

Report to the Environmental Review Commission

Pursuant to S.L. 2014-120, Sec. 29 REFORM AGENCY REVIEW OF ENGINEERING WORK

January 14, 2015

**Name of Local Government Unit: CITY OF DURHAM: *Public
Works Engineering Development Review Group***

Approved/delegated program subject to reporting requirements:

☐ Sedimentation/erosion control

☐ Stormwater

☒ Water/sewer Permitting Program

☒ Cross-connection

☐ 401 certifications

☒ Other **Stormwater Conveyance Permit Program**

Robert N. Joyner Jr., PE

January 12th, 2015

Date

***Submit this report electronically to Mariah Matheson, Commission Assistant,
Environmental Review Commission, at Mariah.Matheson@ncleg.net.***

Name of local government unit: City of Durham: Public Works Engineering Development Review Group

Please attach any written procedures that may have been developed to implement the provisions of this law.

☒ Check to indicate that this plan review program implemented procedures whereby plan reviewers distinguish between plan changes that are required by statutory or other legal authority and those that the reviewer offers as suggestions for improvement. Refer to S.L. 2014-120, Section 29.(b)(1) for further details about this requirement.

☒ Check to indicate that this plan review program identifies the statutory or regulatory authority for any revisions or requests for additional information that are required by the program in order to grant the requested plan permit, approval, or license. Refer to S.L. 2014-120, Section 29.(b)(2) for further details about this requirement.

☒ Check to indicate that this plan review program implemented procedures for local governments to follow when (1) a Professional Engineer submits a sealed design or practice that is not in the local government's guidance, manuals, or standard operating procedures, and (2) the submitting Professional Engineer requests additional internal review of that design or practice. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program established a procedure whereby the plan reviewer's supervisor OR the approving/delegating state agency can provide further review and oversight of these design details. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program either employs a Professional Engineer who can conduct further review of these innovative designs, or maintains a list of consulting Professional Engineers of the local government unit's choice that may conduct this review, if requested by and paid for by the submitting Professional Engineer. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program established an informal internal process to address disputes when a plan reviewer identifies a change to the plans as being "required" under a specific, identified legal authority. Refer to S.L. 2014-120, Section 29.(c)(2) for further details about this requirement.

☒ Check to indicate that this plan review program discontinued use of the word "engineer" in the job titles of all program employees whose responsibilities include review of plans in affected programs, *unless* those employees hold Professional Engineer licenses. Refer to S.L. 2014-120, Section 29.(h) for

further details about this requirement.

Name of local government unit: City of Durham: Public Works Engineering Development Review Group

☒ Check to indicate that this plan review program reviewed the titles of all employees conducting plan reviews for this program. Refer to S.L. 2014-120, Section 29.(h)(1) for further details about this requirement.

☒ Check to indicate that this plan review program proposed revisions to those employees' job titles in order to eliminate use of the word "engineer" when publicly identifying those employees, if those employees do not hold Professional Engineer licenses. Refer to S.L. 2014-120, Section 29.(h)(2) for further details about this requirement.

CITY OF DURHAM Additional information / Responses:

1. *Identify "required" vs. "suggested" changes.*

The City of Durham Department of Public Works' Reference Guide for Development outlines submittal requirements and includes submittal checklists. The checklists are also available on our web site. Comments provided to applicants indicate what is required and suggested. Red lined plan changes that are required by legal authority are noted in red ink and those that the reviewer offers as suggestions for improvement are noted in black/blue ink or pencil.

2. *Innovative designs involving a Professional Engineer (PE).*

For any non-conventional design or practice, the Professional Engineer sealing the submittal shall request in writing for the City to review the submittal. The written request shall clearly reference Session Law 2014-120, Section 29(c)(1) and include supporting information, calculations, testing/monitoring data, etc. as appropriate to provide the reviewer evidence that the design or practice when completed according to the submittal will satisfy applicable requirements. When written request is received, the Supervisor of Engineering Development Review Staff (a Professional Engineer) or a delegated Professional Engineer on staff will review it for content and completeness in a timely manner. Upon review completion, the City will provide the Submitting Party a final written decision on whether the nonconventional design or practice included in the Regulatory Submittal is approvable or not. Any appeals to the decision will be submitted in writing with appropriate supporting information to the Manager of Development Review and the Assistant Director of Engineering Division (both Professional Engineering Positions) who will review the appeal and render a final decision in writing.

3. ***Disputes involving changes that are “required.”***

Any resolution of Disputes will be submitted in writing with appropriate supporting information to the Manager of Development Review and the Assistant Director of Engineering Division (both Professional Engineering Positions) who will review the dispute and render a final decision in writing.

4. ***Job titles.***

All job title reviews for all plan reviewers have been completed for all work units. Where a reviewer is not a registered professional engineer, all communications (emails, letters, and business cards) have been amended so that no customer will confuse a reviewer for a professional engineer if they are not certified.

5. ***Selection of a private-sector PE if local unit does not employ a PE:***

The City of Durham employees registered professional engineers in the majority of review positions at the staff level. All supervisors of those staff units, the Managers of development review and the Assistant Director of Engineering are positions which require a registered professional engineer in North Carolina as a requirement to obtain the position.

Report to the Environmental Review Commission

Pursuant to S.L. 2014-120, Sec. 29 REFORM AGENCY REVIEW OF ENGINEERING WORK

January 14, 2015

**Name of Local Government Unit: City of Durham, Public
Works Department, Stormwater Development Review Section**

Approved/delegated program subject to reporting requirements:

☐ Sedimentation/erosion control

☒ Stormwater

☐ Water/sewer

☐ Cross-connection

☐ 401 certifications

☐ Other Type program name

Type name of person preparing report

Shea S. Bolick, PE, PLS, CFM

Type date

1/12/15

***Submit this report electronically to Mariah Matheson, Commission Assistant,
Environmental Review Commission, at Mariah.Matheson@ncleg.net.***

Name of local government unit: City of Durham, Public Works Department, Stormwater Development Review Section

*****Please attach any written procedures that may have been developed to implement the provisions of this law.*****

☒ Check to indicate that this plan review program implemented procedures whereby plan reviewers distinguish between plan changes that are required by statutory or other legal authority and those that the reviewer offers as suggestions for improvement. Refer to S.L. 2014-120, Section 29.(b)(1) for further details about this requirement.

☒ Check to indicate that this plan review program identifies the statutory or regulatory authority for any revisions or requests for additional information that are required by the program in order to grant the requested plan permit, approval, or license. Refer to S.L. 2014-120, Section 29.(b)(2) for further details about this requirement.

☒ Check to indicate that this plan review program implemented procedures for local governments to follow when (1) a Professional Engineer submits a sealed design or practice that is not in the local government's guidance, manuals, or standard operating procedures, and (2) the submitting Professional Engineer requests additional internal review of that design or practice. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program established a procedure whereby the plan reviewer's supervisor OR the approving/delegating state agency can provide further review and oversight of these design details. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program either employs a Professional Engineer who can conduct further review of these innovative designs, or maintains a list of consulting Professional Engineers of the local government unit's choice that may conduct this review, if requested by and paid for by the submitting Professional Engineer. Refer to S.L. 2014-120, Section 29.(c)(1) for further details about this requirement.

☒ Check to indicate that this plan review program established an informal internal process to address disputes when a plan reviewer identifies a change to the plans as being "required" under a specific, identified legal authority. Refer to S.L. 2014-120, Section 29.(c)(2) for further details about this requirement.

☒ Check to indicate that this plan review program discontinued use of the word “engineer” in the job titles of all program employees whose responsibilities include review of plans in affected programs, *unless* those employees hold Professional Engineer licenses. Refer to S.L. 2014-120, Section 29.(h) for further details about this requirement.

Name of local government unit: City of Durham, Public Works Department, Stormwater Development Review section

☒ Check to indicate that this plan review program reviewed the titles of all employees conducting plan reviews for this program. Refer to S.L. 2014-120, Section 29.(h)(1) for further details about this requirement.

☒ Check to indicate that this plan review program proposed revisions to those employees’ job titles in order to eliminate use of the word “engineer” when publicly identifying those employees, if those employees do not hold Professional Engineer licenses. Refer to S.L. 2014-120, Section 29.(h)(2) for further details about this requirement.

Additional information:

The City of Durham’s Stormwater Development Review section has a minimum of three positions within or over it that requires them to be a professional engineer (PE). A minimum of two of these positions are directly involved with review of engineering submittals on a daily basis. Other staff reviewing engineering submittals are engineering interns (EIs) and will obtain licensure as a PE in the near future. Section 29.(h)(2) below describes working titles for Stormwater Development Review staff performing reviews, whether engineering related or not.

- SECTION 29.(b)(1) & (2)

The City of Durham Department of Public Works’ Reference Guide for Development outlines submittal requirements and includes submittal checklists. The checklists are also available on our web site. Comments provided to applicants indicate what is required and suggested.

- SECTION 29.(b)(2)

The following language is placed on redlined plan review markups, with the same language being used for written comment letters, except for the last sentence: “In accordance with Session Law 2014-120, Section 29, the City of Durham specifically identifies that the legal authority for any required changes can be found in the following references: Unified Development Ordinance - Sections 8.7.2.D.2. & Section 12.8; Code of Ordinances – Section 70-737; and the Reference Guide for Development. Plan changes that are required by legal authority are noted in red ink and those that the reviewer offers as suggestions for improvement are noted in black/blue ink or pencil.”

Additional information (continued):

- SECTION 29.(c)(1) - Informal Review at the request of the Submitting Party for design or practice sealed by a PE which is not in the City's existing guidance, manuals, or standard operating procedures.

For any non-conventional design or practice, the Professional Engineer sealing the submittal shall request in writing for the City to review the submittal. The written request shall clearly reference Session Law 2014-120, Section 29(c)(1) and include supporting information, calculations, testing/monitoring data, etc. as appropriate to provide the reviewer evidence that the design or practice when completed according to the submittal will satisfy applicable requirements. The submitting party can also state their preference to have the City or State agency review the submittal. When written request is received, the Supervisor of Development Review or a delegated Professional Engineer on staff will review it for content and completeness in a timely manner. Based upon the content, complexity, staff experience with proposal, comfort level, and client's desire, the City will decide whether to complete the informal review in-house or forward to NC DENR for their review and recommendation to the City. If forwarding to NC DENR for review, the Submitting Party will be notified by the City of such. Upon review completion, the City will provide the Submitting Party a final written decision on whether the nonconventional design or practice included in the Regulatory Submittal is approvable or not.

Additional information (continued):

- SECTION 29.(c)(2) - Informal Review at the request of the Submitting Party when a disagreement between the reviewer of the regulatory submittal and the Submitting Party arises over the statutory or regulatory authority for revisions.

For a disagreement between the Submitting Party and the reviewer over statutory or regulatory authority, the Submitting Party may submit a written request for an informal internal review. The written request shall clearly reference Session Law 2014-120, Section 29(c)(2) and include their justification why they do not feel the statutory or regulatory authority referenced applies. When a written request is received, the Stormwater Development Review Supervisor or Assistant Stormwater Development Review Supervisor shall review the written request, justification, and statutory/regulatory authority and render a written decision to the Submitting Party in a timely manner. Based upon the specifics of the request, the City Attorney's Office may be consulted on the issue. The written decision will be from either the Stormwater Development Review Supervisor or Assistant Stormwater Development Review Supervisor and will be routed through the Assistant Director of Public Works – Stormwater & GIS and the Director of Public Works to the Submitting Party. This process will comply with Section 70-737(d) of the City's Code of Ordinances which states that in conflicts with technical standards that have been adopted pursuant to other portions of the City Code, the Director shall be authorized to resolve such conflicts.

- Section 29.(h)(2)

The Stormwater Development Review Section is utilizing the following working titles for regulatory review staff: Stormwater Development Review Supervisor, Assistant Stormwater Development Review Supervisor, Stormwater Development Compliance Officer, Administrative Analyst, and Senior Engineering Technician. The reviewer should include their appropriate professional designation (EI, PE, etc.) in correspondence. If Submitting Party has a question on professional licensure they can simply look up the reviewer by name on the NCBELS website.