

Ordinance



PH²
Adopt ✓
City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 08/05/2008

Ordinance Amending the Land Development Code (LDC-10-508)

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety and welfare by amending the Land Development Code to allow alternatives to the stormwater management fee in lieu of construction of on-site stormwater management facilities under certain conditions in the CBD and RFMU districts, to amend the formula by which the payment-in-lieu is calculated for the projects located within the CBD or RFMU districts and to revise the applicability requirement for stormwater management.

THEREFORE, BE IT ORDAINED:

SECTION 1: Section 18-738. Applicability of this division, of the Wilmington City Code is hereby amended to read as follows:

"Sec. 18-738. Applicability of this Division.

(a) Except as otherwise provided herein, the provisions of this division shall apply to each of the following:

(1) Any development activity that creates a total of ten thousand (10,000) square feet or more of newly constructed impervious surface area irrespective of the condition of the existing surface upon which the impervious surface area is created, provided that single-family residential and duplex residential development that do not meet the requirements of subsection (2) of this section, shall be exempt;

(2) All new major subdivisions as defined in Article 7 of this chapter.

(b) In applying the provisions of this Article, the cumulative area of the proposed development activity and all development activity on a site within the two (2)-year period immediately preceding the date of application for a stormwater discharge permit shall be considered together.

(c) Whenever an existing developed site is modified to create a total of ten thousand (10,000)

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square feet or more of newly constructed impervious surface area, irrespective of the condition of the existing surface upon which the new impervious surface is created, the modified portion of the site shall comply with this Article. Whenever the modification results in placement of newly constructed impervious surface over any existing surface such that the newly constructed impervious area equals or exceeds fifty (50) percent of the total impervious surface area, then the entire site shall be required to comply with this article. In determining the applicability of this subsection, resurfacing of existing pavement without demolition is considered maintenance and not placement of new impervious surface.

(d) Exemptions

(1) The installation or maintenance of subsurface utilities by public or franchised utility operators shall be exempt;

(2) Any area to be paved, stabilized or otherwise made impervious to stormwater that does not exceed two thousand five hundred (2,500) square feet shall be exempt."

Section 2. Part 4, Division III, Article 14 of Chapter 18 of the Wilmington City Code is hereby amended by adding a new Section 18-774 to read:

"Sec. 18-774. Stormwater management measures in the CBD and RFMU districts

In the CBD and RFMU districts, stormwater management plans must include on-site measures that meet the performance standards of this section.

(a) The following water quality performance standards must be met with use of approved best management practices (BMPs).

(1) The project shall control and treat the run-off from the first one-and-one-half (1 ½) inches of rain.

(2) The project shall control and treat the difference in stormwater run-off between the pre-development and post-development conditions for the one (1) year, twenty-four (24) hour storm.

(3) The following is a list of BMPs deemed approved if designed and constructed according to the Technical Standards and Specifications Manual, the NC DENR BMP manual or the New Hanover County – Wilmington LID Guidance Manual, whichever is more stringent:

a. Vegetative roof cover

b. Permeable pavement

c. Infiltration devices

d. Bioretention devices

e. Other devices in the City Technical Standards and Specifications Manual, NC DENR BMP manual, and New Hanover County – Wilmington LID Guidance Manual

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(4) The following BMPs may be considered on a case-by-case basis as approved by the City Manager:

- a. Proprietary devices with design flow rates that have been approved by NC DENR to meet water quality standards; and
- b. Cisterns with demonstrated capacity and use-assurance to meet requirements."

Section 3. Section 18-781. Off-site stormwater management requirement, of the Wilmington City Code is hereby amended to read as follows:

"Sec. 18-781. Off-site stormwater management requirement.

Where property is undergoing redevelopment and on-site construction of a stormwater management facility is not feasible, as determined by the City Engineer, or where a public stormwater management facility or other improvements to the city's drainage system have been constructed, programmed, or identified for construction in the city's capital improvement program or are reflected on the city's master drainage improvement plan, which have or will have sufficient capacity to accommodate stormwater run-off generated by the development, the city may require the applicant to pay to the city a fee in lieu of construction of on-site stormwater management facilities in accordance with the following formula except in the CBD or RFMU districts:

$$\text{Fee} = [(0.10) (\text{Land value}) + (\text{Construction cost}) (\text{Site Acreage})] (\% \text{ impervious})$$

The fee in lieu of construction of on-site stormwater management facilities within the CBD or the RFMU districts shall be determined in accordance with the following formula:

$$\text{Fee} = [(0.03) (\text{Land value}) + (\text{Construction cost}) (\text{Site Acreage})] (\% \text{ impervious})$$

For the purposes of the above formulas, the variables shall have the following definitions:

- (a) *Land value* shall be the fair market value for the tract of land being developed as determined by the city.
- (b) *Construction cost* shall mean the dollar amount per acre of constructing on-site stormwater management facilities based on historical data. On the date of this ordinance, such amount shall be five thousand forty-seven dollars (\$5,047). Such amount shall be adjusted annually on July 1, based on the construction cost index for the prior year.
- (c) *Site acreage* shall be the total area of the tract of land being developed and requiring stormwater management facilities in acres, rounded to the nearest tenth of an acre.
- (d) *Percent impervious* shall be the acreage on the site requiring stormwater management facilities that is impenetrable to water divided by the total site acreage, rounded to the nearest tenth of an acre.
- (e) Other considerations. This section does not apply to projects for which a stormwater permit has been issued prior to the effective date of this section (August 5, 2008). No refunds shall be considered for fees assessed prior to the effective date of this section."

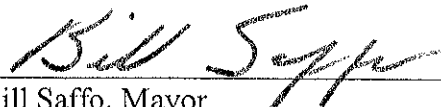
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SECTION 4: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 18-52 of the Land Development Code.

SECTION 5: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.


SECTION 7: That this ordinance shall be effective immediately upon its adoption.



Bill Saffo, Mayor

Adopted at a regular meeting
on August 5, 2008

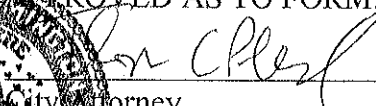
ATTEST:



City Clerk



APPROVED AS TO FORM:



City Attorney

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