

**AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE IV OF THE DACULA CITY CODE
SUBMISSION OF PROPOSED AMENDMENT TO DCA, AND RELATED PURPOSES**

WHEREAS the City of Dacula like all local governments in the State of Georgia is authorized under O.C.G.A. § 8-2-25(c) to adopt local requirements when needed that are more stringent than the Georgia Post-Development Stormwater Management code based on local climatic, geologic, topographic, or public safety factors;

WHEREAS the long-term and continued disconnection from impervious and disturbed pervious surfaces from the storm drainage system is a critical need of the City of Dacula and stormwater management is essential to meeting this need;

WHEREAS, based on its local climatic, geologic, and topographic factors included in the regional water resources plan prepared by the Metropolitan North Georgia Water Planning District (“Metro Water District”), of which the City of Dacula is a part, stormwater management is especially important to the City of Dacula and the Metro Water District;

WHEREAS the City of Dacula has become aware that it is necessary to provide pathways for developments with difficult conditions such as low infiltration rates, high groundwater, or shallow bedrock, may necessitate the waiving or reduction of development requirements;

**NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DACULA HEREBY
ORDAINS**

1. The governing body of the City of Dacula finds that, based on local climatic, geographic, topographic, and public safety factors included in the Metro Water District’s plans, it is justified in adopting a Practicability Policy in its Post-Development Stormwater Management Code;

2. The City of Dacula is considering codifying a practicability requirement in the local code as an amendment to Georgia Post-Development Stormwater Management requirements in the form of the Local Amendments to Stormwater Management Code shown in Attachment A;

3. The City of Dacula is directing its staff to submit this ordinance and the Local Amendments to Post-Development Management to DCA for review and comment within 60 days as required by O.C.G.A. § 8-2-25(c)(1).

4. After said comment period, if no objection, response or recommendation is filed, the amendments to the City’s Code of Ordinances shall be adopted, approved and included in the City Code effective January 1, 2024.

5. The City Administrator, Assistant City Administrator, and Director of Planning and Development are further authorized to correct typographical errors in the text of the existing City Code, to remove conflicting provisions, to update the City Code, and to produce and publish a final codified version of the City Code with the amendments and revisions outlined herein.

6. In the event any Court of competent jurisdiction determines that any portion of the foregoing amendment is invalid, unconstitutional or otherwise illegal, such rulings shall not impair the validity of the rest and remainder of this amendment.

7. All laws and parts of laws in conflict with this Ordinance are hereby repealed.

SO ORDAINED by the governing authority of the City of Dacula, this _____ day of September, 2023.

AYES: ____

NAYES: ____

HUGH D. KING, III

MAYOR, CITY OF DACULA

ATTEST:

BRITTNI NIX,

CITY ADMINISTRATOR

Attachment A:

Practicability Policy: An Overview of Processing a Determination of Infeasibility

Amendment to local code of ordinances Chapter 10, Article 6, Adding Section 10-179 to Section 10-184.

Sec. 10-179. Purpose of provisions.

The practicability policy is based on the following principles:

- (a) It is designed to help administrators implement a process for granting a Determination of Infeasibility that supports efficient review of land development applications.
- (b) It applies to new development and redevelopment projects for public and private post-construction stormwater BMPs. It is referenced in the *Model Ordinance for Post-Construction Stormwater Management for New Development and Redevelopment* (Model Ordinance) developed by the Metropolitan North Georgia Water Planning District (Metro Water District).
- (c) It aligns with requirements for runoff reduction in the Georgia Environmental Protection Division's (EPD's) permit to discharge from the municipal separate storm sewer system (MS4) permit. The MS4 permit states that the stormwater management system shall be designed to retain the first 1.0 inch of rainfall on the site to the maximum extent practicable. Most Georgia Stormwater Management Manual (GSMM) BMPs include a runoff reduction component.
- (d) It is focused on the typical site conditions and regulatory environment in the Metro Water District and may not be applicable for all of Georgia.
- (e) It requires a pre-submittal meeting when pursuing a Determination of Infeasibility to ensure all attempts to provide 100% RRv on site have been exhausted.

Sec. 10-180. Conditions that may warrant a Determination of Infeasibility

The GSMM provides broad guidance about conditions that may lead a local jurisdiction to waive or reduce the runoff reduction requirement. The following conditions may warrant a Determination of Infeasibility.

- (a) *Soil Infiltration Rate*: The soil infiltration rate is less than 0.5 inch per hour as measured over a meaningful portion of the site. Consideration should be given to infiltration rates throughout the soil profile.
- (b) *Water Table*: The seasonal high-water table is less than two feet from the bottom of an infiltration practice.
- (c) *Shallow Bedrock*: Material that cannot be excavated except by drilling or blasting AND is less than two feet from the bottom of an infiltration practice.
- (d) *Extreme Topography*: In the proposed final condition, as shown on the Stormwater Concept Plan with the proposed post-development condition, anything steeper than 3:1 slope for more than 50% of the site.
- (e) *Karst Topography*: Any of the existing condition is karst.
- (f) *Hotspots/ Contamination*: Reasonable suspicion that previous uses of the site have resulted in soil contamination.
- (g) *Historic Resources*: Buildings, structures, or historic sites included in the Georgia Historic Preservation Division's Historic Resources Survey or listed in the National Register of Historic Places or that has been recommended as a historic resource by a Preservation Professional.

- (h) *Site Constraints*: Sites where the density or nature of the proposed redevelopment would create irreconcilable conflicts for compliance between the on-site runoff reduction requirement and other requirements such as zoning, floodplains, stream buffers, or septic fields.
- (i) *Economic Hardship*: The cost of retaining the first 1.0 inch of rainfall onsite using runoff reduction practices is a minimum of three times greater than the cost of providing water quality practices. This condition must be present with another site condition for a Determination of Infeasibility. Additionally, a Determination of Infeasibility for economic hardship may only be allowed for up to 50% runoff reduction volume.

Sec. 10-181. Obtaining a Determination of Infeasibility

Determination of Infeasibility is not an all or nothing proposition. Designers must demonstrate that they have explored all avenues to meet the runoff reduction standard. If this is determined to be infeasible, they must attempt to provide the maximum percentage of RRv on site as feasible. Only after all attempts to provide any RRv on site are exhausted will the local jurisdiction consider a Determination of Infeasibility. The following process is recommended to:

1. Identify conditions early,
2. Provide flexibility,
3. Support efficient land development application review, and
4. Protect water quality to the maximum extent practicable.

Sec. 10-182. Does the Site Qualify for a Determination of Infeasibility?

Answering “NO” to any of the following questions may indicate that the site qualifies for a Determination of Infeasibility:

- (a) Can GSMM runoff reduction BMPs fully meet the runoff reduction volume?
- (b) Does the site analysis show the conditions are supportive for managing the calculated runoff reduction volume needed for the site?
- (c) Can better site design practices (see GSMM, Volume 2, Section 2.3) be used to avoid challenging site conditions or constraints?
- (d) Can BMPs, such as green roofs and rainwater harvesting techniques, be used in ways that do not require infiltration into subsurface soils, but rather rely on evapotranspiration and reuse?
- (e) Can the installation of multiple runoff reduction BMPs, such as installing runoff reduction BMPs at higher elevations or in multiple sub watersheds, manage the calculated runoff reduction volume needed for the site?

Sec. 10-183. Prior to Construction

- (a) The design professional identifies conditions that limit using runoff reduction methods to retain 100% of the first 1.0 inch of rainfall onsite and initiates a pre-submittal meeting with the plan reviewer prior to submittal of the land development permit application. During the meeting, the following information will be reviewed:
 - (1) Runoff Reduction Infeasibility Form to initiate the request and provide basic project information, confirmation that supporting documentation was submitted, and documentation of pre-submittal meeting outcomes.

- (2) Stormwater Concept Plan that has been developed based on site analysis, and natural resources inventory (including impracticability) in accordance with Section 2.4.2.5 of the GSMM.
- (b) The plan reviewer will evaluate the pre-submittal information on a case-by-case basis; coordinate with the design professional to understand site-specific issues; and (if possible) explore potential design strategies to achieve 100% RRv in compliance with the standards and specifications of the Post-Construction Stormwater Management Ordinance and GSMM.
- (c) Based on the pre-submittal information and meeting, the plan reviewer will provide one of the following determinations to the design professional:
 - (1) Approval – preliminary Determination of Infeasibility issued
 - (2) Approval with conditions – preliminary Determination of Infeasibility issued with conditions to incorporate plan reviewer comments into the Stormwater Concept Plan
 - (3) Denial - revise the Stormwater Concept Plan to obtain 100% RRv
- (f) Design professional may either:
 - (1) Submit the land development application with the Stormwater Management Plan and preliminary Determination of Infeasibility (as applicable).
 - (2) Appeal the “denial” or “conditions” following the appeals process outlined in the local jurisdiction’s regulations.

Sec. 10-184. During Construction

- (a) During the development process, the owner encounters a site condition that would prevent building stormwater BMPs as specified in the Stormwater Management Plan. The design professional will complete a Runoff Reduction Infeasibility Form and initiate a meeting with the local jurisdiction plan reviewer to discuss the findings. The designer must evaluate modifications to the proposed BMPs or installation of alternative BMPs that will provide some or all RRv in an alternative method.
- (b) The plan reviewer will evaluate the Runoff Reduction Infeasibility Form on a case-by-case basis; coordinate with the design professional to understand site-specific issues; and (if possible) explore potential design strategies to keep the stormwater BMPs identified in the Stormwater Management Plan.
- (c) Based on the Runoff Reduction Infeasibility Form and meeting, the plan reviewer will provide one of the following determinations to the design professional:
 - (1) Approval – Determination of Infeasibility is issued and attached to the land development permit
 - (2) Approval with conditions – preliminary Determination of Infeasibility issued with conditions to either:
 - i. Revise the design of runoff reduction methods (e.g. adding soil amendments or an underdrain to maximize runoff reduction volume) to retain the first 1.0 inch of rainfall onsite.
 - ii. Meet the stormwater runoff quality/reduction standard through a combination of Runoff Reduction and Water Quality.
 - (3) Deny – Determination of Infeasibility is issued and attached to the land development permit