CITY OF CONOVER
ORDINANCE XX-24
AN ORDINANCE AMENDING APPENDIX C: STORMWATER ORDINANCE (PHASE II) OF THE CONOVER CITY CODE

The City Council of the City of Conover, North Carolina does ordain and enact as follows:

Section 1. That the Conover Code of Ordinances, Appendix C, Stormwater Ordinance (Phase II) is hereby amended as follows:

In the following Sections all strikethroughs are to be removed and all red lettering is to be added to the Conover Code of Ordinances under Appendix A – Stormwater Ordinance (Phase II):

Appendix C, Article V, Section 50.4. – Performance security for installation and maintenance.

(A) *Required.* The City of Conover may require ~~requires~~ the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural BMPs are:

(1) Installed by the permit holder as required by the approved stormwater management plan, and

(2) Maintained by the owner as required by the operation and maintenance agreement.

(B) *Amount.*

(1) *Installation.* The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus twenty-five (25) percent.

(2) *Maintenance.* ~~The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.~~ Developer shall establish, collect, and retain in a segregated account funds for maintenance, repair, replacement, and reconstruction costs for the stormwater infrastructure, which shall not exceed ten percent (10%) of the stormwater infrastructure's original cost of construction. The Developer shall have a time period of five (5) years, beginning when the stormwater infrastructure is accepted by the City as constructed per the City's regulations, for the funds to be collected and retained by the Developer, and/or its successor in interest to ownership of the stormwater infrastructure. Developer and/or its successor in interest to ownership of the stormwater infrastructure shall provide proof of said segregated account to the City, if requested.

(C) *Uses of performance security.*

(1) *Forfeiture provisions.* The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this article, approvals issued pursuant to this article, or an operation and maintenance agreement established pursuant to this article.

(2) *Default.* Upon default of the owner to construct~~, maintain, repair and, if necessary, reconstruct~~ any structural BMP in accordance with the applicable permit ~~or operation and maintenance agreement~~, the stormwater administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit ~~or maintenance agreement. In the event of a default~~

~~triggering the use of installation performance security, the City of Conover shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance~~.

(3) *Costs in excess of performance security.* If City of Conover takes action upon such failure by the applicant or owner, the City of Conover may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(4) *Refund.* Within sixty (60) days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost plus twenty-five (25) percent of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

(Ord. No. 15-07, § 1, 5-7-07)

Section 2. Consistency Statement.

City Council approves this amendment to Appendix C: Stormwater Ordinance (Phase II), as it supports the changes provided in the General Statute 160-D.

Section 3. This ordinance shall be effective upon passage.

Adopted this, the ____ day of June, 2024.

_____
Kyle J. Hayman., Mayor

_____
Stephanie Watson, City Clerk

CITY OF CONOVER SEAL 1876-77 NORTH CAROLINA