2026 Stormwater Ordinance update for UDO

October 12, 2026

Reasons for update:

- Town is in the process of creating a UDO, which includes the Stormwater Ordinance.
- To clarify requirements of a stormwater permit - create a checklist for developers prior to their submission and make interpretation easier once they submit.
- Using the State Model Ordinance and referencing another local municipality's stormwater ordinance (Hendersonville) we have identified updates to clarify the requirements and make the submittal and review process easier.
- Planning Board has reviewed the draft and did not have any comments. They recommended moving the amendments forward to Council for approval.
- Illicit Discharge ordinance moved to within the Phase II Stormwater Ordinance.
- Changes were made to the illicit discharge ordinance to add its own violation and remedies section (8.2.36)

List of changes to bring into alignment with Model Ordinance as well as clarify requirements for development

1. Add from the Model Ordinance: Title, Authority, and Findings sections which are in the model but were not in our ordinance.
2. 8.2.4 Purpose- separate into General and Specific as in model ordinance, adding (b 1-10) Specific from model ordinance and removing statement about NPDES permit since is not in the model or Hendersonville's ordinance. ("The ordinance seeks to meet the requirements for the town's National Pollutant Discharge Elimination System (NPDES) Permit.")
3. 8.2.5 Applicability: add into draft as C2 language that development that is part of a larger common plan of development and less than half acre is not exempt. Add (c) from model. Add under Map a sentence found in Hendersonville's ordinance that makes clear that this ordinance does not affect the legal requirements to obtain other permits required by other agencies.
4. 8.2.6 F Delegation of Authority- instead of Assistant Town Manager, Stormwater Administrator is to carry out this ordinance.
5. Moved Terms Defined to earlier in the ordinance, 8.2.7, to have definitions earlier in the ordinance. The model has them at the end, but Hendersonville's ordinance has definitions earlier, which seemed to be more helpful.
    a. Added "Administrative Decision" from Hendersonville's ordinance.

   b. Replaced our definition of "disturbance of land" with "disturbed area" from Hendersonville's ordinance.
   c. Removed "Low-impact development" from our ordinance. This is not in either model or in Hendersonville's ordinance. Including the definition of LID in our stormwater ordinance has been confusing in discussions with developers. We are opting to remove this definition and use more clear language to state what is required of developments for stormwater management under this ordinance.
   d. Defined 1-year, 24-hour storm as in model ordinance.
6. 8.2.7 Design Manual- added C from Model.
7. 8.2.10 Effective Date would be October 12, 2026 if adopted at this meeting.
8. Section 2: 8.2.11 (A) updated to state that a stormwater administrator will be designated by the town manager, removes language about assistant town manager.
9. 8.2.12 Review Procedures- add (B) Effect of Permit from Model.
10. 8.2.12 (D) remove requirement for a pre-submittal consultation meeting which was not in Model, keep Application Contents and Form and Submission Schedule. Add Permit Review Fees from Model.
11. 8.2.12 (e) remove "within 15 working days" since a time limit is optional in the Model.
12. 8.2.12 E (2) add sentence from Model that the applicant will have an opportunity to submit a revised application.
13. 8.2.12 E (4) remove time limit since it is not required in the Model.
14. 8.2.13 (A) Model does not require a consultation meeting, but says that the stormwater administrator or developer may request a consultation.
15. 8.2.15 Appeals- add clarifying statements from Hendersonville ordinance.
16. 8.2.16 General Standards- remove language that says both high and low density projects will comply, since this language is not in the Model or Hendersonville ordinance.
17. 8.2.16 change General standards sentence "All proposed stormwater management design and methods submitted with a post-construction stormwater permit will meet the general standards of this section" to what Hendersonville has "All development and redevelopment to which this ordinance applies shall implement stormwater control measures that comply with each of the following standards."
18. 8.2.16 A remove last sentence since is not clear and is open to interpretation, also is not in the model.
19. 8.2.16 (old B), remove since this section has caused confusion between town and developers since the term LID cannot be defined specifically.
20. 8.2.16 C remove last sentence since this information is elsewhere in the ordinance.

21. 8.2.16 D remove the second and third sentences since this information is stated earlier.
22. 8.2.16 E remove last sentence since this information is elsewhere in the ordinance.
23. 8.2.17 removed opening sentence since it is not needed.
24. 8.2.17 A remove last sentence since it is stated elsewhere.
25. 8.2.17 remove old C since language about LID has been confusing in discussion with developers due to lack of specific definition.
26. 8.2.17 remove old D since the standards are expressed earlier. Can discuss whether Council would like to keep any of these standards for high density projects and include them in the general standards section.
27. 8.2.17 – added C and D from Model.
28. 8.2.17 removed item not found in Model or Hendersonville, which has been confusing during review process: No single SCM will receive runoff from an area greater than three acres.
29. 8.2.17 removed F, G, H since stated in new C and D. (no NSW in TOBM)
30. 8.2.18 Dedication of SCMs- this is to be added from the Model.
31. 8.2.19 B (2) 2- removed since was not in the Model. Added C and D from Hendersonville.
32. 8.2.21 (b) inserted from Hendersonville, we would like to remove the words "submit to the stormwater administrator" and replace with "annually complete"
33. 8.2.21 – moved old B, C, D to a point later in the ordinance for clarity.
34. 8.2.23 moved B,C and D into this section for clarity.
35. 8.2.25 (A) removed optional language to clarify that the O&M agreement will need to be recorded before CO. This is mentioned later in a more appropriate place.
36. 8.2.26 insert language from Model.
37. 8.2.27 align with Model language for Nuisance, took out optional Maintenance Easement language.
38. 8.2.30 Rename Enforcement Procedures for clarity.
39. Section 6: Illicit Discharge. We moved Illicit Discharge from the Environment Chapter of the Code of Ordinances to the end of the Stormwater Ordinance.
40. Currently Illicit Discharge Ordinance is Article X of Chapter 20 of the Code of Black Mountain. Current Violations and Enforcement Section, Sec. 20-395, states:
    (a) Violations continue. Any violation of provisions existing on the effective date of this article shall continue to be a violation under this article and be subject to penalties and enforcement under this article.
    (b) Notice of violation and enforcement. Illicit discharges and illicit connections which exist within the Town of Black Mountain are hereby bound, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances

shall be abated in accordance with the procedures set forth in Chapter 20 of the Town of Black Mountain Code of Ordinances.

Ch 20 Article V Nuisances (Sec. 20-204 states that property owner must be notified of the violation in writing via first class mail. Sec. 20-205 discusses abatement after 20 days of sending the notice and not having it returned as undeliverable. Sec. 20-207 Penalty states Any person continuing to violate any provision or requirement of this article after notice of violation has been issued to him, or any person willfully failing, refusing, or neglecting to comply with any such provision or requirement shall, in addition to any other remedy, be issued a notice and citation for which a civil penalty of $50.00 shall be assessed for each offense, with each and every day of violation being a distinct and separate offense. This civil penalty shall be enforced by an action brought in the general courts of justice of the state by the zoning administrator or other town official charged with the duty of enforcing this article, and such enforcement shall be by civil action in the nature of a debt.

41. New Section 8.2.36 provides violations and remedies section more appropriate for the illicit discharge section.