



December 4, 2023

MEMORANDUM

TO: Sheila Thomas-Ambat, Public Services Director
Byron Reeves, Assistant Public Services Director

FROM: Paul Allen
Assistant City Attorney

SUBJECT: Ordinance Update Required - Response to New NC General Statute

This memorandum comes before you based on recent updates to the North Carolina General Statutes. The updated statute in question involves G.S. 160D-925, Stormwater Control.

Specifically, a new Section (d1) was added to G.S. 160D-925. This new section prohibits the City from requiring the owner of a stormwater control measure (SCM) to make payments to the City for the purpose of ensuring assets are available for the repair, replacement, or reconstruction of an SCM in the owner's subdivision/development. The full section of the new statute is attached hereto for your reference.

Because of this new change, the requirement for residential developers to pay 20 percent of the SCM original cost into a maintenance fund is now void as it conflicts with the above referenced new statute. The pertinent requirements for turnover of a residential development SCM are detailed in City Code Section 23-33(B). This change to G.S. 160D-925 opens the City to potential risk and additional responsibility as permit holders desiring to turn over their residential SCMs to the City for maintenance are no longer required to pay into the maintenance fund in order to satisfy the ordinance requirements for turnover.

Therefore, for the reasons stated above, it is the recommendation of the City Attorney's Office that all of City Code Section 23-33(B) be removed and the process for turnover of residential SCMs should be ended. Additionally, other areas of City Code Section 23-33 should also be updated to reflect this change.

PA

Attachment