Durham County Stormwater Ordinance

Effective April 11, 2023

ARTICLE V. STORMWATER MANAGEMENT

Sec. 14-150. Definitions.

[Unless the context requires otherwise, the following words as used in this article have the indicated meanings:]

Act means N.C.G.S. §143, Article 21, pt. 1, as they concern stormwater management and the implementing rules for same in the North Carolina Administrative Code.

Agricultural Uses mean land used as pasture or in the commercial production of crops, forestry, horticultural products, fish hatcheries or aquaculture, and the keeping of livestock for commercial or noncommercial purposes. Also included in this definition of agricultural uses are agricultural accessory buildings and sales of farm products grown or produced on the premises. This definition does not include domesticated chickens, the commercial slaughtering of animals for marketing, and farm tenant dwellings.

Approved Accounting Tool means the accounting tool for nutrient loading approved by the North Carolina Department of Environmental Quality Environmental Management Commission (EMC) for the relevant geography and development type under review.

Basin means an area drained by a river or lake and all of its tributaries. A river basin is made up of many different watersheds. A watershed is a small version of a river basin. Every stream and tributary has its own watershed, which drains to a larger stream or wetland.

Built-Upon Area or ***BUA*** means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle (in accordance with the most recent version of NCGS 143-214.7).

Common Plan of Development means a site where multiple separate and distinct development activities may be taking place at different times on different schedules but governed by a single development plan regardless of ownership of the parcels. Information that may be used to determine a "common plan of development" include plats, blueprints, marketing plans, contracts, building permits, public notices or hearings, zoning requests, and infrastructure development plans.

Curb Outlet System means curb and gutter with breaks or other outlets used to convey stormwater runoff to vegetated conveyances or other vegetated areas.

Development means any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the subsoil. When additional development occurs at a site that has existing development, the built-upon area of the existing development shall not be included in the density calculations for additional stormwater control requirements, and stormwater control requirements cannot be applied retroactively to existing development, unless otherwise required by federal law (in accordance with the most recent version of NCGS 143-214.7).

Dispersed Flow means uniform shallow flow that is conveyed to a vegetated filter strip, another vegetated area, or a stormwater control measure. The purpose of "dispersed flow" is to remove pollutants through infiltration and settling, as well as to reduce erosion prior to stormwater reaching surface waters.

Ephemeral Stream means a feature that carries only stormwater in direct response to precipitation with

water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

Existing BUA means BUA that was constructed prior to the effective date of the applicable County stormwater program or has established a vested right under North Carolina law as of that date.

Existing Development means a project that was constructed prior to the effective date of the applicable County stormwater program or has established a vested right under North Carolina law as of that date.

Falls Lake Basin means land that drains to Falls Lake within the Neuse River Basin, as shown on the Durham County Watershed Protection Overlay Map, available at https://live-durhamnc.opendata.arcgis.com/datasets/watershed-protection-overlay/explore?location=36.050803%2C-78.857450%2C11.78. The land cover (including type and location) that existed as of March 9, 2001 shall be considered the "pre-development condition."

High Density Development means a project that either uses a piped storm drainage system or exceeds the low density BUA threshold set forth in the County UDO or in state rules or statutes. High density developments are required to provide a primary stormwater control measure to treat the stormwater from the BUA on the site.

Inspect means inspection, observation, monitoring, testing, sampling, surveying, and otherwise measuring compliance with the provisions of this ordinance, the Act, and implementing rules.

Infiltration System means a stormwater control measure designed to allow runoff to move into the soil's pore space.

Intermittent Stream means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

Jordan Lake Basin means land that drains to Jordan Lake within the Cape Fear River Basin, as shown on the Durham County Watershed Protection Overlay Map, available at https://live-durhamnc.opendata.arcgis.com/datasets/watershed-protection-overlay/explore?location=36.050803%2C-78.857450%2C11.78. The land cover that existed as of March 17, 2009 shall be considered the "pre-development condition."

Minimum Design Criteria or ***MDC*** means the requirements set forth in this Section for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for the Department to issue stormwater permits that comply with State water quality standards adopted pursuant to G.S. 143-214.1.

Neuse River Basin Outside of Falls Lake Basin means land that drains to the Neuse River, as determined by the Durham Planning Department and as shown on the Durham County Watershed Protection Overlay Map, available at https://live-durhamnc.opendata.arcgis.com/datasets/watershed-protection-overlay/explore?location=36.050803%2C-78.857450%2C11.78. The land cover (including type and location) that existed as of March 9, 2001 shall be considered the "pre-development condition."

Non-erosive Velocity means a velocity of two feet per second or less during the peak flow from the ten-year storm intensity to prevent soil erosion and protect ground cover in the vicinity of a stormwater discharge. Velocities shall not exceed 2.5 feet per second based on the 10-year storm peak runoff in areas with Triassic soils. Velocities shall not exceed 3.0 feet per second based on the 10-year storm peak runoff in areas with non-Triassic soils.

One-year, 24-hour Storm means the maximum amount of rainfall during a 24 consecutive hour period

expected, on average, to occur once a year. One-year, 24-hour storm depths are estimated by the National Oceanic and Atmospheric Administration (NOAA) Precipitation Frequency Data Server (PFDS), which is herein incorporated by reference, including subsequent amendments and editions, available at http://hdsc.nws.noaa.gov/hdsc/pfds/.

Off-site Stormwater System means a stormwater management systems that are located outside the boundaries of the specific project in question but that is designed to control stormwater drainage from that project and other potential development sites.

Perennial Stream means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

Permeable Pavement means paving material that absorbs water or allows water to infiltrate through the paving material. "Permeable pavement" materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, porous asphalt, and any other material with similar characteristics.

Permittee means the person listed on the stormwater permit as having financial or operational control for a development, and may be:

(a) The person who has, or holds himself out as having, financial or operational control and/or responsibility over the land disturbing activity or development;

(b) The landowner or person in possession or control of the land when he or she directly or indirectly allowed the land-disturbing activity, has benefitted from it, or has failed to comply with any provision of this article or the act; and/or

(c) The person owning property containing permitted SCMs.

Project means the proposed development activity for which an applicant is seeking a stormwater permit from the Town. Owners and developers of large developments consisting of many linked projects may consider developing a master plan that illustrates how each project fits into the design of the large development.

Project Area means the geographic area encompassing the proposed development activity. Project area shall include all land being disturbed for the activity and may include undisturbed land that will be part of the development. Project area is typically determined based on the boundaries of land parcel(s) that are being developed to achieve the proposed activity. Project area shall exclude any land adjacent to the activity that has been counted as pervious by any other development regulated under a federal, State, or local stormwater regulation.

Project Density shall be calculated as the total built-upon area divided by the total project area;

Redevelopment means any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control to that of the previous development (in accordance with NCGS 143-214.7).

Required Storm Depth means the minimum amount of rainfall that shall be used to calculate the required treatment volume or to evaluate whether a project has achieved runoff volume match.

Residential Development means buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated outbuildings such as garages, storage buildings, and gazebos.

Runoff Treatment means that the volume of stormwater runoff generated from all of the built upon area of a project at build-out during a storm of the required storm depth is treated in one or more primary stormwater control

measures or a combination of primary and secondary SCMs that provides equal or better treatment.

Runoff Volume Match means that the annual runoff volume after development shall not be more than ten percent higher than the annual runoff volume before development.

Primary SCM means a wet pond, stormwater wetland, infiltration system, sand filter, bioretention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, construction and maintained in accordance with the North Carolina Stormwater Minimum Design Criteria.

Secondary SCM means an SCM that does not achieve the annual reduction of Total Suspended Solids (TSS) of a "Primary SCM" but may be used in a treatment train with a primary SCM or other Secondary SCMs to provide pre-treatment, hydraulic benefits, or a portion of the required TSS removal.

Silviculture means the science of controlling the establishment, growth, composition, and health of forests and woodlands.

Stormwater means the flow of water which results from precipitation, and which occurs immediately following rainfall or snowmelt (in accordance with NCGS 143-213).

Stormwater Collection System means any conduit, pipe, channel, curb, or gutter for the primary purpose of transporting (not treating) runoff. A stormwater collection system does not include vegetated swales, swales stabilized with armoring or alternative methods where natural topography prevents the use of vegetated swales (subject to case-by-case review), curb outlet systems, or pipes used to carry drainage underneath built-upon surfaces that are associated with development controlled by the provisions of 15A N.C.A.C. 2H.1003(c)(1).

Stormwater Control Measure or ***SCM***, means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

Ten-year Storm Intensity means the maximum intensity of rainfall of a duration equivalent to the time of concentration expected, on the average, once in ten years. Ten-year storm intensities are estimated by the National Oceanic and Atmospheric Administration (NOAA) Precipitation Frequency Data Server (PFDS), which is herein incorporated by reference, including subsequent amendments and editions, available at http://hdsc.nws.noaa.gov/hdsc/pfds/.

Vegetated Conveyance means a permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.

Watershed Protection Overlay means an area within a water supply watershed in which protection measures are required. The boundaries of watershed protection overlay are delineated based on type of water supply reservoir that is being protected and the distance to the reservoir and the and the intake. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the protected area if these landmarks are immediately adjacent to the appropriate outer boundary of five or ten miles. In some cases, the protected area will encompass the entire watershed. The Durham County Watershed Protection Overlay Map, available at https://live-durhamnc.opendata.arcgis.com/datasets/watershed-protection-overlay/explore?location=36.050803%2C-78.857450%2C11.78.

(Ord. of 2-26-01, § 1; Ord. of 6-11-12, § 1)

Sec. 14-151. Purpose and Administration

(a) ***Purpose***. The purpose of this program is to protect and enhance the quality of surface waters within the unincorporated areas of Durham County by:

1. Controlling the rate and volume of stormwater from new development projects;

2. Reducing nutrients and other pollutants in stormwater runoff;

3. Identifying and eliminating illegal discharges to the basin through stormwater collection systems; and

4. Maintaining and protecting riparian areas.

(b) ***Administration***. The County is hereby authorized to enforce and administer the provisions of this article, and associated ordinances of the County of Durham concerning stormwater management within the unincorporated areas of the County unless a contrary intention is expressed in such other ordinances.

(c) ***Fees***. All fees for permits and plans shall be established by the Board of County Commissioners.

Sec. 14-152. Applicability and Exemptions

(a) ***Applicability***. This ordinance shall apply to non-exempt development projects and major modifications of development projects for residential, commercial, industrial, or institutional use within the unincorporated areas of the County that meet one or more of the following criteria:

1. Result in a project density that exceeds the high density thresholds provided in the table below;

Overlay Code	Watershed Protection Overlay	High Density Threshold
M/LR-A	Lake Michie/Little River Critical Area	6%
M/LR-B	Lake Michie/Little River Protected Area	Rural Tier – 6% Rural Village – 12%
F/J-A	Falls/Jordan Critical Area	Within ½ mile of normal pool – 6% Between ½-1 mile from normal pool – 9%
--	All other areas in the County	24%

2. Cumulatively disturb greater than the thresholds provided in the table below;

Basin	Land Disturbance Thresholds for Ordinance to Apply	
	Single Family + Duplex Residential, Recreational	Commercial, Industrial, Institutional, Multifamily Residential, Local Government
Falls Lake	½ acre	12,000 sq feet
Neuse outside of Falls Lake Basin	1 acre	½ acre
Jordan Lake	1 acre	½ acre

3. Change the drainage area of an existing SCM; or

4. Change the size, grades or outlet structures of an existing SCM.

(b) ***Exemptions***. This Section shall not apply to the following activities. Notwithstanding the

exemptions from the County stormwater program listed below, a Sediment and Erosion Control Plan is required for land disturbing activities greater than or equal to 12,000 square feet that do not fall under one of the exemptions provided in the Durham County Unified Development Ordinance, Section 12.10.2(a).

1. Development of an individual single-family or duplex residential lot that is not part of a larger common plan of development or sale and does not result in greater than five percent built upon area on the lot;

2. Management activities associated with agriculture or silviculture;

3. Activities of the North Carolina Department of Transportation (NCDOT) that are regulated in accordance with the provisions of NPDES Permit Number NCS000250;

4. Linear transportation projects undertaken by an entity other than the NCDOT when the project is constructed to NCDOT standards and is in accordance with the NCDOT Stormwater Best Management Practices Toolbox (Version 2, April 2014 Edition) which is herein incorporated by reference, including any subsequent amendments and editions, available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://connect.ncdot.gov/resources/hydro/HSPDocuments/2014_BMP_Toolbox.pdf; upon completion, the project will be conveyed either to the NCDOT or another public entity and will be regulated in accordance with that entity's NPDES MS4 stormwater permit; and the project is not part of a common plan of development;

5. Development activities that have already received an Operational Stormwater Permit from Durham County where no increase in BUA or modification to the SCM design is requested. These activities shall follow their existing permit conditions;

6. Airport facilities that consist of runways, taxiways, and any other areas that provide for overland stormwater flow and that promote infiltration and treatment of stormwater into grassed buffers, shoulders, and grass swales; and

7. Redevelopment as the term as defined above.

(c) ***More Restrictive Provisions***. Whenever conflicts exist between federal, state or local laws, ordinances or rules, the more restrictive provision shall apply.

Sec. 14-153. General Stormwater Management Requirements

(a) ***Calculation of Project Density***. The following requirements shall apply to the calculation of project density:

1. Projects without existing BUA shall use the following equation to calculate project density; and

$$\text{Project Density} = \frac{\text{Total BUA}}{\text{Total Project Area}}$$

2. Projects with existing BUA shall have the option to use this equation instead of the above equation to calculate project density.

$$\text{Project Density} = \frac{(\text{Total BUA} - \text{Existing BUA})}{(\text{Total Project Area} - \text{Existing BUA})}$$

(b) ***Stormwater Outlets***. Stormwater outlets shall be designed such that the velocity at the discharge point is two feet per second or less during the peak flow from the ten-year storm intensity as shown by engineering calculations.

(c) ***Design Requirements for Low Density Projects***. Low density projects shall meet the following design criteria:

1. The BUA on the project shall not exceed the low density BUA thresholds set forth above for the applicable watershed;

2. The stormwater drainage system shall be designed to maximize dispersed flow through vegetated areas and minimize channelization of flow;

3. Stormwater that cannot be released as dispersed flow shall be transported by vegetated conveyances. A minimal amount of non-vegetated conveyances for erosion protection or piping for driveways or culverts under a road shall be allowed by the permitting authority when it cannot be avoided;

4. The side slopes of vegetated conveyances shall not be steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the County that the soils and vegetation will remain stable and not erode during the peak flow from the 10-year storm as demonstrated by engineering calculations based on engineering calculations and on-site soil investigation; and

5. Curb and gutter with outlets may be used to convey stormwater to grassed curb outlet systems that are designed such that the swale or vegetated area can carry the peak flow from the 10-year storm at a non-erosive velocity. The longitudinal slope of the curb outlet system shall not exceed five percent, except where not practical due to physical constraints. If the curb outlet system is a swale, then the cross-section shall be trapezoidal with a minimum bottom width of two feet and the side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical).

6. Low density projects that meet the above criteria shall be considered to have provided control for the one-year, 24-hour storm event.

(d) ***Design Requirements for High Density Projects***. High density projects are projects that do not conform to Item (c). High density projects shall meet the following design criteria:

1. Stormwater runoff from off-site areas and existing development shall not be required to be treated in the SCM that meets the requirements of Sec. 14-157. Runoff from off-site areas or existing development that is not bypassed shall be included in the sizing of on-site SCMs at its full built-out potential;

2. An offsite SCM may be used, provided the SCM is designed to meet all applicable requirements in Sec. 14-157;

3. When new BUA is added to existing development or existing development is replaced with new BUA, only the area of net increase shall be subject to the requirements of this ordinance; and

4. The same methodology shall be used for calculating both the pre- and post- development flow rates and water quality volumes. Approved calculation methodologies include: the Rational Method or the Peak Discharge Method as described in the USDA Soil Conservation Service's Technical Release Number 55. Average antecedent moisture conditions shall be assumed.

(e) ***Deed Restrictions and Protective Covenants***. The owner shall record deed restrictions and protective covenants prior to the issuance of a certificate of occupancy to ensure that projects will be

maintained in perpetuity consistent with the plans and specifications approved by the permitting authority. For projects owned by public entities, the owner shall have the option to incorporate specific restrictions and conditions into a facility management plan or another instrument in lieu of deed restrictions and protective covenants.

(f) ***Variations from the Design Requirements***. The County shall have the option to approve projects that do not comply with the MDC on a case-by-case basis when the applicant provides technical justification showing that the proposed design provides equal or better stormwater control and equal or better protection of waters of the State than the requirements of this ordinance and that it shall function in perpetuity. This justification shall be based on engineering calculations and research studies. The County shall have the option to require that an alternative SCM be modified to comply with the MDC if the alternative SCM design fails.

Sec. 14-154. Falls Lake Basin Requirements

(a) ***Low Impact Development Performance Goal***. Projects that are designed such that the annual runoff volume after development equals the annual runoff volume before development shall be considered to meet the requirements of Items (b),(c), and (d) below. Acceptable methods for calculating the annual runoff volume include the Storm-EZ tool, available at https://www.durhamnc.gov/2988/Forms-and-Templates or the most recent methodology approved by the NCDEQ.

(b) ***Low/High Density Requirements***. BUA restrictions for low and high density shall be in accordance with the table below.

Overlay Code	Watershed Protection Overlay	Low Density Option – BUA Limit	High Density Option – BUA Limit
M/LR-A	Lake Michie/Little River Critical Area	6%	Not permitted
M/LR-B	Lake Michie/Little River Protected Area	Rural Tier – 6% Rural Village – 12%	Rural Tier – not permitted Rural Village – 24%
F/J-A	Falls/Jordan Critical Area	Within ½ mile of normal pool – 6% ½-1 mile of normal pool – 9%	Rural Tier – not permitted Outside Rural Tier – 40% Non-residential uses > 25% require a Special Use Permit
F/J-B	Fall/Jordan Protected Area	24%	70%
--	All other areas	24%	None

(c) ***Peak Flow Requirements.*** High density projects shall be designed such that post-construction peak flow does not exceed the pre-development peak flow for the one-year, 24-hour storm event. Low density projects that are compliant with this ordinance shall be considered to have provided control for the one-year, 24-hour storm event.

(d) ***Nutrient Management Requirements***. In addition to the requirements in Item (b), projects shall meet the following nutrient management requirements:

1. Projects shall meet a nitrogen loading rate of 2.2 pounds/acre/year and a phosphorus loading rate of 0.3 pounds/acre/year;

2. Nitrogen loading rates shall year be determined using the tool most recently approved by the North Carolina Department of Environmental Quality;

3. Projects shall achieve a percentage of the required nutrient control onsite before using nutrient offset payments. For projects that disturb one acre or greater, the required nitrogen and phosphorus load reduction onsite is 50 percent. For projects that disturb less than one acre, the required nitrogen and phosphorus load reduction onsite is 30 percent; and

4. Projects that meet the above requirements may purchase permanent nutrient offset credits pursuant to North Carolina rule 15A NCAC 02B .0703.

(e) ***Buffers***. Buffers shall be provided adjacent to all perennial and intermittent streams and shall comply with the following:

1. Water bodies shall be subject to buffer requirements if they are shown on the USGS National Map, available at https://apps.nationalmap.gov/viewer/ or the USDA NRCS Soil Survey Map;

2. Landowners or other affected parties who believe that the maps have inaccurately depicted surface waters may request an on-site stream determination from the NC Division of Water Resources or a person with Surface Water Identification Training and Certification (SWITC) pursuant to G.S. 143-214.25A. On-site determinations shall expire five years from the date of the determination. Any disputes over on-site determinations shall be referred to the Director of the NC Division of Water Resources in writing within 60 calendar days of written notification;

3. Projects shall protect and maintain existing riparian areas in accordance with 15A NCAC 02B .0714 and Section 8 of the Durham City-County Unified Development Ordinance, which are hereby incorporated by reference. No new BUA shall be approved within a buffer unless the applicant can demonstrate to the County that the NCDEQ has approved the use within the riparian buffer; and

4. Required buffer widths shall be in accordance with the table below.

Overlay code	Watershed Overlay Name	Required Buffer Width in Feet	
		Perennial	Intermittent
M/LR-A	Lake Michie/Little River Critical Area	150	High density – 100 Low density – 50
M/LR-B	Lake Michie/Little River Protected Area	150	High density – 100 Low density – 50
E-A	Eno River Critical Area	150	High density – 100 Low density – 50
E-B	Eno River Protected Area	100	High density – 100 Low density – 50
F/J-A	Falls/Jordan Critical Area	150 (250 directly adjacent to Falls Lake)	100 (250 directly adjacent to Falls Lake)
F/J-B	Falls/Jordan Protected Area	100	High density – 100 Low density – 50
--	All other areas in the Falls Lake Basin	50	50

Sec. 14-155. Neuse River Basin Outside of Falls Lake Watershed Stormwater Requirements

(a) ***Runoff Volume Match***. Projects that are designed such that the annual runoff volume after development is not more than ten percent higher than the annual runoff volume before development shall be considered to meet the requirements of Items (b),(c), and (d) below. Acceptable methods for calculating the annual runoff volume include the Storm-EZ tool, available at www.dconc.gov/stormwater or the most

recent methodology approved by the NCDEQ.

(b) ***Low/High Density Requirements***. A project shall be considered low density if it meets the low density design requirements in Sec. 14-153 and adheres to the maximum BUA of 24 percent. Otherwise, the project shall be considered high density.

(c) ***Peak Flow Requirements***. High density projects shall be designed such that post-construction peak flow does not exceed the pre-development peak flow for the one-year, 24-hour storm event. Low density projects that are compliant with this ordinance shall be considered to have provided control for the one-year, 24-hour storm event.

(d) ***Nutrient Management Requirements***. In addition to the requirements in Item (b), projects shall meet the following nutrient loading requirements:

1. Projects shall meet a nitrogen loading rate target of 3.6 pounds/acre/year;

2. Nitrogen loading rates shall be determined using the tool most recently approved by the North Carolina Department of Environmental Quality; and

3. Projects that meet the above requirements may purchase permanent nutrient offset credits pursuant to North Carolina rule 15A NCAC 02B .0703.

(e) ***Buffers***. Buffers shall be provided adjacent to all perennial and intermittent streams and shall comply with the following:

1. Water bodies shall be subject to buffer requirements if they are shown on either the USGS National Map, available at https://apps.nationalmap.gov/viewer/ or the USDA Soil Survey Map;

2. Landowners or other affected parties who believe that the maps have inaccurately depicted surface waters may request an on-site stream determination from the NC Division of Water Resources or a person with Surface Water Identification Training and Certification (SWITC) pursuant to G.S. 143-214.25A. On-site determinations shall expire five years from the date of the determination. Any disputes over on-site determinations shall be referred to the Director of the NC Division of Water Resources in writing within 60 calendar days of written notification;

3. Projects shall protect and maintain existing riparian areas in accordance with 15A NCAC 02B .0714 and Section 8 of the Durham City-County Unified Development Ordinance, which are hereby incorporated by reference. No new BUA shall be approved within a buffer unless the applicant can demonstrate to the County that the NCDEQ has approved the use within the riparian buffer; and

4. The required buffer width shall be 50 feet.

Sec. 14-156. Jordan Lake Basin Stormwater Requirements

(a) ***Runoff Volume Match***. Projects that are designed such that the annual runoff volume after development is not more than ten percent higher than the annual runoff volume before development shall be considered to meet the requirements of Items (b),(c), and (d) below. Acceptable methods for calculating the annual runoff volume include the Storm-EZ tool, available at www.dconc.gov/stormwater or the most recent methodology approved by the NCDEQ.

(b) ***Low/High Density Requirements***. BUA restrictions for low and high density shall be in accordance with the table below.

Overlay Code	Watershed Protection Overlay	Low Density Option – BUA Limit	High Density Option – BUA Limit
F/J-A	Falls/Jordan Critical Area	Within ½ mile of normal pool – 6% ½-1 mile of normal pool – 9%	Rural Tier – not permitted Outside Rural Tier – 40% Non-residential uses > 25% require a Special Use Permit
F/J-B	Fall/Jordan Protected Area	24%	70%
--	All other areas	24%	None

(c) ***Peak Flow Requirements***. High density projects shall be designed such that post-construction peak flow does not exceed the pre-development peak flow for the one-year, 24-hour storm event. Low density projects that are compliant with this ordinance shall be considered to have provided control for the one-year, 24-hour storm event.

(d) ***Nutrient Management Requirements for State and Federal Entities other than NCDOT***. In addition to the requirements in Item (b), projects shall meet the following nutrient management requirements. Lands that are controlled by entities other than state and federal agencies shall not be subject to nutrient requirements.

1. Projects shall meet a nitrogen loading rate of 2.2 pounds/acre/year and a phosphorus loading rate of 0.82 pounds/acre/year;

2. Nitrogen loading rates shall be determined using the tool most recently approved by the North Carolina Department of Environmental Quality;

3. Projects development shall attain a nitrogen loading rate onsite that does not exceed six pounds per acre per year for single-family, detached and duplex residential development and ten pounds per acre per year for other development, including multi-family residential, commercial and industrial; and

4. Projects that meet the above requirements may purchase permanent nutrient offset credits pursuant to North Carolina rule 15A NCAC 02B .0703.

(e) ***Buffers***. Buffers shall be provided adjacent to all perennial and intermittent streams and shall comply with the following:

1. Water bodies shall be subject to buffer requirements if they are shown on the most recent version of either the USGS 7 ½ -minute quadrangle topographic map or the USDA NRCS Soil Survey of Durham County, North Carolina, unless the County has made a stream determination that differs from what is shown on these maps;

2. Landowners or other affected parties who believe that the USGS topographic map and the USDA Soil Survey map have inaccurately depicted surface waters may request an on-site determination to determine the presence and location of waters by a member of the County staff with Surface Water Identification Training and Certification in accordance with the procedures described on the County's Stream Determination web site, available at https://www.dconc.gov/county-departments/departments-a-e/engineering-and-environmental-services/stormwater-and-erosion-control-division/stream-determinations;

3. Projects shall protect and maintain existing riparian areas in accordance with 15A NCAC 02B .0267 and Section 8 of the Durham City-County Unified Development Ordinance, which are

hereby incorporated by reference. No new BUA shall be approved within a buffer unless it is approved by the County; and

4. Required buffer widths shall be in accordance with the table below.

Overlay code	Watershed Overlay Name	Required Buffer Width in Feet	
		Perennial	Intermittent
F/J-A	Falls/Jordan Critical Area	150 (250 directly adjacent to Jordan Lake)	100 (250 directly adjacent to Jordan Lake)
F/J-B	Falls/Jordan Protected Area	100	High density – 100 Low density – 50
--	All other areas in the Jordan Lake Basin	50	50

Sec. 14-157. Requirements for Design of Stormwater Control Measures

(a) ***Peak Flow Control***. SCMs shall be designed such that there shall be no increase in the pre-development peak flow for the drainage area during the one-year, 24-hour storm event.

(b) ***Sizing***. The design volume of SCMs shall be sufficient to treat the runoff from the one-inch storm at build out from all surfaces draining to the systems. Drainage from off-site areas may be bypassed. The combined design volume of all SCMs on the project shall be sufficient to handle the required storm depth.

(c) ***Contaminated Soils***. SCMs that allow stormwater to infiltrate shall not be located on or in areas with contaminated soils. SCMs that allow water to infiltrate include infiltration systems, bioretention cells, permeable pavement, and depending upon native soils, vegetated swales, level spreader-filter strips, and berms. Information on contaminated soils can be found at: the NC DEQ Division of Waste Management Brownfields Program, available at http://deq.nc.gov/about/divisions/waste-management/brownfields-program, and US EPA Brownfields, available at: https://www.epa.gov/brownfields.

(d) ***Side Slopes***. Side slopes of SCMs stabilized with vegetated cover shall be no steeper than 3:1 (horizontal to vertical). Retaining walls, gabion walls, and other engineered surfaces may be steeper than 3:1. Steeper vegetated slopes may be accepted on a case-by-case basis if the applicant demonstrates that the soils and vegetation shall remain stable.

(e) ***Erosion Protection***. The inlets of SCMs shall be designed to protect the SCM from erosion resulting from stormwater discharges. The outlets of SCMs and discharges to land or buffers shall be designed so that the velocity downslope of the discharge point is two feet per second or less during the peak flow from the 10-year storm event as shown by engineering calculations.

(f) ***Excess Flows***. SCMs shall include an overflow or bypass device for inflow volumes in excess of the treatment volume, or, if applicable, the peak attenuation volume.

(g) ***Dewatering***. SCMs shall have a method to draw down any standing water to facilitate maintenance and inspection. It is recommended to pump wet ponds and wetlands rather than using a drawdown orifice at the invert to avoid discharging sediment.

(h) ***Clean Out After Construction***. Every SCM impacted by sedimentation and erosion control during the construction phase shall be cleaned out and converted to its approved design state.

(i) ***Maintenance Access***. Every SCM installed pursuant to this Section shall be made accessible for

maintenance and repair. Maintenance accesses shall: (a) have a minimum width of ten feet; (b) not include lateral or incline slopes that exceed 3:1 (horizontal to vertical); and (c) extend to the nearest public right-of-way.

(j) ***Easements***. All SCMs and associated maintenance accesses on privately owned land except for those located on single family residential lots shall be located in permanent recorded easements. The SCM shall be shown and labeled within the easement. These easements shall be granted in favor of the party responsible for enforcing the stormwater program under which the SCMs were approved.

(k) ***Single Family Residential Lots***. Plats for residential lots that contain an SCM shall include: (a) the specific location of the SCM on the lot; (b) a typical detail for SCM to be used; and (c) a note that the SCM on the property has been required to meet stormwater regulations and that the property owner may be subject to enforcement procedures as set forth in G.S. 143, Article 21 if the SCM is removed, relocated, or altered without prior approval.

(l) ***Operation and Maintenance Agreement***. The owner of the SCMs shall enter into an Operation and Maintenance (O&M) Agreement with the County. The O&M Agreement shall require the owner to maintain, repair, or reconstruct the SCMs in accordance with the approved design plans and the O&M Plan. The O&M Agreement shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the O&M Agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers.

(m) ***Operation and Maintenance Plan***. There shall be an Operation and Maintenance (O&M) Plan for every project subject to this Rule. The O&M Plan shall specify all operation and maintenance work necessary for the function of all SCM components, including the stormwater conveyance system, perimeter of the device, inlet(s), pretreatment measures, main treatment area, outlet, vegetation, and discharge point. The O&M plan shall specify methods to be used to maintain or restore the SCMs to design specifications in the event of failure. O&M plans shall be signed by the owner and notarized. The owner shall keep maintenance records, and these shall be available upon request by the party responsible for enforcing the stormwater program under which the SCMs were approved.

(n) ***SCM Specific Minimum Design Criteria (MDC)***. Every SCM shall follow the applicable device specific MDC pursuant to 15A NCAC 02H .1051 through .1062.

Sec. 14-158. Approval of Stormwater Construction Drawings

(a) ***Requirement for Stormwater Construction Drawing (CD) Approval***. No person shall place any BUA or stormwater infrastructure on a project or perform mass grading for a project that is subject to this article without first obtaining Stormwater Construction Drawing Approval from the County.

(b) ***Permitting Process***. Approval of stormwater construction drawings shall be obtained before placing any BUA or stormwater infrastructure on a project or performing mass grading for a project, and shall proceed be as follows:

1. The County will review each complete plan submittal and within 30 calendar days of receipt and will notify the applicant that it has been approved or if written comments are provided, or will notify the applicant of the need for an extension to respond;

2. The applicant shall provide a complete response or a request for an extension to the County's request for more information within 90 calendar days of receipt. If the applicant fails to respond within 90 calendar days, then the County shall have the authority to return the application;

3. The County will approve or provide written comments for a revised plan within 15 calendar

days of receipt;

4. Prior to receiving the Certificate of Occupancy, the owner of the project shall apply for and obtain an Operational Stormwater Permit for the project per Sec. 14-159 below; and

5. Approvals of stormwater construction drawings shall expire five years from the approval date if no BUA has been placed.

(c) ***Submittal Requirements for Stormwater CDs***. The following documents shall be submitted in accordance with the procedures on the Stormwater Plan Submission Overview page, available at www.dconc.gov/stormwater and shall, at a minimum, include the following:

1. Durham County Stormwater Financial Responsibility/Ownership Form with Landowner Consent, including the "Stormwater Construction Drawing Submittal Checklist," available at www.dconc.gov/stormwater;

2. Signed and sealed engineering drawings containing all notes, plans, and details pertinent to stormwater construction;

3. Signed and sealed Stormwater Impact Analysis (SIA). The SIA shall include all maps, assumptions, methodologies, calculations and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this article as well as outputs from the Nutrient Accounting Tool and/or annual runoff volume calculation tool. For high density projects, the SIA shall also include pre- and post-development peak flow calculations. The SIA shall be sealed by a registered North Carolina Professional Engineer;

4. Signed and sealed construction cost estimate for the construction of each SCM associated with the development, and maintenance for one year. This shall be sealed by a registered North Carolina Professional Engineer;

5. Draft deed restrictions and protective covenants;

6. If the project proposes an SCM that relies on infiltration or separation from the Seasonal High Water Table, a signed and sealed soils tests;

7. If the project is proposing to add new BUA to a protected Neuse Buffer, then proof that approval of the BUA has been granted by the NCDEQ;

8. An Operations and Maintenance Agreement and Manual that describes each SCM and its design specifications, which lots are served by each SCM, the frequency of inspections that are needed for the SCM, the specific components of the SCM to be inspected, the types of problems that may be observed, and the appropriate remedy for any problems that may occur;

9. Proof of the establishment of a Construction Surety that meets the requirements of Item (d) below; and

10. Plan review fees per the Durham County Stormwater and Erosion Control Fee Schedule, made payable to "Durham County."

(d) ***Construction Surety***. The applicant shall provide a security to assure construction of stormwater control measure facilities approved by County in compliance with the following:

1. The applicant shall provide a security equal to 125% of the construction cost of the SCMs associated with the project.

2. Securities shall be in the form of a letter of credit or performance bond executed by one or more surety companies legally authorized to do business in the State of North Carolina shall be provided to the County and maintained until the project is turned over to the owner. No cash bonds shall be accepted;

3. No security shall be required from an applicant that is a federal, state or county governmental entity, or is a school board.

(e) ***Revised Stormwater Plan***. If after approving the construction drawings, the County determines upon inspection of the job site that the measures will not be effective, the County may require a revised plan. Pending the preparation of the revised plan, work shall cease immediately or shall continue only under conditions outlined by the County.

Sec. 14-159. Operational Stormwater Permit

(a) ***Requirement for an Operational Stormwater Permit***. An Operational Stormwater Permit shall be obtained upon completion of construction of the project and before the Certificate of Compliance is issued by City-County Inspections Department. Operational Stormwater Permits are perpetual permits for the lifetime of the development and shall be maintained annually through submittal requirements to the County.

(b) ***Submittal Requirements for an Operational Stormwater Permit***. The following documents shall be submitted in accordance with the procedures on the Stormwater Plan Submission Overview page, available at www.dconc.gov/stormwater and shall, at a minimum, include the following:

1. Durham County Stormwater Financial Responsibility/Ownership Form with Landowner Consent,

2. Signed and sealed as-built plans that meet the requirements of Item (c) below. Plans shall be sealed by a registered North Carolina Professional Engineer, Landscape Architect, or Surveyor.

3. Signed and sealed certification that the as-built plans comply with the stormwater plan approved by the County. Certification shall be sealed by a registered North Carolina Professional Engineer, Landscape Architect, or Surveyor;

4. A final signed Operation and Maintenance Agreement;

5. Proof of the establishment of an Owner's Security that meets the requirements of Item (d) below; and

6. Plan review fees per the Durham County Stormwater and Erosion Control Fee Schedule, made payable to "Durham County."

(c) ***As-Built Plans***. The signed and sealed as-built plans shall be submitted as both one hard copy and one CAD file in .DWG format and shall include, but not be limited to, the following items:

1. World coordinates of the project;

2. Property boundary;

3. Minimum two-foot contours;

4. Spot elevations of bottom of stormwater control device, top of berm, emergency spillway, toe of slope;

5. Outlet control structure size, inverts, orifice and rim;

6. Final SCM plantings; and

7. Associated pipe size, material, inverts;

(d) ***Performance Bond***. The owner shall provide a performance bond to assure operation and maintenance of SCMs in compliance with the following:

1. The owner shall provide a performance bond equal to 125% of the construction cost plus one year of maintenance expenses for the SCMs associated with the project.

2. Performance bond(s) shall be maintained by the owner to provide for continuous improvement security for the life of the development; and

3. No bond shall be required from an owner that is a federal, state or county governmental entity, or is a school board.

(e) ***Conditional Operational Stormwater Permit***. The County shall have the option of issuing a Conditional Operational Stormwater Permit with a timeframe established for the permittee to submit documentation of the SCM plantings to the County. The as-built plans shall include the information listed in Sub-item(c), with the exception of the final SCM plantings.

Sec. 14-160. Operation and Maintenance of Stormwater Control Measures

(a) ***Operation and Maintenance Agreement***. The owner or owners shall have an operation and maintenance agreement that shall require maintenance, repair and, if necessary, reconstruction, of the SCMs, and shall state the terms, conditions, and schedule of maintenance for the SCMs. The owner or owners shall maintain records of the Operation and Maintenance Agreement and provide to County upon request.

(b) ***SCM Maintenance During Development***. During site development, the developer shall install and maintain all temporary and permanent stormwater control measures as required by the approved plan or any provision of this article, the Act or any order adopted pursuant to this article or the Act.

(c) ***SCM Maintenance After Site Development***. After site development, the developer shall install and/or maintain all necessary permanent stormwater control measures specified in the approved plan, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency. Conveyance of the property shall not terminate the original developer's obligations under this article until such time as a replacement permit is approved by the County. The original developer shall include in the deed conveying the property notice of the existence of the stormwater control measures and the purchaser's obligations to maintain and inspect them and to obtain a permit and otherwise comply with the terms of this article.

(d) ***SCM Inspections***. Upon completion of construction, the owner shall have the SCMs inspected by a registered professional engineer, registered land surveyor, or registered landscape architect. If any deficiencies in the SCM are found, those deficiencies shall be corrected, and the device shall be re-inspected, and this process shall continue until the SCM is found to be without deficiencies.

Between September 1 and December 1 of each of the following years, the owner shall have the device inspected by a registered professional engineer, registered land surveyor or registered landscape architect. If any deficiencies in the SCM are found, those deficiencies shall be corrected, and the device shall be re-inspected, and this process shall continue until the SCM is found to be without deficiencies.

The owner shall transmit all inspection reports to the County in accordance with the procedures found at: www.dconc.gov/stormwater. After the owner submits the SCM inspection report, the County shall review it within 30 calendar days. If the inspection report is complete and correct, the County shall approve it and notify the owner that the annual inspection requirement has been met. If the report is deficient, the owner shall be required to correct the deficiencies and resubmit the report

The inspection report shall contain all of the following items:

1. The name and address of the owner;
2. The recorded book and page number of the lot of each SCM;
3. A statement that an inspection was made of all SCMs;
4. The date the inspection was made; and
5. The original signature and seal of the registered professional engineer, registered landscape architect, registered architect, or registered surveyor.
6. Identified deficiencies, if any, with location and description of deficiency provided. If deficiencies require repair, deficiencies must be corrected in order for the inspection report to be approved.

(e) ***Annual Bond Renewal and SCM Inspection Fee***. Every year after the issuance of the Operational Stormwater Permit, no later than the issuance anniversary date, the owner shall submit documentation of bond renewal with the annual SCM fee per the Durham County Stormwater and Erosion Control Fee Schedule, made payable to "Durham County."

(f) ***Transfer of the Operation and Maintenance Agreement When Project is Sold***. Prior to the conveyance or transfer of any lot or building site with an SCM, and prior to issuance of any permit for development requiring an SCM pursuant to this ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the SCM. Until the transference of all property, sites, or lots served by the SCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(g) ***County Right of Entry***. The owner or owners shall grant to the County a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the engineered stormwater control in accordance with Sec. 14-162 below. In no case shall the right of entry, of itself, confer an obligation on the County to assume responsibility for the SCM.

(Ord. of 2-26-01, § 1; Ord. of 6-11-12, § 1)

Sec. 14-161. Illegal discharges.

(a) ***Types of Illegal Discharges***. It is unlawful for any person to empty or deposit in any stormwater collection system, directly or indirectly, any substance, liquid or solid, which by reason of

its nature:

1. Is, or may become, a public health hazard endangering human or animal health;

2. Is a nuisance, including substances which are unsightly or malodorous, or may become so;

3. Interferes, or may interfere, with the free and rapid flow of surface water;

4. Is flammable or explosive;

5. Is toxic to plant or animal life;

6. Is corrosive, or has properties which may damage or render unsightly the stormwater collection system; or

7. Affects adversely the State of North Carolina classification of the stream into which the stormwater collection system discharges.

(b) ***Prohibition on Stormwater Collection System Obstructions***. It is unlawful for any person to place any obstruction in any stormwater collection system to obstruct or impede the free flow of surface water, unless same has been authorized by the County.

(c) ***Removal of Illegal Discharges***. The developer is responsible for taking immediate action to report and remove an illegal discharge occurring on its property, regardless of the source of same. Upon receiving any report of an illegal discharge, the County shall issue notice to the developer. This notice shall specify the problem and action necessary to remedy it, as well as the time frame for taking such corrective action and the potential for additional action under Secs. 14-161 and 14-162 of this article.

(d) ***Penalties for Illegal Discharges***. Any developer, or other person, who makes, directly, or indirectly, an illegal discharge into a stormwater collection system shall be subject to civil penalties as provided in Sec. 14-160 of this article.

(Ord. of 2-26-01, § 1; Ord. of 6-11-12, § 1)

Sec. 14-162. Inspections and investigations.

(a) ***County Inspections***. Agents, officials or other qualified persons authorized by the County may periodically inspect public and private property to ensure compliance with the Act, this ordinance or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required have been implemented and are effective in achieving the goals of this ordinance.

(b) ***Requirement to Allow Inspector Access***. No person shall willfully resist, delay or obstruct an authorized representative, employee or agent of Durham County while that person is lawfully inspecting, or attempting to inspect, a development or installed stormwater collection system under this article.

(c) ***Written Notice of Inspection Findings***. If the County finds any stormwater collection system constructed, arranged, clogged, or in such disrepair as to impede, obstruct, or hinder the free flow of surface water in a manner that conflicts with acceptable engineering practices, or if a permitted SCM has not been installed per an approved plan, he or she shall give written notice to the developer of the property. This notice shall specify the problem and action necessary to remedy it, as well as the time frame for taking such corrective action and the potential for additional action under Secs. 14-160 and 14-162 of this article.

(d) ***Schedule for Inspections***. Inspections by the County may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws.

(e) ***Items that can be Inspected***. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in SCM; taking pictures of the areas; and evaluating the condition of SCMs.

(d) ***No Obstruction of Inspections***. No person shall obstruct, hamper or interfere with the County while carrying out his or her official duties. If the owner or occupant of any property refuses to permit such inspection, the County shall proceed to obtain an administrative search warrant pursuant to N.C.G.S §15-27.2 or its successor.

(Ord. of 2-26-01, § 1; Ord. of 6-11-12, § 1)

Sec. 14-163. Penalties.

(a) ***Assessment of Civil Penalties***. Any person who violates any of the provisions of this article, or rules or orders adopted or issued pursuant to this article or who initiates or continues a development for which a stormwater control plan and/or permit is required, or when such development was ordered to cease by the County except in accordance with the terms, conditions and provisions of an approved plan and/or permit shall be subject to a civil penalty in accordance with the below provisions:

1. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in Sec. 14-160 of this article;

2. The notice of assessment shall be served by certified mail, return receipt requested, or personal service by the sheriff, stormwater administrator, or their designee, and shall direct the violator to either pay the assessment or contest the assessment in accordance with Sec. 14-164;

3. If after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date the violation was detected. However, no time period for compliance need be given for failure to submit a stormwater control plan for approval, for failure to obtain a stormwater permit, for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his or her official duties, or for an illegal discharge. Each day of continuing violation shall constitute a separate violation;

4. The County shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. In determining the amount of the penalty, the following factors shall be considered: the degree and extent of harm caused by the violation, the cost, if any, of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with the Act, promulgated rules and this article; and

5. The maximum civil penalty for a violation shall be $5,000.00 per day.

(b) ***Failure to Pay Civil Penalty***. If payment is not received within 30 days after the assessment is due, the matter will be referred to the county attorney's office for initiation of a civil action to recover the amount of the civil penalty. An assessment that is not contested is due 15 days after the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative review of the assessment.

(Ord. of 2-26-01, § 1)

Sec. 14-164. Appeals.

(a) ***Appeals of Plan and Permit Denials.*** The disapproval or modification of any proposed stormwater control plan or the refusal to issue a stormwater permit by the County shall entitle the person submitting the plan, or applying for the permit, to a hearing before the County Engineer, if such person submits written demand to the County Engineer. The hearing shall be requested within 15 days after receipt of written notice of disapproval or modifications. This appeal shall specify the factual or legal grounds underlying the appeal and only such specified grounds may be argued at the hearing. Such hearing shall be held within 21 days after the date of the appeal or request for a hearing, or at such later time as the parties mutually agree.

(b) ***Appeals of Civil Penalties.*** Any person assessed with a civil penalty shall have a right of appeal as follows:

1. The initial appeal shall be before the County Engineer and shall be requested within 15 days after receipt of the notice of civil penalty assessment. This appeal shall specify the factual or legal grounds underlying the appeal and only such specified grounds may be argued at the hearing. Such hearing shall be held within 21 days after the date of the appeal or request for a hearing, or at such later time as the parties mutually agree.

2. Appeals from the decision of the County Engineer shall be to the Board of County Commissioners. This appeal shall be made in writing within 15 days of the County Engineer's decision and shall specify the factual or legal grounds underlying the appeal and only such specified grounds may be argued at the hearing. The Board of County Commissioners shall hold a quasi-judicial hearing and may affirm, increase, reduce or remit the penalty initially assessed by the County.

3. Appeals from the decision of the Board of County Commissioners shall be to the Superior Court of Durham County in accordance with N.C.G.S §160D-1401. If no such appeal is served upon the clerk to the board within 15 days, the civil penalty assessment becomes final.

Sec. 14-165. Injunctive relief.

(a) ***Reasonable Cause***. Whenever there is reasonable cause to believe that any person is violating or threatening to violate this ordinance or any rule or order adopted or issued pursuant to the Act, this ordinance, or any term, condition or provision of an approved stormwater control plan, the County Attorney may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the local government for injunctive relief as provided in section 1-6 of this Code, above, to restrain the violation or threatened violation, or to obtain mandatory relief, in superior court.

(b) ***No Relief from Civil Penalty***. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil penalty prescribed for violations of this article, or the Act.

(Ord. of 2-26-01, § 1)