

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF  
ROCK HILL CODE, CHAPTER 2: ADMINISTRATION, CHAPTER 7:  
CONSTRUCTION STANDARDS FOR SUBDIVISIONS, PUBLIC IMPROVEMENTS AND  
SITE INFRASTRUCTURE AND CHAPTER 8: DEVELOPMENT STANDARDS  
CONCERNING STORMWATER MANAGEMENT

BE IT ORDAINED by the Governing Body of the City of Rock Hill in Council assembled:

SECTION 1. That this ordinance is being adopted in order to effect proper compliance with the provisions of the Home Rule Act of 1975, now South Carolina Code of Laws for 1976, Section 5-7-30, Section 5-7-260 and Sections 6-29-710, et seq. and Section 2-48 and Section 2-96 of the Code of the City of Rock Hill.

SECTION 2. That the Proposed Amendments concerning stormwater management and things affected by this Ordinance are being acted upon following Planning Commission consideration thereof, after due notice and public hearing held on July 6, 2021.

SECTION 3. That the Zoning Ordinance of the City of Rock Hill, **CHAPTER 2: ADMINISTRATION, Section 2.7 Applications Reviewed by Planning & Development Director and Section 2.11 Applications Reviewed by Planning Commission, CHAPTER 7: CONSTRUCTION STANDARDS FOR SUBDIVISIONS, PUBLIC IMPROVEMENTS AND SITE INFRASTRUCTURE, Section 7.2 General Construction Standards, Section 7.3 Required Public Improvements and Section 7.4 Performance Guarantees for Specified Private Improvements and**

**CHAPTER 8: DEVELOPMENT STANDARDS, Section 8.6 Open Space,** be and the same is hereby amended by deleting certain sections of the existing text and inserting in lieu thereof the following:

See Exhibit "A" attached hereto.

SECTION 5. That all ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. That this Ordinance shall be and become finally binding immediately after receiving first and second readings given in the manner required by law.

DONE AND RATIFIED in Council assembled on this the 27<sup>th</sup> day  
of September, 2021.

John Pressly Gettys, Jr.  
John Pressly Gettys, Jr., Mayor

Kathy S. Pender, Mayor Pro Tempore

John A. Black, III  
John A. Black, III, Councilmember

Nikita L. Jackson  
Nikita L. Jackson, Councilmember

Derrick L. Lindsay  
Derrick L. Lindsay, Councilmember

James C. Reno, Jr.  
James C. Reno, Jr., Councilmember

Kevin H. Sutton  
Kevin H. Sutton, Councilmember

ATTEST:

Anne P. Harty  
Anne P. Harty  
Municipal Clerk

## Exhibit “A”

### Proposed Zoning Ordinance amendments, T-2021-01

#### Chapter 2: Administration

##### 2.7 APPLICATIONS REVIEWED BY PLANNING & DEVELOPMENT DIRECTOR

###### 2.7.7 GRADING PERMITS

###### H. Processes Related to Long-Term Maintenance of Stormwater Facilities:

1. **For Facilities Maintained by Property Owner:** For permanent stormwater management facilities that will be maintained by the property owner, the property owner must submit a *Stormwater Mitigation and Maintenance Plan* and a *Stormwater Maintenance and Responsibility Agreement* for review. This plan and agreement must provide adequate access to permit City or State authorities to inspect and, if necessary, to take corrective action.

The property owner is responsible for maintaining in good condition all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, stormwater detention and retention ponds, and other protective devices. See *Section 7.3.4.E*. If repairs or restorations are needed, they must be done in accordance with the approved plans and the approved *Stormwater Mitigation and Maintenance Plan*.

If the owner or any other person or agent in control of such property fails to maintain properly the facilities for which he is responsible under the provisions of this Ordinance, the Public Works Stormwater Division must give such owner, person, or agent in control written notice describing specifically the deficiency. If the owner, person, or agent fails, within 10 days from the date of receipt of such notice, to take or commence corrective action, the owner will be subject to the penalties found in *Chapter 11: Enforcement*.

###### 2.7.8 FINAL PLATS FOR SUBDIVISION

After construction of the required public or private improvements approved through the civil construction plans, or the posting of a bond in lieu of completion of the public improvements and/or privately owned improvements in accordance with *Chapter 7: Construction Standards for Subdivisions, Public Improvements, and Site Infrastructure*, applicant must prepare a final plat for subdivision.

- A. **Standards:** In addition to complying with the standards of this Ordinance, the final plat for subdivision must be in substantial conformance with the configuration of the approved preliminary plat for subdivision and the approved civil construction plans; indicate the location of required public and private improvements in accordance with the approved civil construction plans; include all of the certificates listed in *Appendix 2-A*; be tied to geodetic survey points as is explained in the City's State Plane Coordinate Checklist; and be consistent with all other relevant City ordinances and regulations.
- B. **Completion of Required Public Improvements Prior to Issuance of Building Permits:** Except for sidewalks deferred in accordance with *Chapter 7: Construction Standards for Subdivisions, Public Improvement and Site Infrastructure*, all public improvements must be completed, inspected, and approved in accordance with the procedures outlined in that chapter prior to the issuance of the first building permit for development within the subdivision.
- C. **Completion of Required Private Improvements:** All private improvements must be completed, inspected, and approved prior to the approval of the Final Plat or Certificate of Occupancy, or in accordance with approved civil phasing plan requirements.
- D. **Effect of Final Plat:** The approval of a final plat for subdivision does not constitute acceptance by the City of the dedication of any street, public utility line, or other public facility shown on the plat. Upon satisfactory completion of the warranty period explained in *Chapter 7: Construction Standards for Subdivisions, Public Improvement and Site Infrastructure*, streets, utility lines, and other public improvements will be accepted by the City.

The City may also accept any dedication made to the public of lands or facilities for streets, parks, or public utility lines by resolution. However, the City has no obligation to build any street even after acceptance of dedication of right-of-way.

## **2.11 APPLICATIONS REVIEWED BY PLANNING COMMISSION**

### **2.11.2 PRELIMINARY PLATS (MAJOR SUBDIVISIONS)**

The Planning Commission reviews all requests for subdivision of land that are not exempted or reviewed by staff as a minor subdivision, as is explained in the minor subdivision section above. These subdivision requests are commonly referred to as preliminary plats. They establish the general layout and design for a subdivision of land. If a subdivision is to be phased, the infrastructure related to entrances or turn lanes must be completed in Phase 1.

The Planning Commission must act on the application for preliminary plat within 60 days of the application's referral from the Planning & Development Director (unless a longer review period is agreed upon between the Planning Commission and sub-divider).

In approving a preliminary plat, the Planning Commission may impose appropriate conditions on the permit approval.

Approval of a preliminary plat constitutes approval of the development with the general lot shapes and alignments of streets identified on the preliminary plat, and allows the applicant to proceed to the development of civil construction plans and to apply for a grading permit necessary for construction of streets and public utilities. Those are all reviewed by the Planning & Development Director.

Because the City's architectural standards for single-family detached developments determine much about the arrangement and size of lots within the development, the City encourages builders to submit architectural plans at the same time as the preliminary plat if the builder has been selected at that time.

## **APPENDIX 2-A: CERTIFICATES REQUIRED FOR RECORDING**

### **FINAL PLATS**

#### **CERTIFICATE OF OWNERSHIP AND DEDICATION**

I (we) hereby state that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby consent and covenant to the subdivision, covenants, conditions, and easements as shown and as provided by the within certifications all of which shall run with the land and shall be binding on my (our) heirs, successors and assigns. I (we) hereby dedicate all streets, alleys, walks, ponds, stormwater piping, ponds, basins improvements and features, sidewalks, parks, and other sites to public or private use as noted; however, I (we) acknowledge that dedication does not mean acceptance by the City of Rock Hill. To the extent that the City of Rock Hill has not specifically and in writing accepted any of such areas or improvements, I am (we are) jointly and severally liable for compliance with City of Rock Hill standards and regulations regarding any common area/open space maintenance including, but not limited to, detention ponds, stormwater piping, ponds, basins improvements and features, sidewalks, private roads, alleys, trees and landscaping.

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## Chapter 7: Construction Standards for Subdivisions, Public Improvements and Site Infrastructure

### 7.2 GENERAL CONSTRUCTION STANDARDS

The following construction standards apply to all development within the City. Construction details and specifications will default to South Carolina Department of Transportation or South Carolina Department of Health and Environmental Control standards unless the City has a specific detail or specification on the topic.

#### 7.2.1 STORMWATER MANAGEMENT AND EROSION CONTROL

**A. Purpose:** These standards set forth the basic standards for all stormwater management and sediment control devices, activities, and practices undertaken within the City. The intent is to mitigate the effects of runoff volume and water quality on downstream properties, infrastructure, and water courses due to development activity. Specifically, the purpose and intent of this section are to:

7. Assign responsibility for the upkeep of stormwater mitigation facilities, including those facilities set forth in Section 7.3.4.E to ensure their proper performance.

**H. Conversion to permanent post-development stormwater mitigation facilities:** Conversion to permanent post-development stormwater mitigation facilities shall occur in accordance with the approved civil plan NPDES Permit phasing requirements, as follows:

- Generally, stormwater mitigation facilities will be converted as part of the as-built approval process, prior to Final Plat or Certificate of Occupancy, as applicable; or
- Where facilities cannot be converted to a post-development configuration, due to NPDES Permit civil plan phasing, a partial stormwater as-built approval shall be obtained. Final as-built approval of stormwater mitigation facility conversion may be associated with a permit hold for specific lots or parcels, as defined on the approved civil plans; or
- As required by Planning and Development Infrastructure, if deemed necessary to reduce potential adverse stormwater impacts to adjacent, upstream and/or downstream properties; or
- A Performance Guarantee shall be provided by the developer for all outstanding or incomplete stormwater mitigation improvements and as-builts, in accordance with Section 7.4, Performance Guarantees for Specified Private Improvements, with approval by the Planning Director.

**I. Conveyance without acceptance prohibited**

Developer/Owners are prohibited from conveying stormwater facilities (including storm drainage/pond facilities) to Homeowners' or Property Owners' Associations or others unless such developer/owners has(ve) fully complied with all of the relevant provisions of Chapters 2 and 7 of this Ordinance. This explicitly means that developer/owners are expressly prohibited from recording an undelivered deed of land containing stormwater ponds. Without a valid conveyance of the deed, the deed is voidable. See *Section 7.2.1.H, Section 7.3.4.E, and Section 7.3.7.*

#### 7.2.2 FLOOD HAZARD RISK AREAS

- A. Purpose and Intent:** This section is intended to protect human life and health; eliminate or reduce the risk of adverse impacts and damage potential associated with flood waters; preserve natural sensitive land areas and eco-systems; and to diminish the need for public investment toward stormwater infrastructure.
- B. Applicability:** The standards of this section apply to lands vulnerable or prone to flooding, such as Special Flood Hazard Areas designated by the most current FEMA FIRM and locally-designated flood-prone areas as defined by the City's Stormwater Master Plan; Dam or Reservoir Inundation Zones; and any site-specific

areas vulnerable to flooding hazards. Structures within FEMA designated floodplains are typically subjected to federal flood insurance requirements, where structures in locally designated flood-prone areas are not.

**C. General Design Standards:** Land disturbance and construction activities occurring within areas of flood hazard risk as listed below are subject to the following standards:

1. **FEMA 100-year Floodplain:** Development must comply with the regulatory standards found in *Chapter 10, Article 7, Flood Damage Prevention*, of the City Code of Ordinances.
2. **Local 100-year Floodplain:** Development must comply with the City's Stormwater Master Plan and Local Flood Hazard Risk Policy Guide.
3. **100-year Floodplain Storage:** No filling or net reduction of 100-year floodplain storage volumes shall be allowed (FEMA or local), without providing an analysis demonstrating no adverse impacts or rise in flood stage for upstream, downstream, and adjacent properties. Minimal filling or displacement of floodplain storage volumes may be allowed on a case-by-case basis for construction of utilities, stormwater improvements, minor grading or limited construction activities, or for previously subdivided single-family lots, per the discretion of the Planning & Development Director.
4. **Dam or Reservoir Inundation Zones:** Area identified as being located within a potential dam breach inundation zone shall be evaluated for an assessment of hazard risk in accordance with the City's Stormwater Master Plan and Local Flood Hazard Risk Policy Guide. High hazard dams, as classified by the South Carolina Department of Health and Environmental Control, shall also be subject to the South Carolina Dams and Reservoirs Safety Act regulations. This section does NOT include any regulatory oversight for potential inundation zones associated with the Catawba River drainage basin and the Lake Wylie Dam.
5. **Site-Specific:** Areas subject to a significant identifiable flood hazard risk, including non-regulated dams, reservoirs, or site-specific hydrologic/hydraulic conditions, as determined by accepted engineering principles and analysis or reasonable historic information. See Stormwater Master Plan and Local Flood Hazard Risk Policy Guide.
6. **Riparian Buffers:** Development affecting FEMA and locally designated flood-prone areas must comply with the riparian buffer standards found in *Chapter 8: Development Standards*.

### 7.2.3 PRIVATE SITE CONSTRUCTION STANDARDS

**D. As-Built Plans:** Private storm drains, permanent stormwater Best Management Practices, and water and sewer connections are required to be as-built and accepted by the City prior to issuance of a Certificate of Occupancy. Generally, prior to issuance of a Certificate of Occupancy, conversion will be required to permanent post-development stormwater mitigation facilities in accordance with the approved civil plan NPDES Permit phasing requirements; see Section 7.2.1.H.

## 7.3 REQUIRED PUBLIC IMPROVEMENTS

### 7.3.1 APPLICABILITY

Unless exempted by any provisions of Section 2.7.5, the standards in this section are the minimum standards that apply to all development of land in the City.

Unless waived or deferred by the standards in Section 2.7.5, all required public improvements must be installed prior to the approval of a final plat for subdivision, in accordance with the standards in this section.

The Planning Commission may approve deviations to the construction standards required in this chapter where it is determined that a proposed design, detail or material is equivalent in quality, durability and functionality, and meets the overall design intent.

### 7.3.4 STORM DRAINAGE

#### E. Ownership and Maintenance of Storm Drainage/Pond Facilities

1. **Dedication to Homeowners or Property Owners Association:** Subject to the provisions of Section 7.2.1 and Section 7.3.7 which require the developer / owner(s) to maintain ownership of certain stormwater facilities (including storm drainage/pond facilities) until established criteria and standards are followed, unless accepted by the City by dedication, such storm drainage facilities must be owned jointly or in common by the developer/owner(s) of the development through a recognized Homeowners or Property Owners Association, which should be established in accordance with the following:
  - a. The developer/owner(s) must submit documents for the creation of the Homeowners or Property Owners Association to the City for review and approval, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for the storm drainage facilities, including a legal description of such areas.
  - b. The developer/owner(s) must agree that the association is established by the developer/owner(s) or applicant and must be operating (with financial subsidization by the developer/owner(s) or applicant, if necessary) before approval of the first final plat for subdivision of the land, or building permit, whichever occurs first; and
  - c. Membership in the association must be automatic (mandatory) for all owners/purchasers of land in the development and their successors in title.
2. **Maintenance of Storm Drainage/Pond Facilities:** The developer/owner(s) of any land is(are) responsible for maintenance of all storm drainage facilities (including storm drainage/pond facilities) unless the City accepts their dedication or such storm drainage facilities are properly transferred to the Homeowners or Property Owners Association; see this Section 7.3.4.E, Section 7.2.1, and Section 7.3.7. Failure to maintain storm drainage facilities in accordance with this Ordinance constitutes a violation of this Ordinance. *See Chapter 11: Enforcement.*

### 7.3.6. IMPROVEMENT GUARANTEES FOR PUBLIC IMPROVEMENTS

#### A. Warranty Period:

1. **Warranty Period:** A warranty period must be provided for any street proposed for dedication to the City and its associated stormwater drainage facilities. However, it should be understood that any associated stormwater drainage facilities, although intended for dedication to the City, will only be accepted by the City subject to the other provisions of this Ordinance, in particular, Sections 7.2.1.H, 7.3.4.E, and 7.3.7. As provided in those Sections, if the City does not accept such dedication, the associated stormwater drainage facilities will remain either the responsibility of the developer/owner(s) or the Homeowners or Property Owners Association, as provided in Section 7.3.4.E.

### 7.3.7 PUBLIC IMPROVEMENTS ON PRIVATE PROPERTY

- A. **General:** When public infrastructure is necessary to support a private development or extensions of public infrastructure must be constructed beyond the public right-of-way, all City standards apply and the work must be performed under the supervision of City Inspectors. Any storm drain facilities or appurtenances thereto in a private development shall remain the property and responsibility of the developer/owner(s) unless specifically accepted by the Homeowners or Property Owners Association or by the City. *See Section 7.3.4.E.*
- B. **Water and Sewer:** All City standards apply. When water or sewer is extended outside of the right-of-way, ductile iron is required to be used. All easements, extension agreements, and SCDHEC permitting is required. Encroachment agreements to access existing public easements or rights-of-way will also be required.
- C. **Storm Drains:** Storm drains are required to meet public standards for both private and public systems. Storm drains are considered private unless specifically accepted as public along with public easements. Any



conveyance of upstream drainage through a development via a private storm drain system, open channel, or other conveyance other than a natural water course will require a minimum private drainage easement of 20 feet, unless a larger easement is necessary due to large or deep storm drain systems, open channels, or other surface conveyance; see Section 7.3.4.D for further applicable requirements.

- D. **Roads:** A public road will follow the same process as a subdivision if approved within a private development (preliminary plat, civil design, final plat, warranty period).

## **7.4 PERFORMANCE GUARANTEES FOR SPECIFIED PRIVATE IMPROVEMENTS**

### **7.4.1 APPLICABILITY**

The City will hold performance guarantees for the specified private improvements listed below to ensure that the improvements are completed. The Planning & Development Director also may withhold permits on specific lots until the improvements are completed where the lots are integral to the improvement.

### **7.4.2 PROCESS**

- A. **Form of Performance Guarantee:** The developer must provide a certified check in the amount specified below. In limited cases, another form of guarantee instead of a certified check may be reviewed by the City Attorney for possible acceptance.

B. **Amount of Guarantees:**

1. When the following are not fully built, with as-built plans provided to the City as applicable, and have not passed inspection by the time of the recording of a final plat for a residential subdivision or the issuance of a certificate of occupancy for a non-residential development, a performance guarantee of 120% must be provided for the remaining work (including materials and labor):
  - Stormwater detention and retention ponds, and/or water quality facilities
  - Shared use or recreational paths shown on approved civil plans
  - Retaining walls and infrastructure associated with critical grades
  - Site-specific amenities required by the Zoning Ordinance
2. Bonding of certain improvements or portions of improvements may be also allowed at the discretion of the Planning & Development Director to coordinate with imminent or ongoing adjacent public and/or private construction, or for compliance with NPDES permit or civil construction plan approval phasing. When that is allowed, a performance guarantee of 120% must be provided for the remaining work (including materials and labor).
3. The cost estimate must be provided by a civil engineer or any other design professional whose license with the State allows this type of work.

- A. **Renewal of Guarantee:** Whenever guarantees are renewed, the City may require the guarantee to be updated based on a standard engineering cost index to reflect increases in construction costs over time.

- B. **Developer's Responsibility:** During the period of the performance guarantee, all maintenance, claims, and complaints are the responsibility of the developer.

C. **Release of Guarantees for Privately Owned and Maintained Improvements**

1. **Release:** Release of a performance guarantee will occur after the improvements pass a final inspection, and review/approval of as-built, as applicable.
2. **Partial Release:** The Planning & Development Director may allow partial releases of performance guarantees based on the completion of major milestones of the required work.

**D. Forfeiture of Security:**

- 1. Notice of Failure to Install or Complete Improvements:** If a developer fails to properly install, repair, and/or maintain all required privately owned and maintained improvements within the time frames established by this section, the City must give 30 days' written notice to the developer by certified mail, after which time the City may draw on the security and use the funds to complete the required improvements.
- 2. City Completion of Improvements:** After completing the required improvements, the City must provide a complete accounting of the expenditures to the developer and, as applicable, refund all unused security deposited, without interest. Completion by the City of such improvements will not serve otherwise to release the developer of any of its other obligations under this Ordinance, particularly as to maintenance thereof; nor will it constitute acceptance by the City of the dedication of such improvement.

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## **Chapter 8: Development Standards**

### **8.6 OPEN SPACE**

#### **8.6.6 OWNERSHIP AND MAINTENANCE OF OPEN SPACE**

**A. Dedication to Homeowners' or Property Owners' Association:** Wherever possible, all open space areas must be owned jointly or in common by the owners of the development through a recognized Homeowners or Property Owners Association, which should be established in accordance with the following:

- 1.** The landowners must submit documents for the creation of the Homeowners or Property Owners Association to the City for review and approval, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for the open space, including a legal description of such areas.
- 2.** The landowners must agree that the association is established by the landowner or applicant and must be operating (with financial subsidization by the owner or applicant, if necessary) before approval of the first final plat for subdivision of the land, or building permit, whichever occurs first; and
- 3.** Membership in the association must be automatic (mandatory) for all purchasers of land therein and their successors in title.

Notwithstanding the foregoing, those open space areas which are "stormwater management devices" as listed in Section 8.6.3.A.5, may only be owned jointly or in common by the Homeowners or Property Owners Association if the City has found the developer/owner(s) to have fully complied with Chapters 2 and 7 of this Ordinance.