Water Runoff of the Twenty-five Year Storm which produces the maximum peak rate of Storm Water Runoff as calculated according to the procedures in the United States Department of Agriculture Soil Conservation Service’s National Engineering Field Manual for Conservation Practices or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

9.1.7.2.3. Sediment basins within HQW

zones shall be designed and constructed such that the basin will have settling efficiency of at least 70 percent for the 40 micron (0.04mm) size soil particle transported into the basin by the Storm Water Runoff of that Two-Year Storm which produces the maximum peak rate of Storm Water Runoff as calculated according to procedures in the United States Department of Agriculture and Natural Resources Soil Conservation Service’s National Engineering Field Manual for Conservation Practices or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

9.1.7.2.4. Newly constructed open channels in HQW shall be designed and constructed with side slopes no steeper than 2 horizontal to 1 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.

9.1.7.2.5. Ground Cover sufficient to restrain Erosion must be provided for any portion of Land-Disturbing Activity in a HQW zone within 15 Working Days or 60 calendar days following Completion of Construction or Development, whichever period is shorter.

9.1.8. STORMWATER OUTLET PROTECTION.

9.1.8.1. Persons shall conduct Land-Disturbing Activity so that the post-construction Velocity of the Ten Year Storm runoff in the receiving watercourse to the Discharge Point does not exceed the greater of:

9.1.8.1.1. The Velocity established in Table 9.1-1 of this Section; or

9.1.8.1.2. The Velocity of the Ten Year Storm runoff in the receiving watercourse prior to the Land-Disturbing Activity.

9.1.8.2. If the conditions of Subsection 9.1.8.1.1 or 9.1.8.1.2 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 Land-Disturbing Activity” Velocity by ten

percent (10%).

9.1.8.3. 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 NCSCC 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 are to:

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

9.1.8.3.2. Avoid increases in Storm Water Runoff discharge Velocities by using vegetated or roughened swells and waterways in lieu of closed drains and high velocity paved sections.

9.1.8.3.3. Provide Energy Dissipaters at outlets of Storm Drainage Facilities to reduce flow Velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures.

9.1.8.3.4. Protect watercourses subject to Accelerated Erosion by improving cross sections and/or providing Erosion-resistant lining.

9.1.8.4. Exceptions.

This rule shall not apply where it can be demonstrated that storm water discharge Velocities will not create an Erosion problem in the receiving watercourse.

9.1.8.4.1. Maximum permissible Velocity for Storm Water discharges shall be regulated in accordance with Table 9.1-1.

9.1.9. BARROW AND WASTE AREAS.

9.1.9.1. When the Person conducting the Land-Disturbing Activity is also the Person conducting the Barrow or Waste disposal activity, areas from which

9.1.9.2.

Barrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and Waste areas for surplus materials other than landfills regulated by the Department's Division of Solid Waste Management, shall be considered as part of the Land-Disturbing Activity where the Borrow material is being used or from which the Waste material originated. When the Person conducting the Land-Disturbing Activity is not the Person obtaining the Borrow and/or disposing of the Waste, these areas shall be considered a separate Land-Disturbing Activity.

9.1.10. ACCESS AND HAUL ROADS.

9.1.10.1. Temporary access and haul roads, other than public roads, constructed or used in connection with any Land-Disturbing Activity shall be considered a part of such activity.

Table 9.1-1 - Maximum Permissible Velocities

Material	Feet/ Second	Meters/ Second
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

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.

9.1.11. OPERATIONS IN LAKES OR NATURAL WATERCOURSES.

9.1.11.1. Land-Disturbing Activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a lake, stream or other watercourse where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the lake, stream or other watercourse flow characteristics, except when justification acceptable to the County for significant alteration to flow characteristic is provided.

9.1.12. RESPONSIBILITY FOR MAINTENANCE.

9.1.12.1. During the development of a site, the Person conducting the Land-Disturbing Activity shall install and maintain all temporary and permanent Erosion and Sedimentation control measures as required by the approved Plan or any provision of this Ordinance or the Act, or any order adopted pursuant to this Ordinance or the Act. After site development, the landowner or Person in possession of the land shall install and/or maintain all necessary permanent Erosion and Sediment control measures,

except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

9.1.13. ADDITIONAL MEASURES.

9.1.13.1. Whenever the Cabarrus County Erosion Control Specialist determines that significant Sedimentation is occurring as a result of Land-Disturbing Activity, despite application and maintenance of protective practices, the Person conducting the Land-Disturbing Activity will be required to and shall take additional protective action.

9.1.14. EXISTING UNCOVERED AREAS.

9.1.14.1. All Uncovered areas existing on the effective date of this Ordinance which resulted from Land-Disturbing Activity which exceed one (1) acre (except as provided in Section 9.1.5.1.2 and 9.1.5.1.3), are subject to continued Accelerated Erosion and are causing off-site damage from Sedimentation, shall be provided with a Ground Cover or other protective measures, structures, or devices sufficient to restrain Accelerated Erosion and control off-site Sedimentation.

9.1.14.2. The Cabarrus County Erosion Control Specialist will serve upon the landowner or other

Person in possession or control of that land a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed which such measures must be completed. In determining the measures required and the time allowed for compliance, the County staff shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.

9.1.14.3. The Cabarrus County Erosion Control Specialist reserves the right to require preparation and approval of a Plan in any instance where extensive control measures are required.

9.1.15. PERMITS.

9.1.15.1. No Person shall undertake any Land-Disturbing Activity subject to this Ordinance without having first obtained a Plan Certificate and Letter of Approval therefore from the Cabarrus County Erosion Control Specialist except that no Plan Certificate and Letter of Approval shall be required for any Land-Disturbing Activity:

9.1.15.1.1. For the purpose of fighting fires; or

9.1.15.1.2. For the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that Sediment control measures have been utilized to protect against off-site damage; or

9.1.15.1.3. That does not exceed one (1) acre (except as provided in Section 9.1.5.1.2 and 9.1.5.1.3) in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

9.1.15.1.4. Although a Plan Certificate and Letter of Approval is not required for activity comprising less than one (1) acre (except as provided in Section 9.1.5.1.2 and 9.1.5.1.3) such activity shall be subject to all other requirements of this Ordinance and any other applicable standards or ordinances adopted by Cabarrus County.

9.1.15.2. The Cabarrus County Commission may establish a review fee if considered necessary.

If the Person Responsible for the Violation begins a Land Disturbing Activity and is found to be in violation for starting such activity prior to obtaining a Plan Certificate and Letter of Approval, and such party has a prior violation for the same offense, the review fee shall be doubled. If, at any time, the Person Responsible for the Violation disturbs land outside of the approved plan denuded limits and/or limits of construction, the review fee shall be doubled.

9.1.16. EROSION AND SEDIMENTATION CONTROL PLANS.

9.1.16.1. Persons Conducting Land-Disturbing Activity shall be responsible for preparing a Plan for all Land-Disturbing Activities subject to this Ordinance whenever the proposed activity is to be Undertaken on a Tract disturbing more than one (1) acre (except as provided in Section 9.1.5.1.2 and 9.1.5.1.3).

9.1.16.2. A pre-submittal conference with the Cabarrus County Erosion Control Specialist shall take place at least ten (10) days prior to submittal of the Plan for Land-Disturbing Activities involving five (5) acres or more.

9.1.16.3. At the pre-submittal conference, the Cabarrus County Erosion Control Specialist shall inform the applicant of the processes involved with Plan review and approval, issuance of a Plan Certificate and Letter of Approval, and the relationship of said Plan Certificate and Letter of Approval with zoning, building code, and other land-use regulations in effect in the Town of Mount Pleasant. At the time of application submission, the Cabarrus County Erosion Control Specialist shall also notify the applicant of the appeal process as provided in this Ordinance. When deemed necessary by the approving authority a Preconstruction conference may be required.

9.1.16.4. Three complete copies of the Plan shall be filed with the Cabarrus County Erosion Control Specialist in the office of the Cabarrus County Development Services Department (or as otherwise designated by Cabarrus County) at least thirty (30) days prior to the COMMENCEMENT of the proposed activity. A fee, made payable to Cabarrus County, shall be charged for each Plan review. Such fee shall be in accordance with a fee schedule

adopted by the Cabarrus County Commissioners. No Plan shall be considered complete unless accompanied by such fee. With regard to Land-Disturbing Activities involving five (5) acres or more, no Plan shall be accepted unless the Cabarrus County Erosion Control Specialist has first held a pre-submittal conference with the Person seeing to undertake the Land-Disturbing Activity. The Cabarrus County Erosion Control Specialist shall stamp the date of submittal on any complete Plan submitted for review after the pre-submittal conference is held.

9.1.16.5. The Cabarrus County Erosion Control Specialist shall transmit a copy of the complete Plan to the Cabarrus Soil and Water Conservation District (SWCD) for their review. The SWCD shall be given up to twenty (20) days to make comment on the Plan. Failure of the SWCD to submit its comments to the Cabarrus County Erosion Control Specialist within such time period shall not delay final action on the proposed Plan by the Cabarrus County Erosion Control Specialist.

9.1.16.6. The Cabarrus County Erosion Control Specialist shall make every effort to make a decision on each complete Plan submitted within twenty-one (21) days of receipt thereof. The Cabarrus County Erosion Control Specialist, however, shall at all times render a decision on a Plan within thirty (30) days of submittal. The Cabarrus County Erosion Control Specialist shall condition approval of a draft Plan upon the applicants' compliance with local, state and federal water quality laws, regulations, ordinances and rules. Such decision shall be approval, approval with modifications, approval with performance reservations, or disapproval. Failure to approve, approve with modifications or performance reservations, or disapprove a complete Plan within thirty (30) days of receipt shall be deemed approval.

9.1.16.7. Any final decision made pertaining to the proposed Plan shall be filed in the Cabarrus County Development Services Department (or as otherwise designated by Cabarrus County) and sent to the applicant by first class mail.

9.1.16.8. Denial of a Plan or a revised Plan must specifically state in writing the reasons for disapproval. The Cabarrus County Erosion Control Specialist must approve, approve with modifications, or disapprove a revised Plan within fifteen (15) days

of receipt, or it is deemed to be approved. If, following commencement of a Land-Disturbing Activity pursuant to an approved Plan, the Cabarrus County Erosion Control Specialist determines that the Plan is inadequate to meet the requirements of this Ordinance, the Cabarrus County Erosion Control Specialist may require any revision of the Plan that is necessary to comply with this Ordinance. Failure to approve, approve with modifications, or disapprove a revised Plan within fifteen (15) days of receipt shall be deemed approval of the Plan.

9.1.16.9. Activities indicated on approved Plans not completed within eighteen (18) months of the date of the Cabarrus County Erosion Control Specialist's approval shall also be deemed null and void. If, following commencement of a Land-Disturbing Activity pursuant to an approved Plan, the Cabarrus County Erosion Control Specialist determines that the Plan is inadequate to meet the requirements of this Ordinance, the Specialist may require any revision of the Plan that is necessary to comply with this Ordinance.

9.1.16.10. Persons conducting Land-Disturbing Activities which are addressed by this Ordinance shall have secured a Plan Certificate and Letter of Approval (in accordance with procedures described herein) before any Land-Disturbing Activities commence. A copy of the approved Plan shall be maintained at the job site by the Persons Conducting the Land-Disturbing Activity. After approving the Plan, if the Cabarrus County Erosion Control Specialist, either upon review of such Plan or on inspection of the job site, determines that a significant risk of Accelerated Erosion or off-site Sedimentation exists, the Specialist may require that a revised Plan be submitted. Pending the preparation and approval of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate Cabarrus County authority.

9.1.16.11. A Plan may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the Person financially responsible for the Land-Disturbing Activity or their attorney-in-fact. The statement shall include the mailing and street addresses of the principal place of business of the Person financially responsible and of the owner of the land or their 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.

9.1.16.12. The Person submitting a Plan to the Cabarrus County Erosion Control Specialist is, prior to submission of the Plan, solely and exclusively responsible for determining whether the proposed Land-Disturbing Activities require any form of state or federal environmental certification or documentation. Any Plan submitted for a Land-Disturbing Activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for County review. The Cabarrus County Erosion Control Specialist, upon discovery that an environmental certification or documentation is required but was not obtained, shall promptly notify the Person submitting the Plan that the thirty (30) day time limit for review of the Plan pursuant to Section 9.1.16.1 of this Ordinance shall not begin until a complete environmental document or certificate is available for review by the Cabarrus County Erosion Control Specialist. However, no term or condition in the Ordinance shall be interpreted to place the burden for determining the necessity for an environmental certificate or documentation upon the Cabarrus County Erosion Control Specialist, and the Person submitting the Plan, as well as any other Persons specified by law, rule or regulation, shall remain solely and exclusively responsible for such determination.

9.1.16.13. The Plan required by this section shall contain architectural and 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. Any Sediment and Erosion control measures and/or devices must be drawn to scale and contour when deemed applicable by the Cabarrus County Erosion Control Specialist. In addition, the Plan must specify the use of steel or metal posts with regard to installation of any silt fencing and that such posts will not be spaced more than eight (8) linear feet apart. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for

Plan preparation shall be available from the Cabarrus County Erosion Control Specialist on request. The Officer shall automatically disapprove a Plan if it is determined that implementation of the Plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.

9.1.16.14. A Plan may be disapproved upon a finding that an applicant, or a Parent, Subsidiary, or other Affiliate of the applicant:

9.1.16.14.1. 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 NCSCC or the County pursuant to the Act and has not complied with the notice within the time specified in the notice.

9.1.16.14.2. 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.

9.1.16.14.3. Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or

9.1.16.14.4. Has failed to substantially comply with applicable local, State or Federal laws, regulations, rules or ordinances. For purposes of this Section 9.1.16.14, an applicant's record may be considered for only the two (2) years prior to the application date.

9.1.16.14.5. Is in violation of Federal, State or local laws, rules, regulations or ordinances pertaining to a different phase(s) of the same Tract and/or development.

9.1.16.15. Applications for amendment of a Plan in written and/or graphic form may be made at any time under the same format as the original application. Until such time as said amendment is approved by the Cabarrus County Erosion Control Specialist, Land-Disturbing Activity shall not proceed except in accordance with the Plan as originally approved.

9.1.16.16. Any Person engaged in Land-Disturbing Activity who fails to file a Plan in

accordance with this Ordinance, or who conducts a Land-Disturbing Activity except in accordance with provisions of an approved Plan shall be deemed in violation of this Ordinance.

9.1.16.17. No person may initiate a land-disturbing activity before notifying the Agency that issued the Plan Approval of the date that the land-disturbing activity will begin.

9.1.17. APPEALS.

9.1.17.1. The appeal of an approval with modifications, disapproval of a Plan, issuance of a Notice of Violation, assessment of civil penalty, or other order made by the Cabarrus County Erosion Control Specialist with regard to this Ordinance shall be governed by the following provisions:

9.1.17.1.1. The order of approval, disapproval, or modification of any proposed Plan made by the Cabarrus County Erosion Control Specialist shall entitle the Person challenging such decision to a public hearing before the Commission if such Person submits written demand for a hearing and completes the necessary forms and pays the required appeals fee within fifteen (15) days following the date the decision was filed in the Cabarrus County Development Services office or mailed to the applicant, whichever date is later. Such written request and completed forms shall be filed in the Cabarrus County Development Services office. Forms shall be available at the Development Services office, or as directed by the Cabarrus County Erosion Control Specialist. A fee for such public hearing shall be in accordance with a fee schedule adopted by the Board of Commissioners. No request shall be considered complete unless accompanied by such fee.

9.1.17.1.2. Notice of the Commission’s public hearing shall be sent by first class mail to the applicant at least ten (10) days prior to the public hearing and to any Person who has submitted written request to receive such notice at least ten (10) days prior to the date of the public hearing. The hearing shall be held no later than thirty (30) days after the date of receipt of said written request.

9.1.17.1.3. A hearing shall be conducted by the Commission. A concurring vote per the Commission’s officially adopted by-laws will be

necessary to reverse any order, requirement, decision, or determination of any official charged with the enforcement of this Ordinance, or to decide in favor of an appellant any matter upon which is required to pass or to grant variance from the provisions of this Ordinance. The County shall keep minutes of the Commission’s proceedings, showing the votes of each member upon each question and the attendance of each member at such hearings. The final disposition of the County shall be based on findings of fact. (NOTE: THE COMMISSION WILL NEED FINDINGS OF FACT IN ORDER TO TAKE ACTION.)

9.1.17.1.4. A party dissatisfied with the decision of the Commission following the public hearing shall have fifteen (15) days from the date of said decision to appeal such decision to the NCSCC pursuant to Title 15, Chapter 4B, Section .0018(b) of the North Carolina Administrative Code and as provided by NC GS 133A-61(c).

9.1.17.2. In the event that a Plan is disapproved pursuant to Section 9.1.16.14 of this Ordinance, the Cabarrus County Erosion Control Specialist shall notify the Director of the Division of Land Resources of such disapproval, along with the reasons therefore, within five (5) days after the date of the decision. The Cabarrus County Erosion Control Specialist shall advise the Administrator in writing as to the specific reasons that the Plan was disapproved. The applicant may appeal the Cabarrus County Erosion Control Specialist’s disapproval of the Plan pursuant to Section 9.1.16.14 of this Ordinance directly to the Commission.

9.1.18. INSPECTIONS AND INVESTIGATIONS.

9.1.18.1. The Cabarrus County Erosion Control Specialist will periodically inspect Land-Disturbing Activities to ensure compliance with the Act, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, and to determine whether the measures required in the Plan are effective in controlling Erosion and Sediment resulting from Land-Disturbing Activity. Notice of the right to inspect shall be included in the certificate of approval of each Plan.

9.1.18.2. No Person shall willfully resist, delay, or obstruct the Cabarrus County Erosion Control

Specialist, while that Person is inspecting or attempting to inspect a Land-Disturbing Activity under this section.

9.1.18.3. If it is determined that a Person engaged in the Land-Disturbing Activity has failed to comply with the Act, this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, or has failed to comply with an approved Plan, a notice of violation shall be served upon that Person. The notice shall be served by registered or certified mail or by any means authorized under GS 1A-1, Rule 4. The notice of violation shall specify a date by which the Person must comply with this Ordinance, and inform the Person of the actions that need to be taken to comply with this Ordinance. The notice shall set forth the measures necessary to achieve compliance with the Plan, specify a reasonable time period within which such measures shall be completed, and warn that failure to correct the violation within the time period stated is subject to a civil penalty and other enforcement actions. However, no time period for compliance need be given for failure to submit a Plan for approval, for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties, or for the penalty that may be assessed pursuant to this Ordinance for the day the violation is assessed by the Cabarrus County Erosion Control Specialist. Any Person who fails to comply within the time specified in the Notice is subject to additional civil and criminal penalties for a continuing violation as provided in this Ordinance.

9.1.18.4. The Cabarrus County Erosion Control Specialist shall have the power to conduct such investigation as it may reasonably deem necessary to carry out duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any Land-Disturbing Activity. No Person shall refuse entry or access to the Cabarrus County Erosion Control Specialist who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any Person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties as provided in this Ordinance.

9.1.18.5. The Cabarrus County Erosion Control Specialist shall also have the power to require written

statements, or the filing of reports under oath, with respect to pertinent questions relating to Land-Disturbing Activity.

9.1.18.6. On any Tract on which five (5) or more acres are disturbed, the Person conducting Land-Disturbing Activity will be responsible for self inspection of Erosion and Sedimentation control facilities at least once every seven (7) days or within 24 hours of a storm event of greater than 0.5 inches of rain per 24-hour period.

9.1.18.7. With regard to development of any Tract which is subject to this Ordinance, the Town of Mount Pleasant shall not issue a Certificate of Occupancy when any of the following conditions exist:

9.1.18.7.1. The Tract (or any other parcel of the Tract developed by the same Person) is deemed to be in violation of this Ordinance; or,

9.1.18.7.2. If there remains due and is payable to the Cabarrus County Erosion Control Specialist any civil penalties which have been levied against the Person(s) conducting the Land-Disturbing Activity for violation(s) of this Ordinance with regard to the development of the Tract.

9.1.18.7.3. If the requirements of the Plan have not been completed and the building or structure for which a Certificate of Occupancy is requested is the only building under construction on the Tract; or,

9.1.18.7.4. If there are multiple buildings on the parcel, the requirements of the Plan have not been completed and the building or structure for which a Certificate of Occupancy is requested is the last building then under construction; or,

9.1.18.7.5. If on a Tract which includes multiple parcels, the requirements of the Plan have not been completed with respect to any parcel of the Tract, including without limitation, the parcel for which the Certificate of Occupancy is requested. Provided, if the Certificate of Occupancy is denied for the parcel for which it is requested *solely and exclusively* due to the failure of another parcel of the same Tract to qualify for a Certificate of Occupancy, the applicant must be the same person or entity for both parcels.

9.1.18.8. Notwithstanding the herein-referenced provisions, the County (or such other Local Government) may issue a temporary Certificate of Occupancy where Subsections 9.1.18.7.3, 9.1.18.7.4, 9.1.18.7.5 apply and where the Person conducting the Land-Disturbing Activity is making substantial progress towards completing the requirements of the Plan.

9.1.19. PENALTIES.

9.1.19.1. Civil Penalties

9.1.19.1.1. Any Person who violates any of the provisions of the applicable State, Federal or local laws, rules, regulations or ordinances, including this Ordinance, or rules or orders adopted or issued pursuant to applicable State, Federal or local laws, rules, regulations or ordinances, including 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. A Person may be immediately assessed a maximum civil penalty of up to \$5,000 on the date any violation is first assessed by the Cabarrus County Erosion Control Specialist. An additional maximum civil penalty of up to \$5,000 per day may be assessed by the Cabarrus County Erosion Control Specialist from the day following the date of initial assessment of a violation, if the cure period provided in the Notice of Violation is not met. If a civil penalty is not assessed immediately on the date of assessment of a violation, the Cabarrus County Erosion Control Specialist is not precluded from later assessing a penalty for that date in addition to other penalties (if any). Penalties are due and payable immediately upon assessment unless a cure period has been provided, in which case the penalties attributed to any uncured actions (or failures to act) covered by the cure period are due and payable immediately following failure to cure and lapse of the cure period. Penalties continue to accrue until the applicable violations are corrected.

9.1.19.1.2. The Cabarrus County Erosion Control Specialist shall determine the amount of the civil penalty and shall notify the Person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct

the violator to either pay the assessment or contest the assessment as provided in this Ordinance. If a violator does not pay a civil penalty assessed by the Cabarrus County Erosion Control Specialist within 30 days after it is due, the Specialist may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due immediately when the violator is served with a notice of assessment. An assessment that is contested by the recipient continues to accrue pending review and is due in full in such amount as determined by the review panel, the day following the administrative or judicial review. Any assessment not paid when due shall continue to accrue as assessed by the Cabarrus County Erosion Control Specialist, until paid in full or until such time as an administrative or judicial review panel determines the penalty (or a portion thereof) is not owed.

9.1.19.1.3. The maximum civil penalty for a violation is Five Thousand Dollars (\$5,000.00) per day. The notice of violation shall describe the violation with reasonable particularity, specify a permitted cure period within which the violation is to be corrected, and warn that failure to correct the violation within the prescribed cure period may result in the assessment of a civil penalty(ies) (or assessment of additional civil penalties, as the case may be) and other available enforcement action(s). Permitted cure periods for violations begin the day following the initial date such violation is first assessed. If, after the cure period has expired, the violator has not completed the prescribed corrective action, a civil penalty(ies) may be retroactively assessed on a daily basis, from and including the date the violation was assessed. Each day of continuing violation shall constitute a separate violation.

9.1.19.1.4. No cure period for compliance need be given for any violation (including without limitation, a failure to submit a Plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties) prior to assessment of an initial civil penalty for the day the violation is detected, up to the maximum amount permitted per day.

9.1.19.1.5. In determining the amount of the penalty, items which may be considered are the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by non-compliance, whether the violation was committed willfully and the prior record of the violator in complying with or failing to comply with this Ordinance.

9.1.19.1.6. Civil penalties collected by a local government under this subsection shall be credited to the general fund of the local government as non-tax revenue.

9.1.19.2. Criminal Penalties

9.1.19.2.1. Any Person who knowingly or willfully violates any provision of this Ordinance, or rule, regulation 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 \$5,000.00.

9.1.20. INJUNCTIVE RELIEF.

9.1.20.1. Whenever the Cabarrus County Erosion Control Specialist has reasonable cause to believe that any Person is violating or threatening to violate this Ordinance or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Cabarrus County.

9.1.20.2. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order of judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

9.1.21. STOP-WORK ORDERS.

9.1.21.1. The Cabarrus County Erosion Control Specialist may issue a stop-work order if it finds that a Land-Disturbing Activity is being conducted in violation of this Article or of any rule adopted or order issued pursuant to this Article, that the violation is knowing and willful, and that either:

9.1.21.1.1. Off-site Sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that such degradation is imminent.

9.1.21.1.2. Off-site Sedimentation has caused severe damage to adjacent land or that such damage is imminent.

9.1.21.1.3. The Land-Disturbing Activity is being conducted without an approved plan.

9.1.21.2. The stop-work order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made by the Cabarrus County Erosion Control Specialist pursuant to subsection 9.1.21.1 of this section, and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials which does not contribute to the violation may continue while the stop-work order is in effect. A copy of this section shall be attached to the order.

9.1.21.3. The stop-work order shall be served by the sheriff of the county in which the Land-Disturbing Activity is being conducted or by some other person duly authorized by law to serve process as provided by G.S. 1A-1, Rule 4, and shall be served on the Person at the site of the Land-Disturbing Activity who is in operational control of the Land-Disturbing Activity. The sheriff or other person duly authorized by law to serve process shall post a copy of the stop-work order in a conspicuous place at the site of the Land-Disturbing Activity. The Cabarrus County Erosion Control Specialist shall also deliver a copy of the stop-work order to any person that the Specialist has reason to believe may be responsible for the violation.

9.1.21.4. The directives of a stop-work order become effective upon service of the order. Thereafter, any Person notified of the stop-work order who violates any of the directives set out in the

order may be assessed a civil penalty as provided in G.S. 113A-64(a). A stop-work order issued pursuant to this section may be issued for a period not to exceed three days.

9.1.21.5. The Cabarrus County Erosion Control Specialist shall designate an employee of the County to monitor compliance with the stop-work order. The name of the employee so designated shall be included in the stop-work order. The employee so designated, or the County, shall rescind the stop-work order if all the violations for which the stop-work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The Cabarrus County Erosion Control Specialist shall rescind a stop-work order that is issued in error.

9.1.21.6. The issuance of a stop-work order shall be a final agency decision subject to judicial review in the same manner as an order in a contested case pursuant to Article 4 of Chapter 150B of the General Statutes. The petition for judicial review shall be filed in the Superior Court of the county in which the Land-Disturbing Activity is being conducted.

9.1.21.7. As used in this section, days are computed as provided in G.S. 1A-1, Rule 6.

9.1.21.8. The Cabarrus County Erosion Control Specialist shall file a cause of action to abate the violations which resulted in the issuance of a stop-work order within two business days of the service of the stop-work order. The cause of action shall include a motion for an ex parte temporary restraining order to abate the violation and to effect necessary remedial measures. The resident superior court judge, or any judge assigned to hear the motion for the temporary restraining order, shall hear and determine the motion within two business days of the filing of the complaint. The Clerk of Superior Court may accept complaints filed pursuant to this section without the payment of filing fees. Filing fees shall be paid to the Clerk of Superior Court within 30 days of filing of the Complaint.

9.1.22. RESTORATION OF AREAS AFFECTED BY FAILURE TO COMPLY.

9.1.22.1. The Cabarrus County Erosion Control Specialist may require a Person who engaged in a Land-Disturbing Activity and failed to retain

Sediment generated by the activity as required by Section 8(b)1. to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by Sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Ordinance.

9.1.23. SEVERIBILITY.

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

9.2. STORMWATER RUNOFF.

9.2.1. CAPACITY OF STORMWATER MANAGEMENT FACILITIES.

9.2.1.1. All proposed site plans, except single-family and two-family dwellings (on individual lots), that will exceed 20,000 square feet of impervious coverage shall be required to construct a complete drainage system sufficient to mitigate the impacts of the design rainfall event identified in the official manual adopted in subsection (2), below. Residential subdivisions, single-family dwellings on individual sites, and/or duplexes on individual sites are exempted from the on-site detention requirements of this Section. Post development runoff shall not exceed pre-development runoff unless a maximum discharge rate has been adopted for the applicable drainage basin and the discharge does not exceed that rate. If a maximum discharge rate has not been adopted for the applicable drainage basin, post development discharge may not exceed pre-development discharge. Stormwater volumes resulting from the proposed development shall be detained within the development and released at a rate no greater than existed prior to the development. Detention facilities shall be designed to maintain the predeveloped runoff rate from the 2-year and 10-year design storm events. Emergency spillway facilities shall be designed to accommodate the 50 year frequency storms. Storm sewers shall be designed for a 10 year frequency storm.

9.2.1.1.1. The Town Board hereby finds that hydrologic conditions in Cabarrus County and Mecklenburg County are similar and that it is in the public interest to maintain a uniform regional procedure for computing the stormwater impacts of new development. Accordingly, the design of stormwater management facilities shall be computed in accordance with *Charlotte Mecklenburg Storm Water Design Manual* (July 8, 1993)(hereinafter “Stormwater Manual”) as set forth in Appendix C of this Ordinance. A copy of the Stormwater Manual is available at the Office of the Director of Environmental Services and may be obtained by contacting the City of Charlotte, Engineering & Property Management, Land Development Permit Center, 600 E. 4th Street, Charlotte, North Carolina 28202.

9.2.2. OBSTRUCTION OF DRAINAGE CHANNELS PROHIBITED.

No fences or structures shall be constructed across an open drainage channel that will reduce or restrict the flow of water. The Administrator may require any water course or stormwater management facility to be located within dedicated a drainage easement officially recorded by the Cabarrus County Recorder of Deeds as a “permanent detention easement” that provides sufficient width for maintenance.

9.2.3. LOT GRADING AND LANDSCAPING STANDARDS.

The following standards shall be followed in establishing the grading plan for a development.

9.2.3.1. POSITIVE DRAINAGE REQUIRED. Developments shall be designed and constructed with a positive drainage flow away from buildings towards approved stormwater management facilities. Plans for drainage facilities shall be approved by the Engineer. All interim and permanent drainage facilities shall be designed and constructed in accordance with the standards established in the Stormwater Standards of this Ordinance.

9.2.3.2. DRAINAGE PLANS TO ACCOUNT FOR ALL DEVELOPMENT. In the design of site grading plans, all impervious surfaces in the proposed development (including off street parking shall be considered.

9.2.3.3. PROTECTION FROM SEDIMENTATION. Site grading and drainage facilities shall protect sinkholes, wetlands, ponds and lakes from increased sediment loading.

9.2.3.4. INCREASED RUNOFF PROHIBITED. Site grading shall not increase the volume or velocity of runoff onto downstream properties unless specifically approved as part of a project’s drainage plan.

9.2.3.5. LANDSCAPING. All disturbed areas within the dedicated right-of-way and easements of any subdivision street shall be restored with vegetation. Street trees shall be planted or, where

permitted trees already exist, consistent with the Landscaping Standards of this Article, maintained and protected between the paved areas and sidewalks. Where no sidewalks are required, street trees shall be planted or existing trees shall be maintained or protected between the paved areas and the edge of the right-of-way.

9.2.3.6. DESIGNATION AS OPEN SPACE.

Stormwater facilities to be located in designated open space areas shall be regulated in accordance with § 6.5.3.6 of this Ordinance.

9.2.3.7. PERMEABLE PAVEMENT. Certain provisions of this ordinance (See Parking Standards; Site Design & Standards) permit Permeable Pavement in some situations. Other Permeable Pavement is permitted if the location and design shall comply with the following:

9.2.3.7.1. Permeable Pavement shall be located only on soils having a permeability rating of Moderate Rapid to Very Rapid (see definition of Permeability in Appendix A of this Ordinance).

9.2.3.7.2. Permeable Pavement shall not be located in soils with an apparent or perched high water table or a depth to bedrock of less than ten (10) feet, as set forth in Table 16 of the Soil Survey.

9.2.3.7.3. Permeable Pavement shall not be located on any slope exceeding ten percent (10%) over twenty (20) feet.

9.2.3.7.4. The Permeable Pavement area shall be vacuum-swept and washed with a high-pressure hose not less than four (4) times per year.

References: American Society of Civil Engineering Design and Construction of Urban Stormwater Management Systems (WEF Manual of Practice FD-20, 1992), at 496-97; Dewberry & Davis, Land Development Handbook: Planning, Engineering & Surveying (McGraw-Hill: 1996), at 629.

9.3. RIPARIAN AREA MANAGEMENT AND PROTECTION

9.3.1. PURPOSE.

These regulations are set forth in order to minimize soil erosion, reduce the velocity of overland stormwater flow, trap sediment and soil eroded from cropland and land being developed, and limit other pollutants from entering local waterways through the establishment and maintenance of vegetated riparian buffers.

9.3.2. APPLICABILITY

All land development activity, with the exception of those activities specifically exempted in Section 9.3.3, shall be subject to the provisions of this Section of the Ordinance.

9.3.3. EXEMPTIONS

The following structures and activities shall be exempt from the provisions of this Section:

9.3.3.1. Sewer lines, providing that the installation of said lines strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary step in completing construction of any sewer facilities. Sewer lines shall be installed either perpendicular or parallel to the stream channel to minimize the impact on the buffer.

9.3.3.2. Other overhead and/or underground utilities, provided that they are designed and installed in a manner which minimizes their impact on regulated streams.

9.3.3.3. Roads, streets, bridges, or similar structures within public rights-of-way. Said structures shall cross the stream buffer as close to perpendicular as possible.

9.3.3.4. Public greenways, bike paths and other off-road trails.

9.3.3.5. Water dependent structures and facilities.

9.3.3.6. Agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities may occur within the Buffer. Such activities shall conform to all State

and Federal regulations. Existing agricultural operations, forested or vegetated areas within stream buffer areas shall follow the State’s forest practice guidelines which include best management practices (BMPs) as defined by the North Carolina Soil and Water Conservation Commission. Other agricultural activities not enumerated herein, which would result in significant disturbance of the existing soil, increase soil erosion, or destroy plant and wildlife habitats, are strongly discouraged and shall not occur except in accordance with the following requirements:

- Said activities shall be consistent with an approved vegetation replacement program.
- Said activities shall be consistent with the North Carolina Sediment Control Law.
- Said activities shall be coordinated with the North Carolina Wildlife Resources Commission’s District 6 Biologist and the Cabarrus Soil and Water District Representative.

9.3.4. RIPARIAN BUFFER REQUIREMENTS

9.3.4.1. A vegetated riparian buffer shall be maintained along both sides of all perennial and intermittent streams as identified on the most recent published U.S. Geological Survey 1:24,000 (7.5 minute) scale topographic maps for Cabarrus County.

9.3.4.2. The riparian buffer width along perennial streams (streams with year-round flow) shall be fifty (50) feet plus five (5) times the average width of the stream, not to exceed one hundred twenty (125) feet.

9.3.4.3. The riparian buffer width along intermittent streams (streams with flow only during part of the year) shall be thirty-five (35) feet plus five (5) times the average width of the stream, not to exceed seventy-five (75) feet.

9.3.4.4. All required vegetated riparian buffers shall be measured perpendicularly from the top of the stream bank.

9.3.4.5. The average stream width shall be determined by measuring the width of the stream,

from top of bank to top of bank. Properties with three hundred (300) linear feet or less of stream frontage shall set three (3) measurement points at the upstream, midpoint and downstream point of the stream. Properties with greater than three hundred (300) linear feet of stream frontage shall set a minimum of four (4) measurement points, distributed evenly beginning at the upstream point of the stream. An additional measurement point shall be used for each one hundred (100) linear feet of stream or fraction thereof.

9.3.4.6. Riparian buffers shall remain in a natural vegetated state. Maintenance of vegetation within the buffer, such as pruning, mowing and clearing of dead vegetation is permitted as long as no soil is disturbed during the maintenance process.