



INTEROFFICE MEMORANDUM

TO: GISELLE RODRIGUEZ, PE, CFM, CITY ENGINEER
FROM: BYRON REEVES, PE, CFM ENGINEERING SPECIALIST II
SUBJECT: PEER CITY PERFORMANCE SECURITY COMPARISON
DATE: DECEMBER 21, 2018

The City of Fayetteville, in accordance with Chapter 23 Article III Sec. 23-41 of the Stormwater Management Ordinance, requires a performance guarantee for the installation of Stormwater Control Measures (SCMs) on all privately developed projects. These projects can be broken into two categories – Commercial Developments and Single-family Residential Subdivisions.

For commercial developments, the performance security for installation is required prior to the issuance of the infrastructure permit. The amount of the performance security is 75% of the total construction cost of the SCM. Prior to the issuance of a Certificate of Occupancy (CO), the SCM is converted, if necessary, and inspected by City staff. If the SCM passes inspection, the warranty period begins and the performance guarantee must remain in place for a minimum of one year. When this one year warranty period is complete, the applicant may petition the city to release the value of the performance guarantee. Upon receipt of such petition, the city engineer shall inspect the stormwater management facility to determine whether the controls are performing as designed and intend and if so, the performance security is refunded.

For residential subdivisions, the performance security for installation is required prior to the approval of the final plat. The amount of the performance security is 100% of the total estimated construction cost of converting from an erosion control measure (NCDEQ permit) to a final SCM. Once the SCM is converted it is inspected by City staff. If the SCM passes inspection, the warranty period begins and the performance guarantee must remain in place for a minimum of one year. When this one year warranty period is complete, the applicant may petition the city to release the value of the performance guarantee. Upon receipt of such petition, the city engineer shall inspect the stormwater management facility to determine whether the controls are performing as designed and intend and if so, the performance security is refunded and the City takes on functional maintenance responsibilities in perpetuity.

City staff recently reached out to our peer cities to inquire about their specific ordinance requirements for performance securities for both commercial and residential development. The below tables offer a comparison of requirements of these peer cities when compared to the City of Fayetteville.

Table 1. Peer City Comparisons for Performance Securities – Commercial Development SCMs

City	Bond Required Prior to Permit Issuance	Bond Required Prior to CO	Bond Amount	Warranty Period	Bond Released
Durham	No	Yes	Based upon a tier level & adjustment factor based on SCM facility type	No	Upon As-built acceptance
Greensboro	No	Yes	125% of remaining construction cost	No	Upon As-built acceptance
Greenville	No	Yes	100% of cost of remaining construction	No	Upon As-built acceptance
Raleigh	Yes	Yes	125% of estimated construction cost	No	Upon As-built acceptance
Winston Salem	No	Yes	125% Cost of remaining construction	No	Upon As-built acceptance
Fayetteville	Yes	Yes	75% of estimated construction cost	Yes	Completion of one year warranty period

Table 2. Peer City Comparisons for Performance Securities – Residential Subdivision SCMs

City	Bond Required Prior to Permit Issuance	Bond Required Prior to Plat Recordation	Bond Amount	Warranty Period	Bond Released
Durham	No	Yes	125% of remaining construction cost	No	Upon As-built acceptance
Greensboro	No	Yes	125% of remaining construction cost	No	Upon As-built acceptance
Greenville	No	Yes	Cost of remaining construction	No	Upon As-built acceptance
Raleigh	No	Yes	125% of remaining construction cost	No	Upon As-built acceptance
Winston Salem	No	Yes	Cost of remaining construction	No	Upon As-built acceptance
Fayetteville	No	Yes	100% of conversion cost	Yes	Completion of one year warranty period after conversion

It should be noted that some peer Cities have other specific requirements as it pertains to performance securities.

- They City of Durham has an extensive as-built program in which consultants have to be placed on an approved list before submitting as-builts for review.
- The City of Raleigh, prior to CO issuance, requires developers to remit a one-time payment of 24% of the construction cost of the SCM into a fund that the City retains in case of future device failure.
- The City of Winston-Salem requires commercial developments remit a one-time nonrefundable 4% payment based on the cost estimate for the SCM prior to the issuance of a permit. Residential Subdivision developers remit a nonrefundable 15% contribution into an escrow account. HOA must fund an escrow account with 2/3 of the estimated annualized cost of maintenance within 5 years of as-built approval and fully fund the escrow account within 10 years of as-built approval.