



Agenda

Greenville City Council Workshop

January 10, 2022

4:00 PM

City Hall Council Chambers, 200 West 5th Street

Assistive listening devices are available upon request for meetings held in the Council Chambers. If an interpreter is needed for deaf or hearing impaired citizens, please call 252-329-4422 (voice) or 252-329-4060 (TDD) no later than two business days prior to the meeting.

I. Call Meeting To Order

II. Roll Call

III. Approval of Agenda

IV. New Business

1. Presentation of Proposed Stormwater Regulatory Changes
2. Ordinance requested by the Police Department to amend Section 12-1-3 of the City Code to establish civil and criminal penalties in compliance with Session Law 2021-138

V. Adjournment



City of Greenville, North Carolina

Meeting Date: 01/10/2022

Title of Item: Presentation of Proposed Stormwater Regulatory Changes

Explanation: The City of Greenville currently implements its Stormwater Management Ordinance in order to comply with required state and federal rules and permits as well as local flood reduction initiatives. In April 2020, the North Carolina Environmental Management Commission adopted updates to the Tar-Pam and Neuse Nutrient Strategy rules. These updates were part of a legislatively mandated rules review procedure. The updates to the rules resulted in several changes that will have significant impact to the City of Greenville and other local governments implementing the rules. The City of Greenville is also newly named as a municipality required to implement the Neuse Nutrient rules in addition to the Tar-Pam Nutrient rules.

These changes require the City to amend its Stormwater Management Ordinance and programs. The changes affect how nutrients are calculated and mitigated, when stormwater control measures are required, built upon area limitations for new development, and annual reporting requirements. This process also provides opportunity to review our local stormwater requirements that could be considered for amendment. Some of these options include modifications to our local detention requirements, creation of a City-owned nutrient offset bank, offering fee-in-lieu options, and more.

In December 2020, the City Council appointed a stakeholder committee (Stormwater Regulatory Committee) of engineers, developers, environmental professionals, and others to explore the mandated changes as well as some of the optional modifications noted above. The role of the Stormwater Regulatory Committee (SRC) is to assist staff in reviewing the City’s current stormwater management program and ordinances and to provide recommendations for a sustainable program.

Over the past year, the SRC has met 12 times to explore and consider all of the impacts these changes will have on our community and develop procedures for compliance moving forward. The committee members and staff contributed many additional hours beyond the meetings to review ordinance language,

investigate options, and develop recommendations for a sustainable and equitable stormwater program that best serves the entire community. A summary of these recommendations is attached as well as a letter of support signed by each member of the committee.

City staff would like to recognize the tremendous effort of the Stormwater Regulatory Committee members and express our gratitude for their commitment and dedication to protect and preserve the environment and the quality of life in Greenville.

The City of Greenville must submit the draft stormwater program and ordinance to NCDEQ for review in March of 2022. After review and concurrence, it is estimated that the revised local ordinance would need to be adopted in the fall of 2022 and effective January 2023.

Fiscal Note: No funding required; informational presentation only.

Recommendation: Informational presentation.


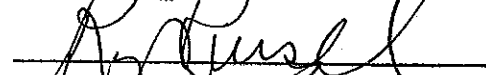



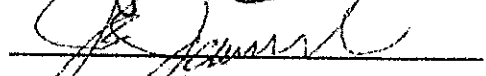
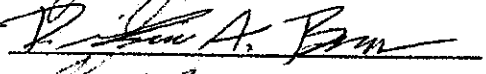
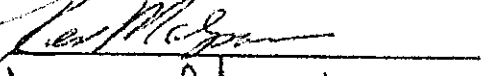
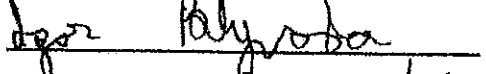

ATTACHMENTS

 [2022_Stormwater Regulatory Committee Recomendations.pdf](#)



Find yourself in good company

We, the members of the City of Greenville Stormwater Regulatory Committee, do provide the attached recommendations to the City Council for proposed updates and revisions to the Stormwater Management Ordinance and Program. Consulting with our clients, colleagues, community, representatives from North Carolina Department of Environmental Quality, and City staff, the committee reached consensus and supports these recommendations for a sustainable program that will continue to enable the City to meet its stormwater management vision to protect and preserve the environment and the quality of life in Greenville.

<u>Committee Member</u>	<u>Firm or Organization</u>	<u>Signature</u>
Landon Weaver	Bill Clark Homes	
Rocky Russell	Russell Property Management	
Jill Howell	Sound Rivers	
Michael O'Driscoll	East Carolina University	
Bryan Fagundus	Ark Consulting	
Steve Janowski	Rivers and Associates	
Richie Brown	Stroud Engineering	
Ken Malpass	Malpass and Associates	
Igor Palyvoda	Baldwin Design Consultants	
Michelle Clements	The East Group	

Proposed Stormwater Program Changes

12/10/2021

The following is a summary list of the substantial changes to the City's Stormwater regulations.

Inclusion of the Neuse NSW Program

- Incorporating the Neuse Nutrient Sensitive Waters (NSW) Program
 - The City was previously only named in the Tar-Pam program, now named in Neuse as well. The City was previously enforcing the Tar-Pam rules across the full jurisdiction including those areas in the Neuse River Basin. Now there will be slightly different rules for each river basin.
- Added nutrient loading limits for Neuse vs Tar-Pam
 - Tar-Pam N=4.0 lbs/ac/yr, P=0.8 lbs/ac/yr
 - Neuse N=3.6 lbs/ac/yr, no phosphorus requirements
 - Developments must treat their runoff from new Built Upon Area (BUA) or pay nutrient offset fees to reduce their nutrients to the above limits.

State NSW Program Rule Changes

- Allow volume matching as alternate method of compliance
 - Deemed compliant if runoff volume is not increased from pre to post development
 - Encourages low impact development and infiltration
- Allow for Public Private Partnership Development Agreement as method of compliance
 - Special negotiated agreements that allow developer to make improvements to the City stormwater system on a regional scale and recoup some of their investment
 - No specifics, just general allowance as an alternate method of compliance
- Establish existing Built Upon Area (BUA) as built or approved upon effective date of these changes (grandfathering). Expected effective date is January 2023.
 - Exempts existing development or redevelopment with no net increase of BUA
- Establish High Density/Low Density BUA thresholds per the new rules
 - Low Density (LD)= <24% BUA (Built Upon Area = Impervious Area)
 - High Density (HD) = >24% BUA
- Require primary Stormwater Control Measures (SCMs) for High Density projects
 - Primary SCMs include wetpond, wetland, bioretention, sand filter, and infiltration basin
 - SCM requirement no longer based on nutrient thresholds, now based on density threshold.
 - Primary SCM requirement for HD projects regardless of nutrient export.
- Require vegetated conveyances for Low Density projects
 - If the development has curb and gutter or drainage is piped, it must use curb cuts or outlet to swales or level spreader
- Eliminate exemption for redevelopment district
 - New rules don't allow this.
 - Means downtown will be subject to full rules (quality and quantity) moving forward

- Allow for impervious surface averaging to set aside conservation areas to keep a project low density
 - Pair an undeveloped conservation lot (floodplain or wetlands) with developed lot to increase overall project area and decrease density calculation
 - Allows what would be High Density projects to count as Low Density and avoid Primary SCM requirement
 - Still requires vegetated conveyances for developed lot.
 - Adds value to undevelopable lots
 - Must be platted together and conservation easement recorded on the deeds
 - Protects sensitive areas like floodplains and wetlands from development
- Working to establish City owned Nutrient Offset Bank
 - Currently submitting Elm St constructed wetland for crediting
 - Long process with the state for approval
 - Once established will allow developers to buy offset credits from the City instead of private banks
 - Keeps Greenville development dollars in Greenville
 - Invests offset payments local where the development impacts occur
 - Provides regular revolving funding for water quality projects

Peak Flow Regulation

- Establish a fee-in-lieu procedure as an optional method of compliance for attenuation
 - Allow development in certain areas to pay fee to the City instead of providing onsite peak flow controls
 - City invests those fees in capital projects that have greater impact
 - Developer saves on land, construction, and ongoing inspection and maintenance
 - City must not have any capacity issues downstream of project site for the project to be eligible to use the fee-in-lieu option.
- Eliminate exemptions from attenuation for <10% increase of peak flow or exemptions for the parcel being adjacent to a floodway
 - No longer exempt but may use fee-in-lieu instead
 - Provides better protection where some developments would have been exempt
 - Increases fairness
 - Provides additional fee-in-lieu revenue

SCM Acceptance, Inspection, and Maintenance

- Require existing SCMS be in compliance prior to issuance of Certificate of Occupancy
- Establish a 1 year developer warranty for SCMS
- Establish acceptance, inspection, and handoff procedures from developer to Home Owners Association (HOA)
 - Ensure HOA inherits “like new” condition SCM from developer
- Clarify SCM acceptance & erosion control with phased developments
 - Once accepted, SCM and street is part of the stormwater system and must be protected from sediment. This means that individual home sites must keep sediment from entering an accepted street, pipes, or pond.

- Require annual inspections of detention-only facilities as is already being done for water quality SCMs
 - Currently only required for water quality facility
 - Treats all stormwater controls the same

Anticipated Timeline:

Stormwater Regulatory Committee Meetings	December 2020-December 2021
Public Information Meeting	December 15, 2021
Council Workshop	January 10, 2022
Submit to NCDEQ	March 2022
NCDEQ presents to Environmental Management Commission	June or July 2022
City Council Ordinance Adoption	Fall 2022
Ordinance Effective Date	January 1, 2023



City of Greenville, North Carolina

Meeting Date: 01/10/2022

Title of Item: Ordinance requested by the Police Department to amend Section 12-1-3 of the City Code to establish civil and criminal penalties in compliance with Session Law 2021-138

Explanation: Historically, violations of a City ordinance have been punishable as a misdemeanor unless the ordinance stated that they were not. In 2021, the General Assembly passed Session Law 2021-138 which provides that a violation of a City ordinance is not a misdemeanor or infraction unless the ordinance expressly provides that it is. S.L. 2021-138 also lists certain ordinances that can never be punished by a criminal penalty. These changes become effective on December 1, 2021.


Based on Session Law 2021-138, the City of Greenville Code §12-1-3 (Discharge of Firearms and Other Weapons) has been decriminalized. To address the interests of public safety, in compliance with Session Law 2021-138, the Police Department is requesting to amend City Code §12-1-3 to add a new subsection (F) to impose civil and criminal penalties for violations of the ordinance.

The statutory language of Session Law 2021-138 states: “Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.” Therefore, presentation at the January 10, 2022 City Council Workshop will be the first reading of the ordinance. The item will be brought back at the February 2022 City Council meeting for a second reading and adoption by City Council.

Fiscal Note: N/A

Recommendation: Hear discussion on the first reading of the Ordinance to Amend City Code §12-1-3.

ATTACHMENTS

 [COG-#1157094-v1-DRAFT_ORDINANCE--City_Code_12-1-3--Discharge_of_Firearms_and_Other_Weapons--Criminal_Enforcement_Under_Session_Law_2021-138.pdf](#)

ORDINANCE NO. 22-

AN ORDINANCE TO REVISE THE CIVIL ENFORCEMENT AND TO SPECIFICALLY ALLOW THE CRIMINAL ENFORCEMENT OF PART II, TITLE 12, CHAPTER 1, SECTION 3 OF THE GREENVILLE CITY CODE AS REQUIRED BY SESSION LAW 2021-138

WHEREAS, Session Law 2021-138, Part XIII. Section 13.(b) amends N.C.G.S. § 160A-175(b) to state that “[e]xcept for the types of ordinances listed in [N.C.G.S. § 160A-175(b1)], a violation of a city ordinance “may be a misdemeanor or infraction as provided by [N.C.] G.S. [§] 14-4 only if the city specifies such in the ordinance” and that “[a]n ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by [N.C.] G.S. [§] 14-4.”; and

WHEREAS, Session Law 2021-138, Part XIII. Section 13.(c) amends N.C.G.S. § 14-4(a) to state that “[e]xcept as provided in [N.C.G.S. § 14-4(b) or N.C.G.S. § 14-4(c)], if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00)” and that “[n]o fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).”; and

WHEREAS, based on the foregoing provisions found in Session Law 2021-138, Part XIII city ordinance enforcement has been decriminalized effective December 1, 2021, which includes Part II, Title 12, Chapter 1, Section 3 (City Code § 12-1-3) (Discharge of Firearms and Other Weapons); and

WHEREAS, the addition of criminal enforcement of City Code § 12-1-3 along with revised civil penalties is necessary to address the interests of public safety;

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

SECTION 1. That City Code Sec. 12-1-3 is amended to add a new subsection (F) so that the entirety of the ordinance now reads as follows:

SEC. 12-1-3 DISCHARGE OF FIREARMS AND OTHER WEAPONS.

(A) It shall be unlawful for any person to fire or discharge any firearm, including guns, rifles, pistols, pellet guns, air guns or air rifles within the city, on or off his or her premises, except that this section shall not be construed to prohibit any law enforcement officer or authorized employee in the Division of Animal Control from discharging a firearm in the performance of his or her duty, nor to prohibit any citizen from discharging a firearm when lawfully defending person or property.

In addition, this subsection shall not prohibit a properly licensed person for hunting purposes from discharging a firearm in the following area(s) only with the permission of the

property owner and only during established hunting seasons as determined by the state wildlife resources commission:

(1) *Sunny Side area.* The area, as shown on the official zoning map of the city, encompassing approximately 158 acres and more specifically delineated by the map prepared by the City of Greenville Planning and Development Services Department entitled “Sunny Side Hunting Overlay.”

(B) Said discharge of firearms for hunting purposes shall be restricted from within 300 feet of residences and street rights-of-way.

(C) It shall be unlawful to take deer with rifles, except in one of the aforementioned areas and from a position elevated at least eight feet above the ground and not affixed to a motor vehicle. As used in this section, “to take” means to take as that term is defined in G.S. 113-130(7).

(D) Any property used for hunting purposes must be posted in accordance with G.S. 14-159.7. Regulations as to posting of property.

(E) Any person who shall knowingly and willfully permit his or her minor child under 18 years of age to discharge, fire, shoot or operate, within the city any such air rifle, BB gun or pellet gun shall be guilty of a misdemeanor. This subsection shall not apply when said minor child is accompanied by an adult in a designated recreational/sport hunting overlay listed in subsection (A) of this section.

(F) *Penalties.* A violation of this section may subject the offender to any or all of the following penalties:

(1) *Criminal.* Any person violating any provision of this section shall be guilty of a Class 3 misdemeanor pursuant to G.S. 14-4 and G.S. 160A-175 and shall pay a criminal penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00).

(2) *Civil.*

(a) Any person violating any provision of this section shall be issued a civil citation or citations, as may be required, as follows:

1. *First violation.* A violation of this section shall subject the violator to a civil penalty of two hundred fifty dollars (\$250.00).

2. *Subsequent violation within 365 days of the first violation.* Any subsequent violation of this section by the violator within 365 days from herein defined first violation

shall subject the violator to a civil penalty of five hundred dollars (\$500.00).

- (b) *Service of civil penalties.* Civil citations issued under this section shall be served personally upon the violator by a member of the Greenville Police Department or by any other means authorized for the service of civil process by the North Carolina Rules of Civil Procedure.
 - (c) *Payment of civil penalties.* All civil citations issued under this section must be paid to the revenue division of the City's Financial Services Department within five business days from the date of issuance.
 - (d) *Methods of recovery of unpaid civil penalties.* If a civil penalty issued under this section is not paid within five business days from the date the violator has been cited for the violation, the City may recover the unpaid civil penalty by any or all of the following methods:
 - 1. A civil action in the nature of a debt.
 - 2. The use of a collections agency.
 - 3. The use of the provisions Chapter 105A (The Setoff Debt Collection Act) and G.S. 18C-134.
 - 4. Equitable remedies issued by a court of competent jurisdiction.
 - 5. Any other method authorized by law to secure, collect, satisfy, or otherwise recover any civil penalty owed.
- (3) *Continuing violations.* Each day's continuing violation of this section shall be a separate and distinct offense.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

SECTION 4. In accordance with Session Law 2021-138, Part XIII., Section 13.(b), this ordinance specifying a criminal penalty has been enacted at the meeting other than that in which it was first introduced.

SECTION 5. This ordinance will become effective _____, 2022.

This the _____ day of _____, 2022.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

STATE OF NORTH CAROLINA
COUNTY OF PITT

I, Camillia Smith, a Notary Public fore said County and State, certify that Valerie Shiuwegar personally came before this date and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by the Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

Witness my hand and official seal, this the _____ day of _____, 2022.

Camillia Smith, Notary Public

My Commission Expires: October 25, 2023