



# Stormwater Control Ordinance: Functional Maintenance of Residential Subdivision SCMs

March 4, 2024

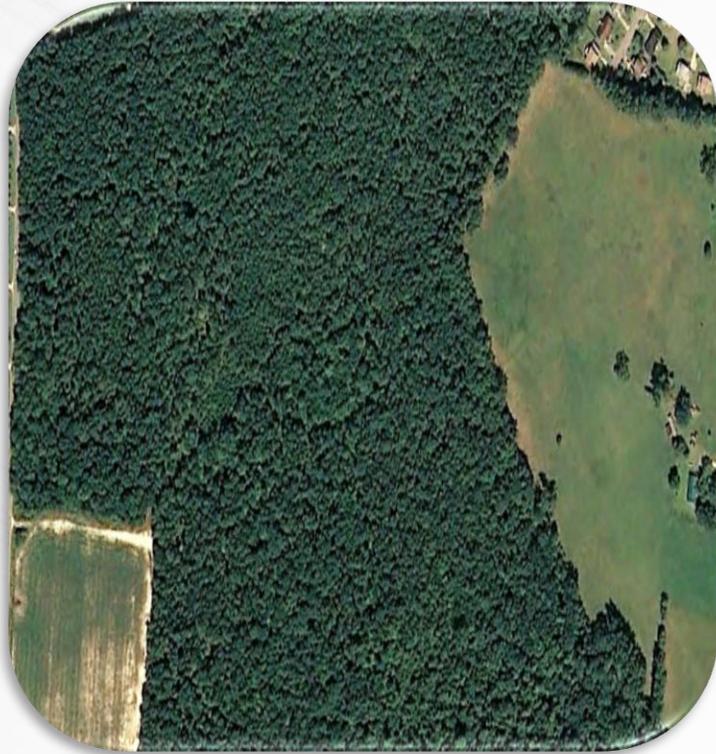
- Council Approved Text Amendment February 25<sup>th</sup> to remove Section 23-33.B.5 (requiring payment into a maintenance fund).
- Staff now seeks concurrence from City Council to amend the Ordinance to remove all of City Code Section 23-33(B).
- This would end the process for turning over functional maintenance of single-family residential SCMs to the City.



# Why SCMs?



# Stages of Development



Vacant Land

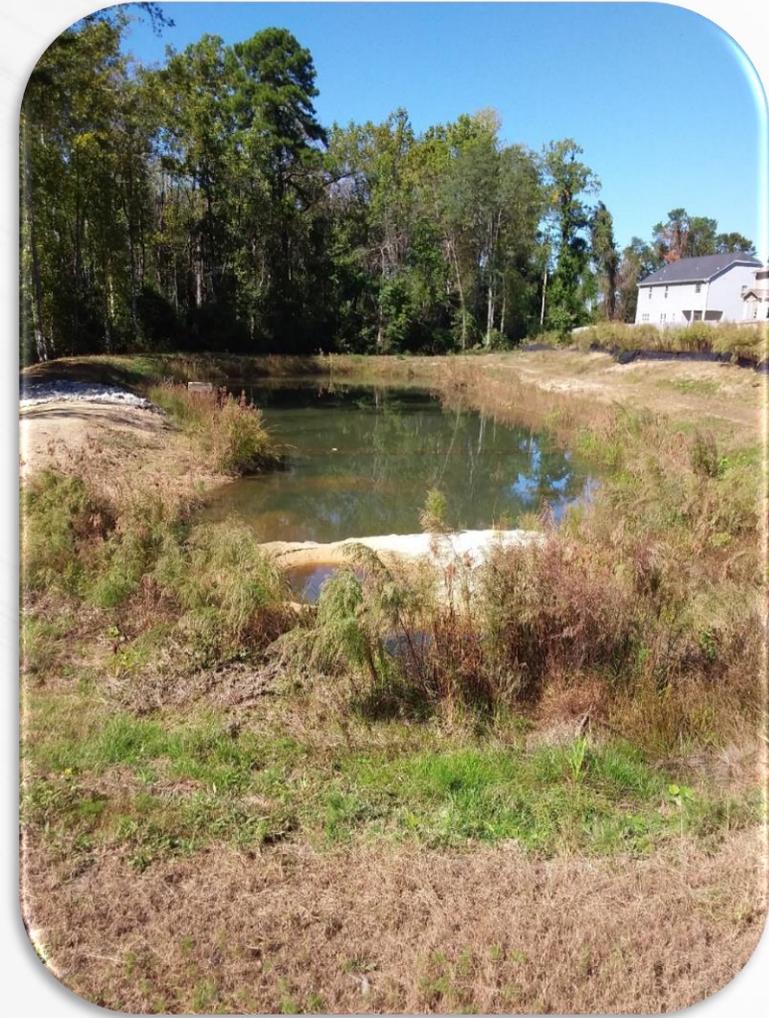


Erosion/Sediment Control Basin



Build Out Conditions

# Stages of a Basin



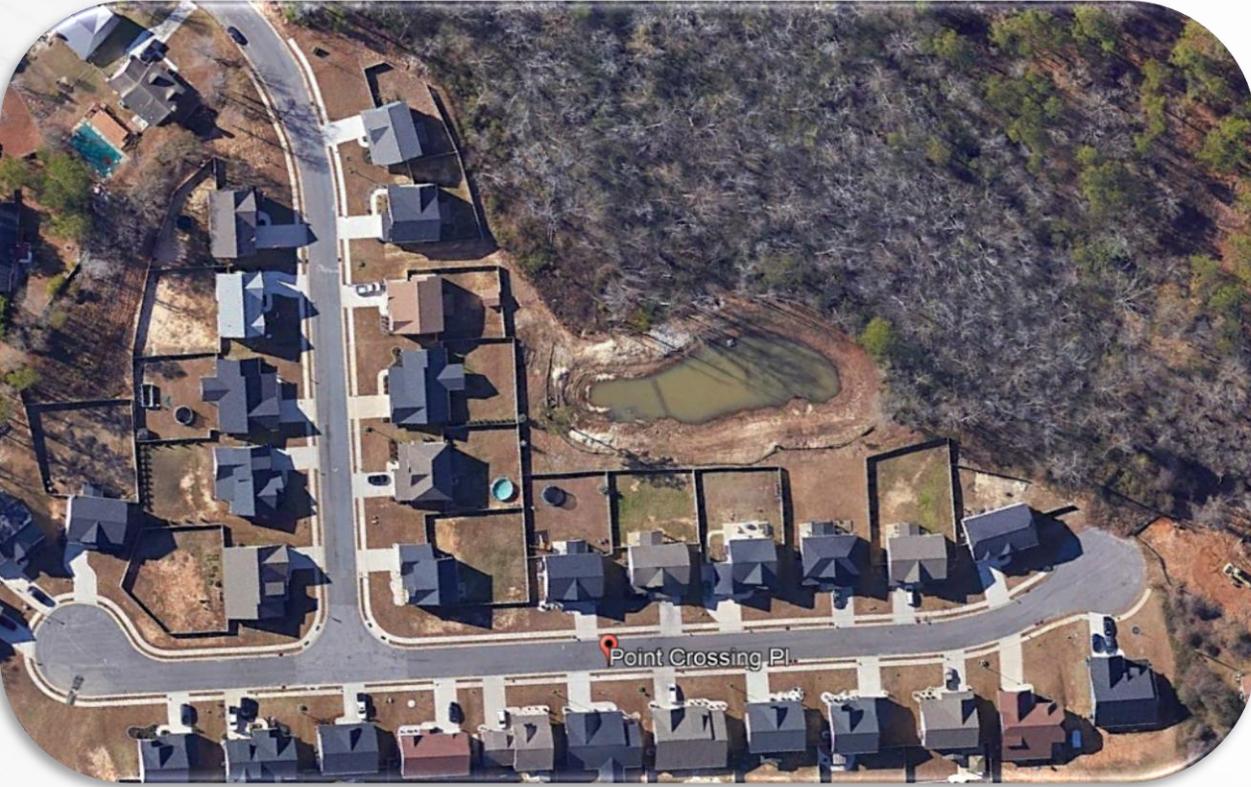
Erosion/Sediment Control Basin



Conversion



SCM



## Stormwater Control Measures:

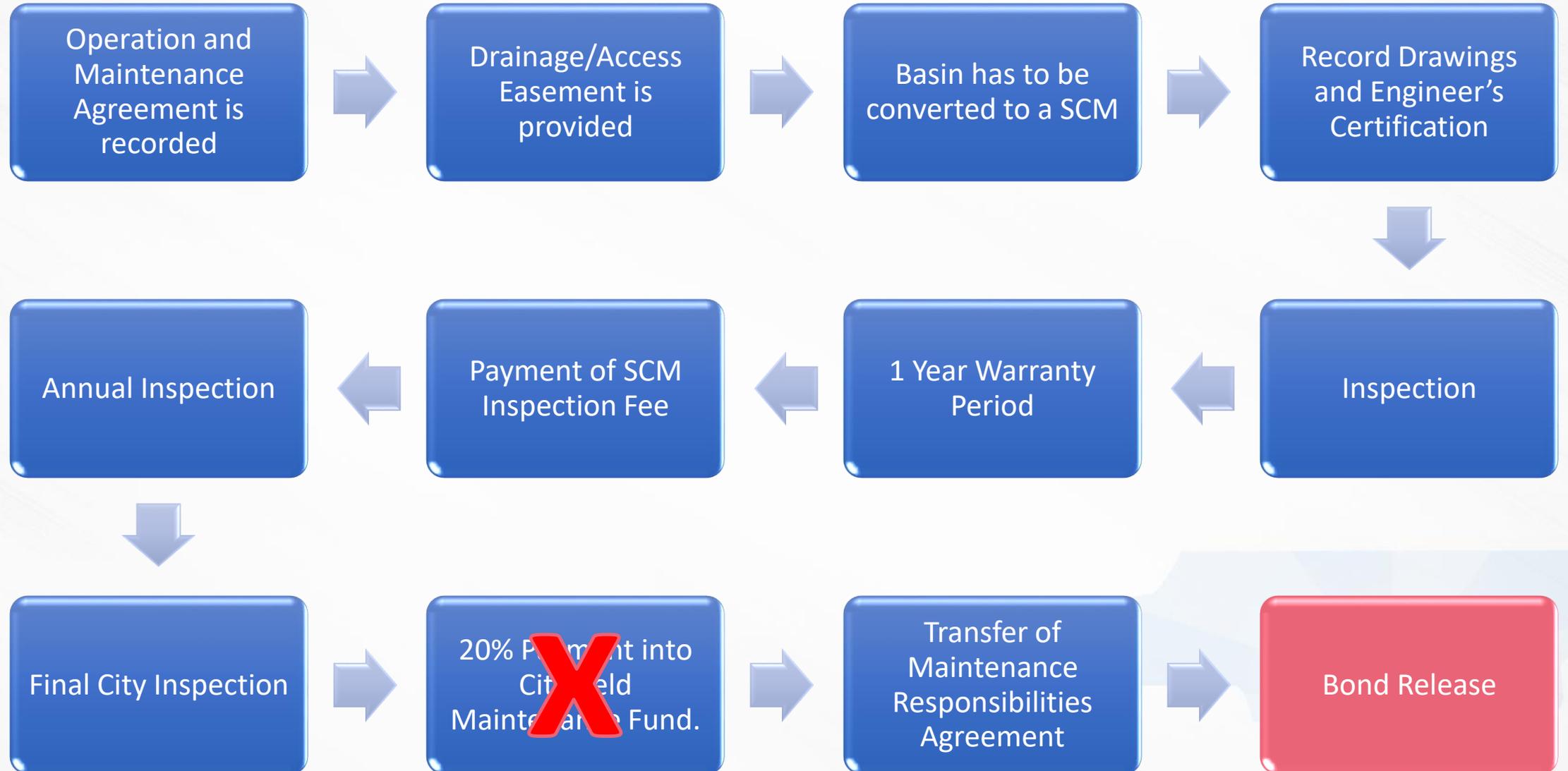
- SCMs are constructed by developers
- SCMs are owned by developer and/or HOA
- SCMs collect, treat, and store stormwater runoff generated solely by development

## Sec. 23-33 Ownership and Maintenance of Stormwater Management Facilities

- b. Single-family residential stormwater management facilities accepted for maintenance. ***The city shall accept functional maintenance responsibility of structural stormwater management facilities*** that are installed pursuant to this article following a warranty period of one year from the date of record-drawing certification described in section 23-37, or from the date the facility ceases to function as an erosion control measure and starts to function as a stormwater management facility, whichever is later, provided the stormwater management facility:
1. Only serves a single-family detached residential development or townhomes all of which have public street frontage;
  2. Is satisfactorily maintained during the one-year warranty period by the owner or designee;
  3. Meets all the requirements of this article;
  4. Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance, repair, or reconstruction; and
  - ~~5. Prior to the release of the installation performance guarantee as outlined in section 23-41(b), the developer shall pay into a maintenance fund used to maintain such facilities in the future an amount equal to 20 percent of the initial construction cost of the stormwater management facilities related to detention ponds or other BMPs constructed to meet the requirements of this article.~~

The city engineer must receive an application for transfer of maintenance responsibilities for the structural stormwater management facility along with the stormwater design plan submittal.

# How is a SCM Transferred?



- Providing functional maintenance for privately owned residential SCMs is unique to Fayetteville with respect to peer communities within North Carolina.
- G.S. 160D-925 prohibits the City from requiring developers to make a payment to a City maintained maintenance fund.
- Ordinance as it currently reads opens the City to potential risk and additional responsibility.
- City is currently responsible for functional maintenance of 7 residential SCMs
- Additional 44 permitted basins, none of which paid into the maintenance fund.

	Does the utility maintain residential SCMs?	Funding Source	Type of Maintenance
Charlotte-Mecklenburg Storm Water Services (City of Charlotte, NC)	By Petition	Stormwater utility fee	Functional
City of Austin (TX)	Yes	Stormwater utility fee	Functional, aesthetic
City of Durham (NC)	No	N/A	N/A
City of Raleigh (NC)	No	N/A	N/A
City of Greenville (NC)	No	N/A	N/A
El Paso Water (TX)	Yes	Stormwater utility fee	Functional
Lexington-Fayette Urban County Government (KY)	Yes	Stormwater utility fee	Functional
Metro Government of Nashville & Davidson County (TN)	No	N/A	N/A
New Hanover County (NC)	No	N/A	N/A
Sanitation District No. 1 of Northern Kentucky (KY)	Yes	Stormwater utility fee	Functional

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- **Remove Entirety of Section 23-33.B** (Staff and SWAB Recommendation)
  - Single-Family Residential developments would not have the option to transfer functional maintenance over to the City.
  - Developer/HOA would be responsible for all aspects of perpetual O&M.
  - Developer/HOA would fund O&M activities by establishment of an escrow account.

**Staff is seeking consensus from Council to draft a text amendment removing Section 23-33.B for the Stormwater Development Ordinance and for the text amendment to be brought back at the March 25<sup>th</sup> Regular Meeting for adoption.**



 **FAYETTEVILLE** <sup>NC</sup>  
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