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By email only: jvcunard@forsythco.com

John V. Cunard
Forsyth County Director of Engineering
110 East Main Street
Forsyth County, Georgia 30040

Re: Homeowners Association Storm Water obligations

Dear John:

This correspondence is delivered in response to your query regarding the extent and degree to which a duly constituted homeowners association ("HOA") in Forsyth County has an obligation to manage and comply with County storm water regulations. Forsyth County has several regulations addressing this issue, including Forsyth County Ordinance 75 (as codified at Forsyth County Code, Chapter 34, Article V, Sections 34-181 through 34-199) and the Forsyth County Addendum to the Georgia Storm Water Management Manual. Specifically, and not exhaustively, the Forsyth County Addendum (at Section 4.2.2) provides in pertinent part:

- *When any subdivision or industrial/commercial park, whether new or existing, has a legally created property or HOA, the association will be responsible for maintenance of all drainage easements and all stormwater facilities within the entire development.*

An HOA's violation of the storm water regulations for failure to have deficiencies remediated may be punishable up to and including a fine not to exceed **\$1,000 for each violation**. Section 34-195, Forsyth County Code.

Notwithstanding that the ultimate responsibility for the maintenance and repair of storm water structures resides with a duly formed HOA, the County's enforcement of the storm water regulations against an HOA should not (and, in fact, does not) limit the manner or means in which the HOA satisfies its regulatory obligations. In particular, the County's enforcement does not restrict the HOA's ability to contract with others to perform the appropriate maintenance and/or repairs or to utilize any covenant-based powers to incentivize compliance by lot owners. As such, notice to an HOA of a violation or need to comply with the County's storm water regulations should not be considered contradictory to or in derogation of the HOA's ability to

pursue its rights or otherwise compel action under applicable covenants. If, in fact, the HOA intends to pursue its rights under applicable covenants, the Department should be kept apprised of the HOA's efforts in that regard in order to monitor the timeliness and effectiveness of corrective action.

This correspondence may be freely distributed. Please let me know if you have any questions with respect to the foregoing.

Sincerely,

JARRARD & DAVIS, LLP

A handwritten signature in black ink, appearing to be 'Ken E. Jarrard', written over a horizontal line.

Ken E. Jarrard
County Attorney