

Topic:	State Land Use Law; Stormwater Management
Resource Type:	Regulations
State:	North Carolina
Jurisdiction Type:	State
Municipality:	N/A
Year (adopted, written, etc.):	2004
Community Type - applicable to:	Urban; Suburban; Rural
Title:	State of North Carolina Stormwater Management Ordinance - Counties
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Abstract

Under § 153A-275, counties have the authority to own, maintain, and operate “public enterprises” inside or outside their borders, and to protect and regulate such public enterprises by “adequate and reasonable rules.” Stormwater management programs “designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater” are explicitly included in the definition of “public enterprises” over which counties have such authority. § 153A-274(7). Under § 153A-277, counties have the power to fix and enforce rates for public enterprises; however, this statute imposes certain limitations with regard to stormwater management programs. For instance, before establishing or revising a rate schedule, the county must hold a public hearing on the matter. § 153A-277(a)(a1)(1). Any fees or rates must be applied throughout the county outside city limits (although the amount of the fee may vary according to the property served), and the county is prohibited from making a profit on the program. § 160A-314(a)(a1)(2). Finally, where two or more units of local government operate separate stormwater management programs in the same area of a county, the units may not charge separate fees for the services. § 153A-277(a)(a1)(3).

Resource

§ 153A-275. Authority to operate public enterprises

(a) A county may acquire, lease as lessor or lessee, construct, establish, enlarge, improve, extend, maintain, own, operate, and contract for the operation of public enterprises in order to furnish services to the county and its citizens. A county may acquire, construct, establish, enlarge, improve, maintain, own, and operate outside its borders any public enterprise.

(b) A county may adopt adequate and reasonable rules to protect and regulate a public enterprise belonging to or operated by it. The rules shall be adopted by ordinance, shall

apply to the public enterprise system both within and outside the county, and may be enforced with the remedies available under any provision of law.

§ 153A-274. Public enterprise defined

As used in this Article, "public enterprise" includes:

- (1) Water supply and distribution systems.
- (2) Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.
- (3) Solid waste collection and disposal systems and facilities.
- (4) Airports.
- (5) Off-street parking facilities.
- (6) Public transportation systems.
- (7) Stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types.

§ 153A-277. Authority to fix and enforce rates

(a) A county may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by a public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of service in different areas of the county and may vary according to classes of service, and different schedules may be adopted for services provided outside of the county. A county may include a fee relating to subsurface discharge wastewater management systems and services on the property tax bill for the real property where the system for which the fee is imposed is located.

(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential,

commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

(3) No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(b) A county may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A county may also discontinue service to a customer whose account remains delinquent for more than 10 days. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises. If water or sewer services are discontinued for delinquency, it is unlawful for a person other than a duly authorized agent or employee of the county to reconnect the premises to the water or sewer system.

(c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case a lien upon the property or premises served and, except as provided in subsection (d) of this section, are legal obligations of the person contracting for them, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Rents, rates, fees, charges, and penalties for enterprisory services are legal obligations of the owner of the property or premises served when:

(1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter; or

(2) Charges made for use of a sewerage system are billed separately from charges made for the use of a water distribution system.