

Surface Water

Surface water is defined as water that is diffused over the land's surface or that is contained in depressions resulting from rain, snow or water that rises to the surface from springs below ground. After surface water has become part of a stream in a watercourse, the runoff is no longer defined as surface water.



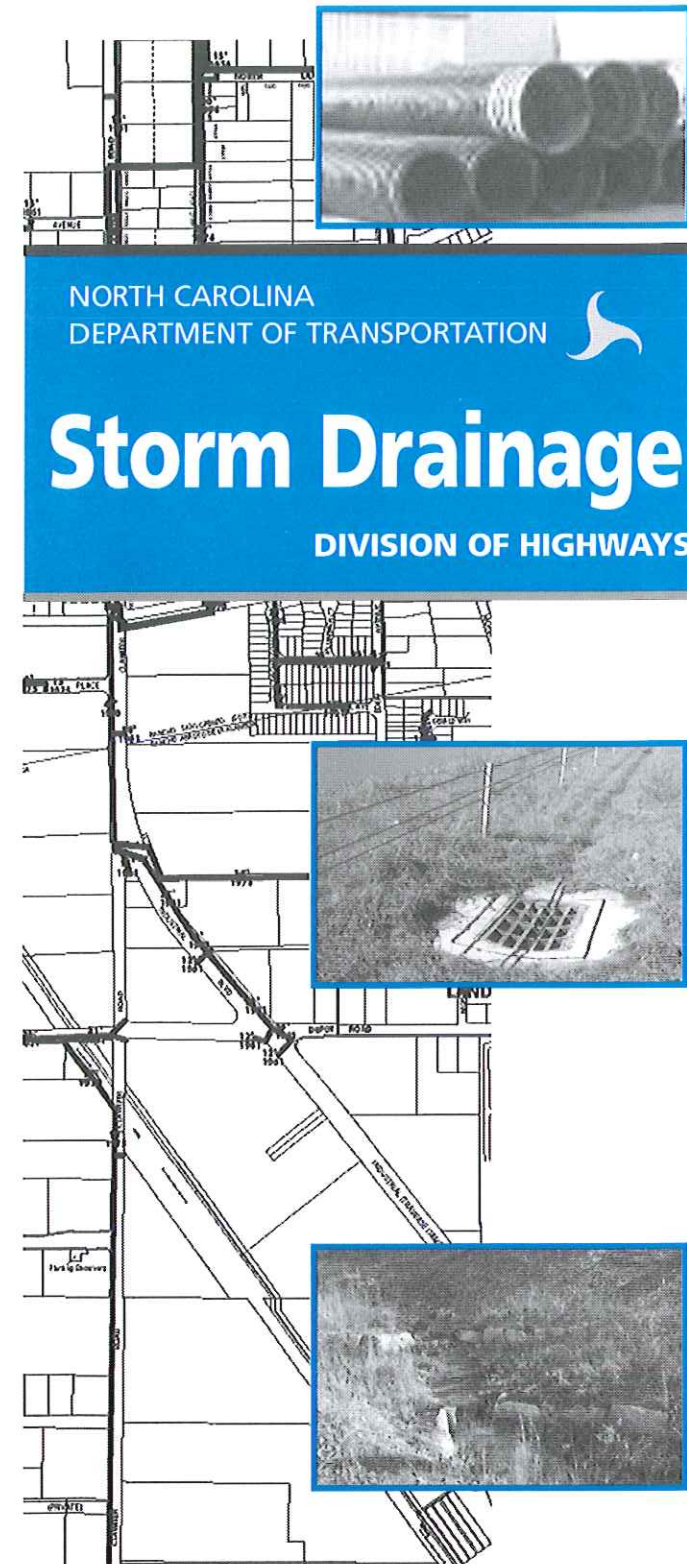
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Rule of Reasonable Use

The North Carolina Supreme Court formally adopted the Rule of Reasonable Use with respect to water drainage in 1977. The rule allows each landowner to make reasonable use of their land even though by doing so, they may alter in some way the flow of surface water and possibly affect other landowners property.

Liability is incurred when and only when this harmful interference is found to be unreasonable and causes substantial damage. While "reasonable" and "substantial damage" are still up for interpretation on a case by case basis, the reasonable use rule is reflective of today's modern developing society.

The Division of Highways strives to develop and make reasonable use of its lands and rights of way through sound, reasonable and accepted engineering practices and expects the same from other property owners and developers. The agency is not responsible for augmented or accelerated flow caused by its improvements unless determined to cause unreasonable and substantial damages.

As a property owner, the Division of Highways must comply with the same state and federal rules and regulations as the private sector. This would include the Federal Emergency Management Agency's flood zone regulations as well as federal and state environmental rules and regulations.



Maintenance of Drainage Outside Right of Way

It is the Division of Highways' responsibility to provide adequate drainage for constructing and maintaining the state highway system. However, it is not the agency's policy nor responsibility to provide improved drainage for the general area traversed by these roads unless incidental to the drainage of the highways itself.

One reason is that sufficient benefit would be gained by the work to justify the cost. Benefits must include reduced occurrence or extent of flooding.

Another justification is if the work is required to correct a problem or condition created by some action of the Division of Highways. This would apply to recent actions, not something that may have occurred many years ago.

It is not the responsibility of the Division of Highways to eliminate flooding on private property that is not attributed to actions of the department or its representatives. In general, outlet ditches will be maintained for a sufficient distance downstream of the highway to provide adequate drainage for the highway. This does not necessarily mean there will be no standing water in the ditches. It simply means that a route will be available for removal of surface water from the travel lanes.

Blocked Outlets

When a drain is blocked below the highway, which is detrimental to highway drainage and is from natural causes, the division will take reasonable measures to remove the block or obstruction. This could include legal action against the property owner. Where a blockage occurs downstream of the highway, whether natural or artificial and is deemed of no consequence to the division on whether to remove it, the agency's policy is to remain neutral.



Drainage on Subdivision Roads

When the Division of Highways accepts subdivision roads onto the system, it accepts the existing drainage system. It accepts only that part of any drainage system, whether piped or open ditch that is located inside the right of way. Responsibility for maintenance of other easements or stormwater facilities remain with the property owner where they are located.

The Division of Highways has no responsibility for subsurface drainage or altering ground water levels.