



Administrative Manual for Implementation of the Stormwater Control Ordinance

June 2021

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Section 1.0 Administrative Manual Overview

1.1 Purpose of the Administrative Manual

The purpose of this Administrative Manual (Manual) is to provide guidance and information regarding requirements, implementation, and administration of the City of Fayetteville Code of Ordinances, Part II, Chapter 23, Article III - Stormwater Control (also known as the “Stormwater Control Ordinance”).

Stormwater runoff is a major source of water pollution and water quality degradation in the City of Fayetteville. Many pollutants such as oils, metals, nutrients, and sediments are associated with runoff. The cumulative impact of these pollutants in surface waters is significant. Further, additions of impervious area result in increased volumes and velocity of stormwater runoff entering surface waters. This increased volume and velocity of stormwater runoff entering streams causes bank erosion and sediment discharge to surface waters. The combined effect of increased pollutants and stream channel erosion results in significant degradation of surface water resources. The increased volume and velocity of stormwater runoff can also cause significant downstream flooding problems.

The Stormwater Control Ordinance is designed to protect water quality and reduce downstream flooding in the City of Fayetteville. This Manual includes application requirements and forms, submission schedules, inspection requirements, and enforcement protocol overviews. The Manual provides consistent administration and implementation of the ordinance during the stormwater permit application, review, and approval processes.

In addition to the specific provisions of this Administrative Manual, the City relies on the Stormwater Design Manual published by the North Carolina Department of Environmental Quality (DEQ). Copies of the DEQ Stormwater Design Manual are available by contacting the Fayetteville Regional Office at 910-433-3394 or at the following website: <https://deq.nc.gov/about/divisions/energy-mineral-and-land-resources/stormwater/stormwater-program/stormwater-design>.

1.2 Administering the Manual

The Public Services Director or his/her designee is responsible for administering and enforcing the Stormwater Control Ordinance and has the authority to render interpretations of the Stormwater Control Ordinance and this Administrative Manual. Throughout this manual, references to the Public Services Director refer to the Public Services Director or his/her designee. Any person may request an interpretation by submitting a written request to the following:

Public Services Director
Public Services
City of Fayetteville
433 Hay Street
Fayetteville, NC 28301-5537
Phone: (910) 433-1656
Fax: (910) 433-1058
Website: www.fayettevillenc.gov

The Public Services Director or his/her designee shall respond in writing within thirty (30) days and shall keep on file a record of all written interpretations.

1.3 Amending the Manual

This Administrative Manual may be amended from time to time to reflect policy changes, ordinance updates, operational and process adjustments, and other contemporary needs. Notification of the modifications shall be made to City staff and the general public. The amended Administrative Manual shall be made available on the City’s website.

1.4 Definitions

This Administrative Manual adopts, incorporates, and applies definitions in Sec. 23-26 of the Stormwater Control Ordinance.

Section 2.0 Infrastructure Permit

2.1 Purpose of Infrastructure Permit

The Infrastructure Permit provides a mechanism for the review, approval, and inspection of development and redevelopment sites consistent with the requirements of the Stormwater Control Ordinance. Infrastructure Permits govern the design, installation, and construction of stormwater management and control practices on the site, including Stormwater Control Measures (SCMs). An Infrastructure Permit is required for all development and redevelopment projects unless exempt pursuant to the Stormwater Control Ordinance Section 23-21(f). Infrastructure Permits must be issued by the City prior to construction of SCMs.

2.2 Infrastructure Permit Application & Review Process

2.2.1 Clearing and Grading Activities

If site grading is anticipated prior to the issuance of an Infrastructure Permit, land clearing and grading activities may be initiated for development or redevelopment only with an erosion and sediment control permit issued by the North Carolina Department of Environmental Quality (NC DEQ). The landowner or the land owner's duly authorized agent must provide the City with a copy of the grading plan approved by NC DEQ prior to initiation of any work. If acceptable, the Public Services Director shall provide the landowner or the land owner's duly authorized agent with approval to proceed with the land clearing and grading as authorized in the erosion control permit.

2.2.2 Consultation Meeting

A land owner or the land owner's duly authorized agent or anyone having interest in a property by reason of a written contract with the owner may request a consultation meeting prior to submitting an Infrastructure Permit Application. The purpose of the consultation meeting is for the applicant and the City to review and discuss stormwater management requirements, constraints, opportunities, and potential design approaches before formal site design engineering commences. Applicants may provide conceptual drawings for review during this meeting. To request an optional consultation meeting, applicants should contact the Engineering Division of the Public Services Department at 910-433-1656.

2.2.3 Infrastructure Permit Application

To initiate an Infrastructure Permit Application, use the City's IDT Portal, available at <https://fayetteville.idtplans.com/secure/>, to upload items that must be provided for an application to be considered complete, including but not limited to:

1. Stormwater Design Plan(s): See Section 3.0 of this document.
2. Operation and Maintenance Agreement(s): See Section 4.0 of this document.
3. Performance Guarantee(s): See Section 5.0 of this document

Refer to the Infrastructure Permit Application Checklist, included as Appendix A. Pay the Engineering Review Fee as specified in the City's fee schedule. A submittal without the applicable fee will be considered incomplete and will not be reviewed.

2.2.4 Initial Application Review

The Public Services Director shall conduct a completeness review within seven (7) calendar days of application package submittal.

1. If the application is incomplete, the primary point of contact listed in the submission form will be notified. A response by the applicant must be received within thirty (30) calendar days or the City will consider the application package as withdrawn. Application package review does not commence until it is determined to be complete.

2. If the application is complete, the City will complete a review of the application and supporting materials within thirty (30) calendar days.

During application package review, City staff will examine the contents of the application and supporting materials for compliance with applicable codes and regulations. If deficiencies are identified, the City will notify the applicant that the application package is rejected or conditionally approved, and provide comments to be addressed in resubmittal.

2.2.5 Resubmittals and Additional Reviews

Within sixty (60) calendar days following notification that the application package has been rejected or conditionally approved, the applicant must submit one (1) set of corrected plans to the Public Services Director addressing all prior City staff comments and identified deficiencies.

1. If a revised application is not re-submitted within sixty (60) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.
2. The submittal of an incomplete application shall not suffice to meet this deadline.
3. If the resubmittal is complete, the City will complete a review of the application and supporting materials within fifteen (15) calendar days. If deficiencies are detected, the applicant will be notified and the application process will continue.

2.2.6 Approval and Issuance of Permit

Once approved, the City shall send written notification along with a hard copy of the signed Infrastructure Permit Application form, plans, and attachments to the applicant. These materials constitute an approved Infrastructure Permit. The applicant shall forward four (4) sets of approved plans and one (1) set of calculations to the Public Services Director. The Infrastructure Permit is valid until the project is complete or two (2) years from the date of issuance. If no work on the site in furtherance of the plan has commenced within the two-year period, the permit and plan approval shall become null and void and a new application shall be required to develop the site. Extensions or renewals of the plan approvals may be granted by the Public Services Director upon written request by the person responsible for the development activity.

Section 3.0 Stormwater Design Plans

3.1 Purpose of Stormwater Design Plans

Stormwater Design Plans are required to ensure that SCMs adhere to consistent standards as provided by applicable City ordinances and regulations for the appropriate treatment, conveyance, and remediation of stormwater. The following provisions describe requirements and procedures associated with stormwater design plan submittals to the City, including but not limited to stormwater design plans submitted as part of the infrastructure permit process.

3.2 General Scope and Interpretations

3.2.1 All Developments

For all development activities, concentrated stormwater runoff leaving a development site must be discharged directly into a well-defined, natural or manmade off-site receiving channel or pipe. If the receiving channel or pipe is found to be inadequate, the developer must incorporate measures to either improve the receiving channel or pipe to an adequate condition, or detain/retain runoff on the site to a level that can be accommodated by the receiving channel or pipe. Newly constructed channels or pipes shall be designed as conveyance structures.

The development site should be designed to maximize the amount of rainfall that infiltrates into the soils and minimize the amount of direct flow into public drainage facilities, adjoining streets, waterbodies, watercourses, and wetlands, to the extent feasible.

All requirements for sites located in water supply watersheds as set forth in the Code of Ordinances must be met. In addition, all state and/or federal requirements such as U.S. Army Corps of Engineers wetland permits must be met, if required.

Further, all developments must comply with design standards included in the Sec. 23-28 and Sec. 23-29 of the Stormwater Control Ordinance.

3.2.2 Subdivisions

In developing plans for subdivisions, individual lots in a residential development shall not be considered to be separate development activities and shall not require individual infrastructure permits. Instead, the subdivision development, as a whole, shall be considered to be a single development activity. Hydrologic parameters that reflect the ultimate subdivision development shall be used in all engineering calculations.

In subdivisions, lots should generally be graded in such a manner that surface runoff does not cross more than two lots before it is collected in a system of open channels, closed conduits, or a combination of both.

3.2.3 Phased Developments

For developments that have different planned phases of development, if all phases are covered by the approved stormwater design plan, one permit will be given for the entire development so that new permits will not be needed for each phase of development.

3.3 Stormwater Design Plan Requirements

3.3.1 Minimum Criteria

At a minimum, stormwater design plans shall include the following:

- a. A vicinity map indicating a north arrow, scale, boundary lines of the site, and other information necessary to locate the development site.
- b. The maximum scale shall be one inch equals 100 feet.

- c. The existing and proposed topography of the development site except for individual lot grading plans in single-family subdivisions. Profiles of proposed streets in single-family subdivisions shall be provided showing existing and proposed grades.
- d. Physical improvements on the site, including present development and proposed development.
- e. Location, dimensions, elevations, and characteristics of all existing and proposed stormwater management facilities.
- f. Stormwater design plans shall include designation of all easements needed for inspection and emergency maintenance of the SCMs along with those easements needed for the maintenance of the drainage system conveying public water.
- g. In subdivisions where an SCM serves more than one lot, the facility shall be located on a separate lot that is owned by the homeowners association. This lot shall have a minimum frontage of 20 feet.
- h. The stormwater design plan shall include all engineering calculations needed to design the system and associated structures including existing and developed velocities, peak rates of discharge, and hydrographs of stormwater runoff at all existing and proposed points of discharge from the site.
- i. Description of site conditions around points of all surface water discharge including vegetation and method of flow conveyance from the development activity.
- j. Construction and design details for structural controls.
- k. If there are FEMA-designated floodplains, they must be shown. All construction in the FEMA-designated floodplain must conform to Chapter 12, Flood Damage Prevention, of the City's Code of Ordinances. A separate floodplain submittal may be required.
- l. A plan for maintenance of privately owned SCMs shall be included as part of the stormwater design plan which as a minimum shall specify the following:
 - 1. Types of maintenance activities which should be anticipated so that the proposed drainage system and SCMs will operate as designed.
 - 2. The frequency and amount of maintenance that should be anticipated.
 - 3. The equipment that will be required to perform the needed maintenance.
 - 4. Name, address, and telephone number of the party responsible for maintenance.
- m. Any existing wetlands on the property shall be delineated on both the stormwater design plan as well as the final plat.
- n. A stormwater design plan shall not be considered approved without the inclusion of an approval stamp with a signature and date on the plans. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person concerning the safety, appropriateness, or effectiveness of any provision, or omission from the stormwater design plan.

3.3.2 Easements and Maintenance Access

As a minimum, easements shall have the following characteristics:

- a. Provide adequate access to all SCMs for inspection, maintenance, and landscaping upkeep.
 - 1. Provide a minimum 20-foot permanent maintenance access easement from a public or private right-of-way to all SCMs. Driveways can serve as the 20-foot maintenance access for SCMs provided the owner of the driveway and SCM are one in the same.
 - 2. Provide a minimum 10-foot permanent drainage easement around the perimeter of all SCMs. The perimeter shall be the edge of facilities such as sand filters or bioretention areas. For wet and dry extended detention basins and similar facilities, the perimeter shall be the top of bank where the stormwater is stored. Any fences constructed around such facilities shall be outside of the 10-foot permanent drainage easement.
 - 3. The cleared access area within this easement must have a minimum stabilized width of 12 feet, maximum longitudinal grade of 15 percent, and maximum cross slope of 5 percent. The SCM shall be located entirely within a recorded permanent drainage easement. Additionally, the permanent drainage easement shall extend 10 feet around the perimeter of all SCMs to allow for adequate maintenance and repair. The 10-foot wide area of the permanent drainage easement around the perimeter of the SCM is to be relatively flat with a maximum cross slope of 2 percent.

4. In subdivisions where a stormwater SCM serves more than one lot, the SCM shall be located on a separate lot that is owned by the homeowner association. This lot shall have a minimum frontage of 20 feet.
- b. Provide adequate access to all parts of the drainage system and structures.
 1. Provide a minimum 20-foot easement for closed pipe systems. The required easement width shall be computed as follows:

Width = 10 feet + (the diameter or total outside width for multiple pipes) + (2 times the invert depth). The easement width should be rounded to the nearest five-foot increment.

Drainage easements associated with culverts should be centered over the culvert but may be offset as long as a minimum of ten feet is provided on both sides.

- c. Provide easements centered on watercourses with the minimum widths based on the following:

Easement Widths for Open Channels

Drainage Area, Acres	Easement Width, Feet
< 10 acres	10 feet on each side
10 to < 25 acres	20 feet on each side
25 to < 50 acres	30 feet on each side
50 to < 100 acres	40 feet on each side
> 100 acres	Greater of the floodway width or 50 feet

- d. Restriction on easements shall include prohibiting all fences without gates and structures which would interfere with access to the easement areas and/or the maintenance function of the drainage system. If an obstruction (fence, wall, landscaping, etc.) is located in a drainage easement and inhibits access to the drainage system, the city shall remove the obstruction as necessary but will not be obligated to replace it.

3.3.3 Hydrologic Criteria

- a. The hydrologic criteria to be used for the stormwater design plans shall be as follows:

Description	Design Storm
Permanent storage facilities	1- and 10- year
Roadway inlets	5-year
Swales	10-year
Storm drainage systems	10-year
Open channels	25-year
Culverts (subdivision streets)	25-year
Culverts (thoroughfare roads)	50-year
Emergency spillways	100-year
Energy dissipaters	Same as outlet system

- b. All hydrologic analysis will be based on land use conditions as specified in Section 3.3.4.
- c. For the design of storage facilities, a secondary outlet device or emergency spillway shall be provided to discharge the excess runoff in such a way that no danger of loss of life or facility failure is created.

3.3.4 Land Use Conditions Criteria

For all stormwater management facilities, a hydrologic-hydraulic study shall be done showing how the drainage system will function with the proposed facilities. For such studies the following land use conditions shall be used.

- a. For the design of the facility outlet structure, use developed land use conditions for the area within the proposed development and existing land use conditions for upstream areas draining to the facility.
- b. For any analysis of flood flows downstream from the proposed facility, use existing land use conditions for all downstream areas.
- c. All SCMs, emergency spillways shall be checked using the 100-year storm and routing flows through the facility and emergency spillways. For this analysis, developed land use conditions representing ultimate build-out conditions shall be used for all areas draining to the facility.

3.3.5 Wetlands Criteria

Wetland areas shall not be disturbed until documentation is provided to the Public Services Director to show that the applicant has received approval from the U.S. Army Corps of Engineers regarding appropriate permits and approval of development activities. Stormwater design plans shall not be approved until this documentation has been provided to the Public Services Director. The city does have the option of providing conditional approval of the stormwater design plans that stipulate the documentation shall be provided prior to any disturbance of wetland areas.

Section 4.0 Operation and Maintenance Agreements

4.1 Purpose of Operation and Maintenance Agreement

An Operation and Maintenance Agreement is a legal document required for all SCMs. The purpose of this agreement is to ensure that each SCM related to an Infrastructure Permit receives adequate maintenance so that it can function satisfactorily. The agreement also designates the responsible party who shall be in charge of maintaining the SCM.

4.2 General Requirements

The Operation and Maintenance Agreement template can be found in Appendix B. This template is provided in two formats, with one designed for use when SCMs are owned and maintained by a property owners' association and the other for use with SCMs under single party ownership such as commercial developments.

4.2.1 Homeowners' and Other Associations

For all SCMs required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity in a single-family residential subdivision, the required Operation and Maintenance Agreement shall include the following key provisions, as well as others covered in the template:

1. Acknowledgment that the association shall continuously operate and maintain the stormwater management facilities.
2. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater management facilities. Both developer and homeowners' association contributions shall fund the escrow account. Prior to the release of the installation performance guarantee as outlined in section 23-41(b), the developer shall pay into the escrow account an amount equal to 15 percent of the initial construction cost of the stormwater management facilities. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the escrow account budget.
3. Granting to the City a right of entry to inspect, monitor, maintain, repair, and reconstruct stormwater management facilities.
4. Allowing the city to recover from the association and its members any and all costs the city expends to maintain or repair the SCMs or to correct any operational deficiencies.

4.3 Maintenance Plans

An SCM Maintenance Plan must be attached as an addendum to the Operation and Maintenance Agreement which identifies the specific maintenance activities to be performed for each SCM included in the Infrastructure Permit. An SCM Maintenance Plan template is included for reference in Appendix C. An SCM Maintenance Plan consists of six parts as follows:

- a) **General SCM Information** – This is a table listing each of the SCMs.
- b) **SCM Site Location Map** – This is a small site plan map showing the general location of each of the SCMs listed in Number 1 above.
- c) **Maintenance Annual Budget** – This is a simple annual budget for maintenance of the SCMs and their funding source.
- d) **Escrow Account Activity** – This provision will only apply to those SCMs located in single-family subdivisions where the facility is to be privately owned and maintained by a property owners' association. If that is the case, the Maintenance Plan should require that documentation of the escrow account activity will need to be provided with each annual inspection report.
- e) **Maintenance Inspection Report** – Each year a maintenance inspection report is to be submitted to the Public Services Director. Reports will need to be provided to the Public Services Director on an annual basis.

- f) **Routine Maintenance Tasks and Schedule** – This is a list of tasks and associated schedules for each SCM in the Infrastructure Permit.

The Maintenance Plan shall identify each SCM using the following naming convention: “Project or subdivision name – SCM Type – Number.” For example, “Stoneridge Phase I – Bioretention – 1.”

Prior to the issuance of a Certificate of Occupancy for commercial properties or the recording of a Final Plat for a single-family residential subdivision, the Operation and Maintenance Agreement shall be recorded at the Cumberland County Register of Deeds Office with the corresponding approved Plat (see Section 6.0). Within fourteen (14) calendar days of recordation, a copy of the recorded document shall be provided to the Public Services Director for placement in the project file. Certificates of occupancy shall not be released until a copy of this recorded document is provided.

4.4 Approval

Operation and Maintenance Agreements must be submitted, approved, and executed prior to the issuance of an Infrastructure Permit. The document shall be signed by the responsible party and notarized. The document shall also be signed by the Public Services Director.

Operation and Maintenance Agreements must be recorded prior to the recording of a Final Plat for a single family residential subdivision. Operation and Maintenance Agreements must be recorded prior to the issuance of a Certificate of Occupancy for non-residential or commercial properties, or the recording of a Final Plat. For developments such as Office Parks that do not fall into either of the above two categories, the applicant shall consult with the Public Services Director during the initial application process to determine how best to handle the Operation and Maintenance Agreement for such developments.

4.5 Transfer of Maintenance Responsibilities to City of Fayetteville

For single-family residential subdivisions, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement for a period of one year from the date of record-drawing certification described in Stormwater Control Ordinance Sec. 23-31, or for a period of one (1) year 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. After this period, the City of Fayetteville shall accept maintenance responsibility of SCMs that are installed pursuant to all six criteria as listed in Sec. 23-38 (b) of the Stormwater Control Ordinance. Please be aware that during the one year warranty period the developer is still responsible for all maintenance of the SCM. The one year warranty period shall commence when the erosion control measure is converted to an SCM. Thus, the subdivision does not have to be completely built out for this to occur. NCDENR normally allows the erosion control measure to be discontinued when 75% of the lots in the subdivision have been built upon. When this occurs, the primary point of contact shall furnish the Public Services Director with documentation from NCDENR that the site is suitable for conversion.

The owner of the SCM shall remain responsible for routine maintenance of the easement area such as grass cutting, trash removal and landscaping. The following procedure shall be followed regarding the transfer of maintenance responsibilities:

1. After the one (1) year warranty period has expired and assuming the SCM meets the criteria above, the owner shall complete the Transfer of Maintenance Responsibilities Agreement and submit to the Public Services Director, along with any attached Exhibits. The Transfer of Maintenance Responsibilities Agreement template can be found in Appendix E.
2. Upon receiving the above agreement, the Public Services Director shall conduct an inspection of the subject SCM within twenty-one (21) calendar days.
3. The inspector shall conduct a thorough inspection in accordance with Section 7.0 below and the SCM Inspection Procedures. Any deficiencies detected during the inspection shall be noted. An inspection report with instructions for correcting the deficiencies shall be mailed to the owner within ten (10) calendar days of the inspection.
4. Upon notification by the owner that the deficiencies have been corrected, the inspector shall re-inspect the SCM within twenty-one (21) calendar days. If the SCM is found to be in satisfactory condition and meets the criteria for SCM Transfer of Maintenance Responsibilities, then the Transfer of Maintenance

Responsibilities Agreement shall be signed by the Public Services Director and returned to the owner. The owner shall record the completed agreement at the Cumberland County Register of Deeds Office.

5. Within fourteen (14) calendar days of recordation, a copy of the recorded document shall be provided to the Public Services Director at the address in Section 1.2 above for placement in the project file. Installation performance securities shall not be released until this recorded document has been received.
6. Upon receipt of the certified copy of the Transfer of Maintenance Responsibilities Agreement, the City becomes the only entity responsible for structural maintenance of the SCM.

An SCM Maintenance Plan must be attached as an addendum to the Transfer of Maintenance Responsibilities Agreement which identifies the routine maintenance activities to be performed by the owner of the SCM. The City shall be responsible for the functional maintenance of the SCMs once they have passed inspection. Therefore, the City shall be responsible for conducting the annual inspection and completing the Maintenance Inspection Report. The Maintenance Plan shall identify each SCM using the following naming convention: "Project or subdivision name – SCM Type – Number". For example, "Stoneridge Phase I – Bioretention – 1".

4.6 SCM Inspections

The Operation and Maintenance Agreement requires that each SCM be inspected by a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance on an annual basis.

An inspection report must be completed for each SCM indicating the status of each item inspected and any maintenance that was conducted. The inspection report must be completed on the form provided in Appendix D.

The first inspection report is due to the Public Services Director within one (1) year from the date of record drawing certification for the SCM and each year thereafter. The inspector shall certify on the Maintenance and Inspection Checklist that the SCM has been inspected and that at the time of the inspection the SCM was performing properly and was in compliance with the terms and conditions of the approved Operation and Maintenance Agreement and Maintenance Plan required by the Stormwater Control Ordinance.

Therefore, the inspector should allow enough time before the end of the one year time period to conduct the necessary inspections(s) and complete the necessary maintenance and repairs prior to submittal of the report.

Within two (2) weeks following the completion of inspection and maintenance activities, the owner of the SCM shall forward the signed and certified Maintenance and Inspection Checklist to the Public Services Director at the address below.

If an escrow account is required by the Operation and Maintenance Agreement, documentation of escrow account activity must be attached to the Maintenance and Inspection Checklist submitted to Public Services Director in the form of a bank statement which includes the current balance, as well as deposits and withdraws for the previous 12 months.

If any of the maintenance items indicated on the Checklist are found to be unsatisfactory, corrective actions must be completed and documented on the Checklist or attached pages.

The owner of the SCM shall keep records of inspections, maintenance, and repairs for at least five (5) years from the date of creation of the record and shall submit the same upon reasonable request to the to the Public Services Director, at the address provided in Section 1.2.

Section 5.0 Performance Guarantee Requirements

5.1 Purpose of a Performance Guarantee

The purpose of a performance guarantee is to provide the City of Fayetteville with financial resources to complete required public improvements in the event of developer default. For the Stormwater Control Ordinance, these performance guarantees are primarily used for SCMs and associated infrastructure. There are two (2) types of performance guarantees used by the City of Fayetteville, including:

- a. Cash Bond: A certified check made out to the City of Fayetteville or a Company Check made out to City of Fayetteville.
- b. Surety Bond: A contract among at least three (3) parties, including the principal (developer), obligee (City of Fayetteville), and the surety (bonding company) who ensures that the principal's obligations shall be performed.

All performance guarantees are to be submitted to the Public Services Director, at the address provided in Section 1.2.

Blank performance guarantee application forms for guaranteeing the installation of SCMs are provided in Appendix F. This type of performance guarantee must be posted for all SCMs on all new developments and redevelopments.

5.2 Performance Guarantee Process

The process for obtaining a performance guarantee is as follows:

- a. During the plan review process, the engineer for the proposed development shall furnish the Public Services Director with a certified cost estimate for constructing and/or installing the proposed SCMs.
- b. The Public Services Director shall review the cost estimate for accuracy. If acceptable, the Public Services Director shall notify the engineer to that affect.
- c. A performance guarantee shall be required for the amount specified in Sec. 23-34 of the Stormwater Control Ordinance. The developer shall secure the performance guarantee using the forms contained in Appendix F.
- d. The developer shall provide the Public Services Director with the original performance guarantee form.
- e. Performance guarantees shall be kept in place until at least one year after final approval. In cases where the facility initially functions as an erosion control measure, the installation performance guarantee shall remain in place until at least one year after the facility starts to function as an SCM.

5.3 Performance Guarantee Release Process

The request to release a performance guarantee must be made in writing to the Public Services Director. However, a performance guarantee shall not be released if the City has not been properly notified for the inspection of items covered by the performance guarantee. The Inspection protocol is outlined in Section 8.1. Also, performance guarantees shall not be completely released until record drawings have been received and approved and it has been determined through an on-site inspection that all BMPs have been installed and the project is in full compliance with approved plans and specifications and the requirements of the Stormwater Control Ordinance. Therefore, the Public Services Director shall complete and approve the Performance Guarantee Release Checklist (see Appendix H) prior to approving the release of any performance guarantee. An Approval for Bond Release Form must be completed by the inspector and provided to the Public Services Director before the performance guarantee can be released (see Appendix I).

5.4 Performance Guarantees for Public Entities

Public entities are not required to obtain performance guarantees for the installation of SCMs provided a letter signed by the manager or director of the project provides suitable assurances that the necessary improvements will be installed and maintained in accordance with Stormwater Control Ordinance requirements. Public entities shall include but not be limited to Cumberland County Schools, City of Fayetteville, Fayetteville Public Works Commission, Fayetteville Stormwater Services, Cumberland County, Fayetteville State University, and the State and Federal government. The

letter of assurance shall be addressed to the Public Services Director and upon his or her approval the performance guarantee requirement will be waived and all holds/approvals for the project released.

Section 6.0 Final Plats

6.1 Purpose of a Final Plat

Enforceable restrictions on property usage are required to ensure that future development and redevelopment maintains the site in compliance with Ordinance requirements. This is achieved through specific notations on final plats, which shall be reviewed and approved by the City of Fayetteville prior to recordation.

The surveyor shall include applicable restrictions from the recorded final plat on each lot survey, which is provided to the purchaser at the time of closing. In this way, the new property owner is made aware of the restrictions and the measures necessary to ensure compliance with the Ordinance.

Plats are required for all projects unless they meet all five of the following criteria:

1. Property for the project is not subdivided;
2. All SCMs are within the project's property boundary;
3. SCMs serve only the property where they are located;
4. SCMs are maintained by the property owner; and
5. Right of entry to inspect and maintain the SCMs is granted in a recorded covenant.

6.2 Required Notes

The following shall appear on all final plats and shall be recorded at the Cumberland County Register of Deeds Office. Appendix J contains the inter-office checklist used to ensure that a final plat is complete.

1. The location and name of major streams and setback boundaries including the top of the stream bank (field located). The setback area shall be labeled as "Stream Setback".
2. The location of all SCMs, including their corresponding NAD83 (feet) coordinates. Dimensions of the SCM area and all maintenance easements with the corresponding SCM identification name/number. The following naming convention shall be used for all SCMs: "Project or subdivision name – SCM Type – Number". For example, "Stoneridge Phase I – Bioretention – 1".
3. Easement note per the final plat checklist for developments without an HOA:
The operation, maintenance, and reconstruction responsibility of the stormwater system including the stormwater control measure(s) (SCM[s]) located within the SCM access & maintenance easement rests with the owner. The SCM access & maintenance easement grants the City of Fayetteville and their assigns right of access to the permanent SCM(s) for inspections and enforcement of the Operations and Maintenance Agreement and Plan recorded in Deed Book ___ and Page ___. No obstruction shall be allowed in the easement which could impede necessary maintenance by the owner and any enforcement by the city.
4. Easement note per the final plat checklist for developments with an HOA:
The operation, maintenance, and reconstruction responsibility of the stormwater system including the stormwater control measure(s) (SCM[s]) located within the SCM access & maintenance easement rests with the owner. If the City of Fayetteville has accepted functional maintenance responsibility of the SCM, the operation, maintenance, and reconstruction responsibility of the stormwater system excluding the SCM and routine maintenance of the SCM(s) rests with the owner. The Stormwater Control Measure (SCM) access & maintenance easement grants the City of Fayetteville and their assigns right of access to the permanent SCM(s) for inspections and enforcement of the Operations and Maintenance Agreement and Plan recorded in Deed Book ___ and Page ___ or functional maintenance of the SCM(s) if that responsibility has been accepted by the City. No obstruction shall be allowed in the easement which could impede necessary maintenance, inspection, or enforcement.

In some circumstances, plans for a development may indicate a built-upon area (BUA) slightly below the high density threshold for requiring SCMs in which case the plan reviewer may require impervious area restrictions for each lot to ensure that new construction as well as future expansions and additions do not exceed the BUA threshold. These restrictions must be shown on the final plat for each lot. The developer may elect to install SCMs rather than include these lot restrictions on plats.

In the event that SCMs are installed on private lots (which is always be strongly discouraged due to maintenance and access concerns), the SCM notations indicated above must be placed on the deed for the lot and not on the final plat.

6.3 Approval Process

One (1) copy of the final plat is to be submitted for review to to the Planning Director, at the address provided in Section 1.2.

Final plats shall not be approved until a copy of the recorded Operation and Maintenance Agreement and Maintenance Plan as described in Section 4.3 have been received by the Public Services Director. An exception is when the final plat and the Operation and Maintenance Agreement and Maintenance Plan are recorded concurrently or simultaneously. In those cases, all of these documents shall be reviewed and approved by the Public Services Director prior to recording.

Prior to submitting the copy of the final plat, the applicant is encouraged to provide the Public Services Director with a digital copy of the final plat in a PDF to facilitate the review process.

Engineering staff shall use the checklist provided in Appendix J to complete this review. The Public Services Director shall notify the applicant that the final plat meets all Public Services requirements or that revisions are needed prior to recording.

Following approval, the final plat shall be signed and returned to the applicant for recording at the Cumberland County Register of Deeds Office. Within fourteen (14) days of recordation, a copy of the recorded document shall be provided to the Public Services Director. If infrastructure remains to be installed within the boundary of the plat, then a performance guarantee/bond is required as described in Section 5.0.

Section 7.0 Inspection Process

7.1 Purpose of Inspections

Inspections may be conducted pursuant to the Stormwater Control Ordinance for a variety of purposes, including but not limited to enforcing stormwater regulations, ensuring SCMs are constructed and maintained appropriately, and verifying that SCMs are functioning as intended. Inspection milestones are established at the on-site preconstruction meeting.

7.2 Requesting an Inspection

To schedule inspections, applicants must contact the Public Services Department at (910) 433-1656. The City's normal business hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. Calls received on Friday will normally have inspections scheduled for Monday the following week.

7.3 Inspection Criteria

The City Inspector shall document inspections at the site for compliance with the approved plans, including the inspections of all SCMs, setbacks, volume and peak control, and other requirements. A checklist illustrating required elements for compliance with Stormwater Control Ordinance is provided in Appendix D. This checklist will be utilized by Inspectors to evaluate sites and projects.

Deviations from the approved plans may be approved by the Public Services Director. In those cases, the design engineer shall provide documentation to the Public Services Director that the SCM is functioning as designed and is in compliance with the requirements of the Stormwater Control Ordinance, even with the deviations. For the purposes of subsequent inspections and approval, an approved deviation becomes the approved plan.

7.4 Inspection Fee

The SCM Inspection Fee covers the cost of all inspections of SCMs during the construction process including the final inspection conducted by City personnel. The amount of the fee is based on the staff resources necessary to conduct these inspections and can be found in the City's Schedule of Fees approved by the City Council. The fee can be paid by check or over the phone with a credit card. If the fee is not paid, the City will not sign off on the CO or final plat.

Section 8.0 Enforcement

The Public Services Director has the right to enforce all requirements of the Stormwater Control Ordinance. Violations of the Ordinance will result in a Notice of Violation and assessment of penalties as allowed under Sec. 23-41 of the Stormwater Control Ordinance.

Upon inspection, the responsible person/entity will receive either a Notice of Site Compliance (Appendix M) or a Notice of Site Non-Compliance (Appendix N).

8.1 Violations

Upon review of design documentation or site inspection, if the Public Services Director finds circumstances in violation of the Stormwater Control Ordinance, he may issue a Notice of Violation (NOV) (Appendix O), which details any corrective action that must be taken. Corrective actions must be made within the timeframe specified on the form to avoid being assessed civil penalties. Some violations incur immediate penalties, which will be detailed in the form included as Appendix P. If upon reinspection, corrections have not been made to address the violation, the City will issue the responsible persons/entities a Continuing NOV (CNOV) (Appendix Q).

8.2 Penalties

Penalties are assessed from the date the violations were noted until all violations are corrected and the site is brought into compliance with the Stormwater Control Ordinance. Refer to Appendix R and Appendix S for information on penalty amounts per day. The Stormwater Control Ordinance Penalty Assessment Checklist included as Appendix T details the information that Public Services will maintain on violations and their resolution.

When corrective actions are completed, you should notify the Public Services Director at (910) 433-1656 so that the site can be inspected. The site is considered to be in compliance with the Ordinance only once this office has issued a Notice of Compliance and Penalty Form, included as Appendix U, which also details the total penalty owed, to the responsible persons/entities.

Assessed penalties must be paid within thirty (30) days in the form of a check payable to the City of Fayetteville; or the responsible party must submit a written request for a hearing before the City Council, including in your request a

statement of the factual or legal issues in dispute. Relief from an adverse determination by the City Council is by appeal to the Superior Court of Cumberland County. Payment or request for a hearing before the City Council should reference the Case Number provided in the Notice of Compliance and Penalty, and should be mailed to the Public Services Director at the address provide in Section 1.2.

8.3 Appealing Penalty, Notice of Violation or Decision

An Appeal may be filed must be filed, by submitting a Notice of Appeal (Appendix V) to the Public Services Director at the address provided in Section 1.2, in response to a(n):

- Assessment of a Civil Penalty,
- Notice of Violation,
- Order of Restoration,
- Disapproval or Modification of Proposed Plan, or
- any decision, order, requirement, or determination relating to the interpretation or application of the Ordinance .

The form must be filed within thirty (30) calendar days of receipt of an Assessment of a Civil Penalty, or within fifteen (15) calendar days of receipt for all other cases. The applications are placed on the agenda according to the date they are received subject to the availability of parties concerned and other factors.

Section 9.0 Record Drawing Surveys and Digital Submittals

9.1 Purpose of Record Drawings

Pursuant to Sec. 23-31 of the Stormwater Control Ordinance, the responsible party as identified in the Infrastructure Permit shall certify that the completed project is constructed in accordance with the approved plans and specifications and shall submit record drawing surveys for all SCMs after final construction is completed.

9.2 General Requirements

Record drawing surveys (2 copies) shall be prepared by a North Carolina licensed professional as outlined in Sec. 23-31 of the Ordinance. As a minimum, the record drawings shall contain the following. A complete checklist for record drawing surveys is provided in Appendix K.

- a) Mark through and redraw drainage structures when the as-built location deviates more than ten feet horizontally from the location indicated on the plans.
- b) Show all drainage structures, pipe inverts, and rim elevations.
- c) Show distances between drainage structures on the plan view as well as the profile.
- d) Show the final design specifications for all SCMs and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed.

After reviewing the record drawing survey, the design engineer shall certify, under seal, that the SCMs are in compliance with the approved plans and specifications and with the requirements of the Stormwater Control Ordinance.

All record drawings are to be submitted to the Public Services Director, at the address provided in Section 1.2 within thirty (30) calendar days following project completion.

9.2.1 Single Family Residential Subdivisions

Please note that in single-family residential subdivisions where the SCM initially functions as an erosion control measure, it will be necessary to provide a record drawing survey and certification letter at the completion of the stormwater system excluding the SCM. After the erosion control measure is converted to a stormwater management facility, it will be necessary to provide a record drawing survey and certification letter for the SCM only. Failure to provide approved record drawing surveys within thirty (30) calendar days following project completion may result in assessment of penalties as specified in Section 8.0.

9.3 Final Inspections

Upon submitting record drawings, the permittee will request a final inspection from the City to ensure the field accuracy of the record drawing survey and compliance with the requirements of the Stormwater Control Ordinance. Permittees should follow the inspection request process outlined in Section 7.0 of this manual.

If noncompliance is identified, or if there are discrepancies among the final inspection, record drawing survey, and engineer certification, the Public Services Director will issue written notification to the primary point of contact describing the deficiencies detected and actions necessary to ensure compliance as well as specifying a time frame in which compliance is to be achieved. Certificates of occupancy will be withheld pending receipt of record drawing surveys and the completion of a final inspection and approval of a project.

Refer to Section 7.3 regarding deviations from the approved plans.

If the final inspection, record drawing survey, and engineer certification are in agreement and also comply with Ordinance requirements, the Public Services Director will issue a written notice of site compliance to the primary point of contact. This notification will also indicate that a digital submittal of the record drawing survey is required prior to final approval of the project for compliance with Stormwater Control Ordinance requirements and the release of performance guarantees.

9.4 Digital Record Drawing Requirements

A digital version of record drawing surveys must be submitted within forty-eight (48) hours of approval of the hard copy record drawings. At a minimum, digital submission must:

- a) Be submitted in a CAD-compatible format (e.g., *.dwg)
- b) Be accompanied by relevant GIS shapefiles and associated metadata
- c) Conform to NC GRID with all SCMs shown
- d) Utilize the NAD83 (North Carolina State Plane Coordinate System) projection delivery format
- e) Include the following layers:
 - 1. Name, location, size, and elevation (NAVD 88) of the SCMs actually constructed.
 - 2. Location of all drainage structures, pipe inverts (NAVD 88), and rim elevations.
 - 3. Distances between drainage structures.
 - 4. Mark through and redraw drainage structures when the as-built location deviates more than ten feet horizontally from the location indicated on the plans.
- f) The locations for SCMs, and storm sewer system inlets and outlets shall be supplied as North Carolina State Plane X- and Y-coordinates.

All digital submittals must be made to the Public Services Director via email or file transfer. Mylars are not required. Digital versions of record drawings do not require a professional seal and signature. In lieu of a seal and signature, the digital submittals shall contain the following disclaimer: "This document originally issued and sealed by (name of sealer), (license number), on (date of sealing). This medium shall not be considered a certified document."

The Public Services Director shall send written notification of final approval of the project for compliance with Stormwater Control Ordinance requirements to the applicant. Appendix M contains the form to be used to provide this notification (Notice of Site Compliance). A hard copy of this notification shall be placed in the Active file. Release of performance guarantees, issuance of the CO, and/or signing of the final plat will be withheld pending receipt of the digital files. In addition, a failure to provide digital files is a violation of the Ordinance and is subject to penalties.

Section 10.0 Variances and Appeals

10.1 Variance Process

A petition for variance, in the form prescribed by the City Council, shall be filed with the City Clerk accompanied by a nonrefundable \$500 filing fee established by City Council as well as a list of adjoining properties including tax parcel numbers and the name and address of each owner. Appendix W contains the procedures and forms for filing a variance petition.

Upon receipt of a variance petition, the City Clerk shall transmit to the City Council copies of all information regarding the variance. The City Council shall, in accordance with the rules adopted by it for such purposes, hold public hearings on any variance petition which comes before it.

The City Council shall, prior to the hearing, mail written notice of the time, place and subject of the hearing to the person or persons filing the petition, to the owners of the subject property and to the owners of property adjacent to the subject property. The hearing shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

Before granting a variance, the City Council shall have made all the following findings:

- a) Unnecessary hardships would result from the strict application of the Ordinance.
- b) The hardships result from conditions that are peculiar to the property, such as the location, size or topography of the property.
- c) The hardships did not result from actions taken by the petitioner.
- d) The requested variance is consistent with the spirit, purpose, and intent of the Ordinance; shall secure public safety and welfare; and shall preserve substantial justice.

The City Council may impose reasonable and appropriate conditions and safeguards upon any variance it grants. The City Council shall grant or deny the variance or shall reverse, affirm or modify the order, decision, determination or interpretation under appeal by recording in the minutes of the meeting the reasons that the City Council used and the findings of fact and conclusions of law made by the City Council to reach its decision. The City Council shall refuse to hear an appeal or variance petition which has been previously denied unless it finds there have been substantial changes in the conditions or circumstances relating to the matter.

Every decision of the City Council shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) calendar days after the later occurring of the following:

- a) The decision of the City Council is filed; or
- b) A written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the City Council at the time of its hearing of the case.

10.2 Appeal Process

An appeal may be initiated by any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of the Stormwater Control Ordinance. A notice of appeal shall be filed with the City Clerk contesting any order, decision, determination or interpretation within 15 days of written notice of disapproval or modification of a Stormwater Design Plan, or determination of either noncompliance or failure to maintain, or within thirty (30) days of the receipt of a notice of assessment of a civil penalty, made or rendered by the Public Services Director in the enforcement of the Ordinance. Failure to timely file such notice shall constitute a waiver of any rights to appeal under the Ordinance. Appendix V contains the procedures and forms for filing a notice of appeal.

Upon receipt of a notice of appeal, the City Clerk shall transmit to the City Council copies of all administrative papers, records, and other information regarding the subject matter of the appeal. The filing of such notice shall stay any proceedings in furtherance of the contested action, except the Public Services Director may certify in writing to the City Council that because of facts stated in the certificate, a stay imposes an imminent peril to life or property or would seriously interfere with the enforcement of the Ordinance. In that case, proceedings shall not be stayed except by a

restraining order, which may be granted by the City Council or by a court of record on application, on notice to the Public Services Director from whom the appeal is taken and on due cause shown.

The City Council shall, in accordance with the rules adopted by it for such purposes, hold public hearings on any notice of appeal which comes before it. The City Council shall, prior to the hearing, mail written notice of the time, place and subject of the hearing to the person or persons filing the notice, and to the owners of the subject property. The hearing shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by substantial, competent, and material evidence.

At the conclusion of the hearing, the City Council shall render its decision regarding the appeal based on the evidence submitted.

- a) If, after considering the evidence presented at the hearing, the City Council concludes by a preponderance of the evidence that the grounds for the actions by the Public Services Director with regard to either disapproving or modifying a proposed Plan, issuing a notice of violation, assessing a civil penalty or ordering restoration are true and substantiated, the City Council shall uphold the action on the part of the Public Services Director.
- b) If, after considering the evidence presented at the hearing, the City Council concludes by a preponderance of the evidence that the grounds for the actions by the Public Services Director are not true and substantiated, the City Council shall, as it sees fit either reverse or modify any order, requirement, decision or determination of the Public Services Director.

10.3 Hearing Procedures

All hearings shall be conducted according to the City Council bylaws and procedures and pursuant to the North Carolina General Statutes.

It is the expectation of the Fayetteville City Council that hearings shall be heard by the City Council during the next regularly scheduled meeting of the City Council following the filing of a complete application package for a notice of appeal or request for a variance. In the event that a conflict is known at the time the hearing is scheduled, the City Clerk has the authority to reschedule the hearing for the next date for which there is no conflict. If a conflict arises between the time of initial scheduling and the hearing date, the appellant must file a written request for continuance with the City Clerk, stating the nature of the conflict. The City Clerk, in consultation with the City Council Attorney, may reschedule the hearing for good cause.

Requests for a continuance on the day of the scheduled hearing must be made to the City Council in person by Petitioner or his agent. A continuance shall be granted only upon a majority vote of the members of the City Council present for the meeting. If Petitioner or his/her agent does not appear to make the request, or if the request is denied, the hearing shall proceed in accordance with the notice given by the City Clerk.

Appendix A

Infrastructure Permit Application Checklist

Appendix B

Form SCO2 – Operation and Maintenance Agreement Templates

Appendix C

Form SCO3 – SCM Maintenance Plan Templates

Appendix D

Form SCO4 – SCM Maintenance and Inspection Checklists

Appendix E

Form SCO5 – Transfer of Maintenance Responsibilities Agreement

Appendix F

Form SCO6 – Performance Guarantee Templates

Appendix H

Form SCO7 – Performance Guarantee Release Checklist

Appendix I

Form SCO8 – Bond Release

Appendix J

Plat Checklist

Appendix K

Form SCO9 – Record Drawing Requirements

Appendix L

Form SCO10 – Notification of Record Drawing Approval and Digital Submission Request

Appendix M

Form SCO11 – Notice of Site Compliance

Appendix N

Form SCO12 – Notice of Site Non-Compliance

Appendix O

Form SCO13 – Stormwater Control Ordinance NOV Form

Appendix P

Form SCO14 – NOV with Immediate Penalty Form

Appendix Q

Form SCO15 – Continuing NOV Form

Appendix R

Form SCO16 - Stormwater Control Ordinance Penalty Assessment Guide

Appendix S

Form SCO17 – Stormwater Control Ordinance Penalty Assessment Worksheet

Appendix T

Form SCO18 – Stormwater Control Ordinance Penalty Assessment Checklist

Appendix U

Form SCO19 – Notice of Compliance and Penalty Form

Appendix V

Form SCO20 – Notice of Appeal

Appendix W

Form SCO21 – Notice of Petition for Variance Request

