

## Article 9. Stormwater Management

### *Part 3 Completion and Maintenance of Improvements*

#### **9-32 Assurance that Improvements will be Maintained.**

9-32-1 **Maintenance Required.** All stormwater improvements must be maintained so they will continue to serve their intended functions.

#### **9-32-2 Parties Responsible for Maintenance of Improvements.**

- (A) The developer must maintain stormwater improvements until ~~accepted by~~transferred to a property owners' association or lot owner via a ~~Stormwater~~Stormwater Agreement. The developer must disclose which party will be responsible for continued maintenance on the record plat and on the stormwater management plan.
- (B) Before improvements are ~~accepted~~transferred for maintenance ~~by to~~ the property owners' association or lot owner, the developer or the developer's engineer or other representative, as authorized by Statute, must certify to the property owners' association or lot owner and to the county that improvements are complete and functioning as designed.

#### **9-32-3 Maintenance Plan.**

- (A) The developer must record, and reference on the record plat, a maintenance plan that instructs the property owners' association or lot owner about the annual maintenance tasks and associated costs for at least a 20-year period.
- (B) It will be the responsibility of the property owners' association or lot owner to update the maintenance plan at least every ten years.

#### **9-32-4 Maintenance Agreement.**

- (A) The developer must record, and reference on the record plat, a maintenance agreement, or restrictive covenant that sets forth the property owners' association's or lot owner's continuing responsibilities for maintenance, including specifying how cost will be apportioned among lot owners served.
- (B) The maintenance agreement must provide that the association and its individual members are jointly and severably liable for maintenance.

#### **9-32-5 Annual Maintenance Inspection and Report.**

- (A) The person or entity responsible for maintenance of any structural and non-structural stormwater control measures installed pursuant to this ordinance shall submit an annual inspection report from one of the following persons providing services only in their area of competence: 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 or other certification as approved by Wake County.

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- (B) Annual inspection reports are due by June 30 of each year. The first annual report is due by June 30 following one year after approval of the as-built plan. For structural stormwater control measures located on properties subject to property owners' association agreements, the property owners' association is responsible for collecting and submitting information on all individual lot structural stormwater conveyance measures installed pursuant to this ordinance on an annual basis.
- (C) The inspection report shall contain all of the following: The name and address of the parcel owner, the name and address of the party responsible for maintenance of the stormwater control measure, the name of the subdivision or development, the recorded book and page number of the lot of each structural and non-structural stormwater control measure; a statement regarding whether or not inspected structural and non-structural stormwater control measures are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance. The report shall include any noted deficiencies, needed maintenance and recommended corrective action. The report shall include the name, contact information, original signature, and seal (if applicable) of the qualified person conducting the inspection.
- (D) All reports shall be on a form provided by or approved by Wake County.

**9-32-6 Documents Required Before Plat Approval or Building Permit.** All maintenance documents required by this Article must be submitted to the Subdivision Administrator or Environmental Services Stormwater Engineer before record plat approval, and such documents must be referenced on the record plat, or, in the case of single-lot developments not requiring record plats, documentation must be submitted to the Zoning Administrator or Environmental Services Stormwater Engineer before building permit issuance.

[Amended on 10/21/2019 by OA-01-19.]

## ***Part 5 Administration<sup>1</sup>***

### **9-50 Application Requirements.**

**9-50-1 Stormwater Plan Required.** For any development requiring stormwater improvements, no applicant may receive a grading, building or other permit required for land disturbance without first having a ~~county~~ county-approved stormwater management plan.

**9-50-2 Submittal Procedures.** Stormwater management plans must be submitted and reviewed in conjunction with subdivision plans, or, in the case of single-lot developments requiring stormwater management, in conjunction with site plans.

[Amended on 10/21/2019 by OA-01-19 .]

### **9-51 Variances (Stormwater Management).**

Requests for a variance to the stormwater management standards of this Article must be processed in accordance with the procedures of 19-26.

[Amended on 2/5/2018 by OA 01-17; Amended on 10/21/2019 by OA-01-19 .]

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<sup>1</sup>OA-01-19 , adopted October 21, 2019, renumbered Parts 4 and 5 as Parts 5 and 6.

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## 9-52 Appeals.

### 9-52-1 Authority.

- (A) Pursuant to Section 19-41, aAny person affected by any decision of the county that relates to interpretation or application of this ordinanceArticle may appeal to the hearing panel of the Wake County Human Services and Environmental Services BoardBoard of Adjustment.
- (B) Any alleged error of the county in making or refusing to make a decision may be basis for an appeal.

9-52-2 **Filing.** The appeal must be filed in writing with the Wake County Director of Environmental Services, as defined in Section 10-12, Stormwater Engineer within 30 days of the decision complained of and must specify the grounds for appeal.

### ~~9-52-3 Hearing.~~

- ~~(A) The hearing panel of the Human Services and Environmental Services BoardBoard of Adjustment must fix a time and place for the hearing.~~
- ~~(B) At least ten days prior to the hearing, the hearing panel must publish notice of the hearing in a newspaper of general circulation within the county.~~
- ~~(C) The hearing panel must render a decision in writing within 45 days of receiving the appeal.~~

9-52-4 **Decision-Making Criteria.** In acting on appeals, the hearing panel of the Human Services and Environmental Services BoardWake County Board of Adjustment must determine, by simple majority vote, if the appellant has presented substantial evidence that the county erred and whether the county correctly interpreted the stormwater management regulations of Article 9.

~~9-52-5 Subsequent Appeals.~~ The appellant may appeal the hearing panel's decision to the full Human Services and Environmental Services BoardBoard of Adjustment by filing an appeal within ten days of the hearing panel's decision. Such appeals must follow the same procedure as the original hearing before the Board's hearing panel.

[Amended on 10/21/2019 by OA-01-19 .]

## Article 21. Definitions and Measurement

### 21-11 Definitions.

*Impervious Surface* means any surface, ~~resulting from human activity or built-upon area,~~ that obstructs or prevents infiltration of water into soil. ~~Impervious surface includes, but is not restricted to: buildings and rooftops; walkways, driveways, and parking areas that are paved or compacted by pedestrian or vehicular traffic; solid decks and patios; pavement; recreation facilities that are paved or compacted; and any other paved, compacted, or partially impervious surface. For purposes of calculating the percentage of impervious surface coverage, the area of the entire contiguous lot or parcel must be regarded as the actual area of the lot or parcel. The water surface of a lake, pond, or swimming pool is considered pervious. A wooden slatted deck is considered pervious. None of the following surfaces shall be considered built-upon area or an impervious or partially impervious surface.~~

1. A slatted deck.

2. The water area of a swimming pool.

3. A surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over either a geotextile fabric or permeable pavement as defined by the Wake County Stormwater Design Manual.

4. 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).

5. 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.

6. Artificial turf, installed over a pervious surface according to the manufacturer's specifications.

7. Stormwater Control Measures, excluding underground detention stormwater control measures, designed in accordance with the Wake County Stormwater Design Manual.

*Stormwater Control Measures* means permanent structural devices that are designed, constructed, and maintained to control flow from stormwater runoff before the water reaches downstream bodies of water. These devices remove pollutants from stormwater and help reduce flooding and erosion to downstream properties when designed in accordance with the Wake County Stormwater Design Manual.