

CHAPTER 7
ENVIRONMENTAL REGULATIONS
ARTICLE A
WATERSHED PROTECTION

9-7-1 APPLICABILITY

(a) AUTHORITY

The City Council of the City of High Point, North Carolina is authorized to adopt this Article pursuant to North Carolina law, including but not limited to North Carolina General Statutes 143-214.5, 143-214.6 and 143-214.7, 160-A-314 and rules promulgated by the N.C. Environmental Management Commission thereunder.

(b) JURISDICTION

The requirements of this Article shall apply to all property within the city of High Point and its extraterritorial jurisdiction and to properties annexed and zoned after the effective date of this Article including both water supply watersheds and non-water supply watersheds. National Pollutant Discharge Elimination System (NPDES) Phase II stormwater regulations apply jurisdiction-wide and are overlaid by districts that regulate development in water supply watersheds, including the separate General Watershed Areas (GWA) and Watershed Critical Areas (WCA) of Oak Hollow Lake, City Lake, Oakdale Reservoir, Randleman Lake, and the Uwharrie (Lake Reese) and Lake Thom-A-Lex watersheds.

(c) ACTIVITIES COVERED

Activities covered include land disturbance, paving, gravel placement, and construction of buildings and other structures, except for the exemptions listed in Section 9-7-1(e), and such activities shall comply with the procedural, design, and construction requirements of this Article.

(d) HOW TO USE THIS ARTICLE

The following general steps should be followed to determine the applicability of these watershed protection requirements to a particular property: 1) identify the location of the property on the Watershed Map; 2) determine any exemptions (see Section 9-7-1(e)); 3) identify any fragile areas or development limitations (i.e. surface waters, steep slopes, etc.) on the property; 4) classify the development as high or low density as defined in Table 7-3-1; 5) based on the development density or built-upon area, determine the method of stormwater control required and surface water buffers; and 6) adhere to the requirements of the High Point Stormwater Best Management Practices Design Manual.

(e) EXEMPTIONS

The following activities are exempt from the requirements of this Article; however, this exemption shall not be construed to permit uses prohibited in the underlying zoning district, or prohibited by this Article.

- (1) Development on lots of record of less than 20,000 square feet existing on July 1, 1993 in all watersheds except Randleman Lake Watershed, where the effective date is January 1, 2000.
- (2) Development on lots of record of less than 40,000 square feet existing on January 1, 2000, in the Downtown Area, which is shown on the High Point Watershed Map.
- (3) Construction of one single-family dwelling and its accessory structure(s) on a zone lot provided it is located outside Watershed Critical Area (WCA) Tier 1 within the Oak Hollow Lake, City Lake and Oakdale Reservoir Watersheds or outside Watershed Critical Area (WCA) Tiers 1 and 2 within the Randleman Lake Watershed.
- (4) The construction of one two-family dwelling and its accessory structure(s) on a zone lot in the Oak Hollow Lake, City Lake and Oakdale Reservoir Watersheds provided a sedimentation and erosion control plan is not required and provided it is located outside Watershed Critical Area (WCA) Tiers 1 and 2.
- (5) Development on a zone lot in a non-water supply watershed that disturbs less than an acre.
- (6) Replacement of existing built-upon area on a lot developed with a like or lesser amount of new built-upon area at the same location, or at a different location on the same zone lot if the Enforcement Officer has determined that equal or improved water quality will result.
- (7) Existing development as defined by Section 9-2-2(b) of this Ordinance.

(f) EXEMPTION TO THE PLAN SUBMISSION REQUIREMENTS OF THIS ARTICLE

The placement of small accessory buildings or structures or small amounts of other built-upon area on a lot developed with a nonresidential or multifamily use, provided that the total built-upon area added after the effective date of this Article, is no greater than six hundred (600) square feet and provided that less than one acre of land is disturbed shall be exempt from the plan submission requirements of this Article. This exempted built-upon area or land disturbance shall not be placed within a required surface water buffer. This exemption shall apply to a zone lot for one time only after July 1, 1993, in all watersheds except Randleman Lake Watershed, where the effective date is January 1, 2000. This exemption shall not apply to a lot with a watershed development plan on file with the Planning and Development Department.

(g) COMPLIANCE WITH PREVIOUSLY APPROVED PLANS

Any restrictions upon building location, drainageways, pavement or other built-upon area, percentage of impervious surface area, location of built-upon area, or any other matter appearing on any previously approved watershed development plan covering the subject property shall be complied with unless and until replaced by an approved revised watershed development plan meeting the requirements of this Article.

(h) ACTIVITIES REGULATED BY OTHER GOVERNMENTAL AGENCIES

- (1) Agriculture: The Guilford Soil and Water Conservation District is the designated agency responsible for implementing the provisions of this Article pertaining to agriculture.
- (2) Silviculture: The City of High Point is the designated management agency responsible for implementing the provisions of this Article pertaining to silviculture activities.
- (3) Transportation: The North Carolina Department of Transportation shall comply with the practices outlined in its document entitled “Best Management Practices for the Protection of Surface Waters” which is incorporated by reference.
- (4) Hazardous Materials:

The city of High Point Fire Marshall and the Guilford County Local Emergency Planning Committee are the designated management agencies responsible for implementing the provisions of this Article pertaining to hazardous materials.

An inventory of all hazardous materials used and stored in the watershed shall be maintained. A spill/failure containment plan and appropriate safeguards against contamination are required. Waste minimization and appropriate recycling of materials is encouraged.

Properties in the Watershed Critical Area or General Watershed Area shall comply with the requirements of the following hazardous substances regulations if materials listed in the Superfund Amendments and Reauthorization Act (SARA) Section 302 Extremely Hazardous Substances (42 USC 11000 et seq.), or Section 311 of the Clean Water Act (CWA), as amended (33 USC 1251 et seq.; oil and hazardous substances) are either stored or used on the site.

(i) MODIFICATIONS, VARIANCES AND APPEALS

Requests for modifications, variances or appeals to the provisions of this Article shall be in compliance with Sections 9-9-10, 9-9-11 and 9-9-12 of this Ordinance.

(Ord. No. 93-87, (§ 1), 7-1-93; Ord. No. 98-07, Pt. 1, (§1), 1-22-98; Ord. No. 99-83, Pt. 3, (§1), 11-4-99; Ord. No. 00-48, Pt. 1, (§ 1),5-18-00;)

9-7-2 INCORPORATION OF WATERSHED MAP

(a) INCORPORATION OF WATERSHED MAP

This subsection incorporates by reference the High Point Watershed Map, dated July 1, 1993, and any amendments thereto, showing Watershed Critical Areas, General Watershed Areas, Downtown Area, the Deep River 1 Sub-basin, the Richland Creek Sub-basin and the Business 85/Riverdale Sub-basin within the city's existing and future jurisdiction (planning jurisdiction) of the following water supply watersheds: Oak Hollow Lake, City Lake and Oakdale Reservoir (Jamestown), which are classified as WS-IV Critical Water Supply Watersheds by the North Carolina Environmental Management Commission (EMC); Randleman Lake, which is also classified as WS-IV Critical Water Supply Watershed by the EMC; the Uwharrie (Lake Reese), which is classified as WS-III by the EMC; and the Lake-Thom-A-Lex Watershed, which is also classified as WS-III by the EMC. The remaining part of the jurisdiction is the non-water supply watershed that is subject to the National Pollutant Discharge Elimination System Phase II requirements, which apply jurisdiction-wide.

(b) INCORPORATION OF WCA AND GWA OVERLAY DISTRICTS ON OFFICIAL ZONING MAP

The boundaries of the Watershed Critical Area Overlay District and the General Watershed Area Overlay District are adopted on the Official Zoning Map incorporated herein by reference for the purpose of illustration.

(Ord. No. 93-87, § 1), 7-1-93; Ord. No. 99-83, Pt. 3, (§1), 11-4-99; Ord. No. 00-48, Pt. 1, (§ 1),5-18-00)

9-7-3 PROTECTION OF FRAGILE AREAS

(a) LAND DISTURBANCE MINIMIZATION

- (1) Sedimentation and Erosion Control: A sedimentation and erosion control plan shall be required in accordance with Chapter 7, Article B of this Ordinance.
- (2) Development on the Best Soils and Terrain: Development on the best soils and terrain of any site is encouraged. Hydric soils and those soils that are highly erodable should be avoided.

- (3) Street Standards: Refer to the street standards in Tables 6-16-1, 6-16-2 and 6-16-3. Modifications to street standards may be considered by the Technical Review Committee in order to minimize land disturbance pursuant to Section 9-9-10 (Modifications).
- (4) Low Impact Design: Low Impact Design pursuant to Section 9-7-4 is encouraged. The Technical Review Committee may consider modifications pursuant to Section 9-9-10 (Modifications) in order to facilitate low impact design.
- (5) Cluster Development: The location of development on soils and terrain most suited to protecting water quality is greatly encouraged by clustering. See Section 9-4-11(a)(2) (Single Family Detached Cluster Development).
- (6) Density Shifting: The location of development on soils and terrain most suited to protecting the water quality of water supply reservoirs is encouraged. See Section 9-7-8(c) (Density Shifting in the WCA).

(b) FLOODPLAIN PROTECTION

Development within Special Flood Hazard Areas of the jurisdiction shall comply with the requirements of Chapter 7, Article C (Flood Damage Prevention) of this Ordinance.

(c) SURFACE WATER BUFFERS

- (1) Perennial and Intermittent Surface Water Buffers Required: A surface water buffer shall be maintained with a minimum width as specified in Table 7-3-1 and measured landward from the normal pool elevation of the water supply impoundment and from the bank of each side of perennial and intermittent streams, lakes and ponds. These waters are indicated on the most recent version of either the United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps or the Soil Survey maps developed by the USDA Natural Resource Conservation Service. In addition, other site specific evidence may indicate to the NC Division of Water Quality the presence of waters not shown correctly on either of these two maps. Where these two maps show waters where no actual stream or waterbody exists, or where waters exist that are not shown on these maps, a developer may submit site-specific evidence in support of such claim to the Technical Review Committee. If the Committee determines that a discrepancy exists, the evidence may be submitted to the NC Division of Water Quality for a determination in water supply watersheds. For surface waters in non-water supply watersheds, the Committee will use the maps referenced above or a classification study in accordance with the U.S Army Corps of Engineers or the N.C. Division of Water Quality methodology to determine stream classification. All surface water buffers shall be depicted as provided for in the “Guidebook of Standards and Practices for Development”.

**TABLE 7-3-1
MINIMUM SURFACE WATER BUFFER WIDTH REQUIREMENTS**

Classification	Low Density ¹ Development		High Density Development ²		
Perennial Surface Waters (Streams, Lakes and Ponds)	50 feet		100 feet		
	Zone 1 30 feet	Zone 2 ³ 20 feet	Zone 1 30 feet	Zone 2 ³ 20 feet	Zone 3 50 feet
Intermittent Surface Waters (Streams, Lakes and Ponds)	50 feet		50 feet		
	Zone 1 30 feet	Zone 2 ³ 20 feet	Zone 1 30 feet	Zone 2 ³ 20 feet	

1. Low Density Development is development that is equal to or less than two dwelling units per acre or 24% built-upon area in all watersheds except Randleman. Low Density Development in Randleman watershed is development that is equal to or less than one dwelling unit per acre or 12% built-upon area.
2. High Density Development is development that is greater than two dwelling units per acre or 24% built-upon area in all watersheds except Randleman. High Density Development in Randleman watershed is development that is greater than one dwelling unit per acre or 12% built-upon area.
3. See Section 9-7-3(d) for additional buffers where surface waters abut moderate to steep slopes.

(2) **Buffer Zones:** Required surface water buffers consist of two or three zones depending on the density of development and stream classification, as shown in Table 7-3-1. Zone 1 shall be the first 30 feet landward from the top of the stream bank or mean high water line of other water bodies. Zone 2 shall begin at the outer edge of Zone 1 and extend landward a minimum of 20 feet. Zone 3 shall begin at the outer edge of Zone 2 and extend landward 50 feet. Zones 1 and 2 shall be undisturbed except as allowed in this Section. Zone 3 can be disturbed but must remain vegetated. Refer to Section 9-7-3(d) for additional surface water buffers to protect steep slopes bordering streams. Such additional buffers would be added to Zone 2.

a. Exemption: The following waterbodies and land uses are exempt from the surface water buffer requirements:

(1) Ditches and manmade conveyances, other than modified natural streams which under normal conditions do not receive drainage from tributary ditches, canals or streams, unless the ditch or manmade conveyance delivers runoff directly to state-classified waters;

(2) Ponds and lakes created for animal watering, irrigation or other agricultural uses that are not a part of a natural drainageway that is classified;

- (3) Water dependant structures provided that they are located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality; and
- (4) Horticultural or silvicultural practices to maintain the health of individual trees and removal of individual trees which are in danger of causing damage to dwellings, other structures or the stream channel; however, other selective cutting of individual trees is not exempted and is not an allowed activity.

b. Zone 1

1. The following practices and activities are prohibited:
 - i. Land disturbing activities and placement of fill other than those allowed in Section 9-7-3(c)(2)a;
 - ii. No new development shall be allowed in Zone 1 of the surface water buffer, except that water dependent structures as defined in Section 9-2-2, road crossings, railroad crossings, bridges, airport facilities and utility crossings may be allowed where no practical alternative exists, as determined by the Technical Review Committee. Activities that cross the stream shall be constructed as close to 90 degrees relative to the stream as practicable. Where these activities are allowed, they shall minimize built-upon surface area, divert runoff away from surface waters and protect water quality to the maximum extent practical through the use of Best Management Practices;
 - iii. New on-site sanitary sewage systems that use ground absorption;
 - iv. The application of fertilizer;
 - v. Any activity which threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.
2. The following sheet flow requirements must be met:
 - i. Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flow and re-establishment of vegetation to maintain the effectiveness of the surface water buffer.
 - ii. Concentrated runoff from the new ditches or manmade conveyances must be dispersed into sheet flow before the runoff

enters zone 2 of the surface water buffer. Existing ditches and manmade conveyances are exempt from this requirement; however, care shall be taken to minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion.

- iii. Periodic corrective action to restore sheet flow shall be taken by the landowner if necessary to impede the formation of erosion gullies that allow concentrated flow to bypass treatment in the surface water buffer.

c. Zone 2

1. The following practices and activities are prohibited:

- i. No new development shall be allowed in Zone 2 of the surface water buffer, except those allowed in Zone 1 and stormwater management facilities, utility construction and maintenance corridors, stream restoration projects, stream gauging, water wells, passive recreation facilities such as boardwalks, paved greenway trails, pathways and historic preservation and archaeological activities may be allowed where no practical alternative exists, as determined by the Technical Review Committee. Where these activities are allowed they shall minimize built-upon surface area, divert runoff away from surface waters and protect water quality to the maximum extent practical through the use of Best Management Practices;
- ii. New on-site sewage systems that use ground absorption;
- iii. Any activity which threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer’s recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.

2. The following sheet flow requirements must be met:

- i. Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flow and re-establishment of vegetation to maintain the effectiveness of the surface water buffer;
- ii. Concentrated runoff from new ditches or manmade conveyances must be dispersed into sheet flow before the runoff enters Zone 2 of the riparian area. Existing ditches and manmade conveyances are exempt from this requirement; however, care shall be taken to

minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion;

- iii. Periodic corrective action to restore sheet flow shall be taken by the landowner if necessary to impede the formation of erosion gullies that allow concentrated flow to bypass treatment in the surface water buffer.
- d. Zone 3: Zone 3 is required for all high density development. Zone 3 may be disturbed, but it must remain vegetated. The following practices and activities are prohibited in Zone 3:
1. No new development shall be allowed in Zone 3 of the surface water buffer, except those allowed in Zone 1 and stormwater management facilities, utility construction and maintenance corridors, stream restoration projects, stream gauging, water wells, passive recreation facilities such as boardwalks, paved greenway trails, pathways and historic preservation and archaeological activities may be allowed where no practical alternative exists, as determined by the Technical Review Committee. Where these activities are allowed they shall minimize built-upon surface area, divert runoff away from surface waters and protect water quality to the maximum extent practical through the use of Best Management Practices;
 2. New on-site sewage systems that use ground absorption;
 3. Any activity which threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.
- (3) Channelization: Channelization of perennial or intermittent streams shall be prohibited, except for access crossings, erosion control devices and runoff control devices.
- (4) New Lots in the Surface Water Buffer: To the extent practical, no new single-family or two-family residential lots shall be created which are entirely or partly contained within the surface water buffer.

(d) SLOPE AND BUFFER PROTECTION

- (1) Purpose: The purposes of this provision are to limit the loss of soil, reduce soil erosion, minimize excess stormwater runoff, lessen the degradation of surface waters, and protect the buffers so established to protect surface waters. To this end, an addition to the surface water buffer requirements of Section 9-7-3(c) shall be required when intermittent and perennial surface waters abut moderate to steep slopes.

- (2) **Application:** Such addition to the surface water buffer requirements shall only apply where that portion of the surface water is adjacent to moderate to steep slope areas. For slopes with a value of 15 percent or less, no additional buffering is required. For slopes of greater than 15 percent up to 25 percent, an additional 15-foot wide undisturbed buffer shall be required. For slopes greater than 25 percent, an additional 30 feet of undisturbed buffer shall be required. These calculations shall be made from each side of the surface water bank. Such additional buffer required by this section shall extend Zone 2 of the surface water buffer. In the case where Zone 3 is required, the extension of the Zone 2 surface water buffer may be offset by an identical decrease in width in Zone 3.
- (3) **Determination:** The determination of whether such moderate to steep slope areas exist adjacent to a surface water shall be made by making 100 foot long perpendicular measurements at intervals, not greater than 50 feet in length, or at intervals as otherwise determined by the Technical Review Committee, along the entire length of the surface water as measured from the top of bank. These measurements shall be based on the most recent topographic survey of land that utilizes the smallest contour interval. See the Guidebook of Standards and Practices for Development for specific calculations, instructions and illustrations.

(e) **ADDITIONAL PROTECTION IN WATERSHED CRITICAL AREAS**

Due to the proximity of Watershed Critical Areas to water supply reservoirs, fragile areas including steep slopes near perennial and intermittent streams, wetlands and drainage areas merit additional protection as prescribed in Section 9-7-8(a).

(Ord. No. 93-87, § 1, 7-1-93; Ord. No. 99-83, Pt. 3, (§1), 11-4-99; Ord. No. 00-48, Pt. 1, (§ 1),5-18-00)

9-7-4 LOW IMPACT DESIGN

(a) **GOALS**

The primary goals of low impact design are to lower the impact of development on receiving waters, to encourage environmentally sensitive development, to help build communities based on environmental stewardship, and to reduce construction and maintenance costs of the stormwater infrastructure. The use of low impact design shall address these goals through the objectives found in Section 9-7-4(b).

(b) **OBJECTIVES**

- (1) **Preserve Fragile Areas and Open Space:** Preserve fragile areas through the following:
- a. Avoiding riparian areas, wetlands, steep slopes, high infiltration and hydric soils;

- b. Maximizing open space and common area through cluster development where appropriate;
 - c. Maintaining open space in a natural condition by reforestation where clearing has occurred.
- (2) Minimize Land Disturbance and Built-Up Area: Design development to provide the following:
- a. Efficient layout to reduce overall length of streets;
 - b. Shared parking and drives where possible to further reduce built-upon area;
 - c. Step floor elevations to fit terrain and avoid slab-on-grade construction to minimize land disturbance.
- (3) Protect Water Resources: Use proper site design techniques to replicate pre-existing hydrologic site conditions by placing water quality control devices close to the source. Techniques may include the following:
- a. Designing driveways and parking areas with vegetated swales and/or sheet flow into infiltration areas;
 - b. Using grass swales instead of curb and gutter to increase water filtration.

(c) **PROCESS**

The low impact design process is established in the City of High Point Stormwater Best Management Practices Design Manual.

(Ord. No. 93-87, § 1, 7-1-93; Ord. No. 93-93, § 1, 9-16-93; Ord. No. 93-113, Pt. 1, § 1, 12-13-93; Ord. No. 94-57, § 1, 12-16-93; Ord. No. 94-46, § 1, 4-21-94; Ord. No. 98-07, Pt. 2 (§ 1), 1-22-98; Ord. No. 99-83, Pt. 3, (§ 1), 11-4-99; Ord. No. 00-48, Pt. 1, (§ 1), 5-18-00)

9-7-5 GENERAL STANDARDS AND RESTRICTIONS

(a) DENSITY AND INTENSITY

- (1) Low Density Development: For low density development, density is measured in dwelling units per acre for single-family and two-family residential developments. For recreational facilities, such as golf courses and tennis and swim clubs lying within such residential developments, measure the built-upon area on the lot or common area and divide by 3,000 square feet to obtain a dwelling unit equivalency number. Upon approval of a modification by the Technical Review Committee, low density developments may utilize either the density standard, built-upon area standard, or combination thereof pursuant to Table 7-5-1. For all other residential and nonresidential development, the built-upon area measure shall apply.
- (2) High Density Development: For all high density development the built-upon area measure shall apply.
- (3) Density and Built-Upon Area Calculations: For the purpose of calculating density, acres shall be gross acres. As an alternative, single-family or two-family residential developments dividing four or fewer lots and not constructing streets may use 20,000 square-foot lots where the maximum density is two dwelling units per acre and 40,000 square-foot lots where the maximum density is one dwelling unit per acre. If single-family or two-family dwellings are intermingled within a development with other uses, then the built-upon area measurement shall apply. When sections of the same development are devoted to single-family or two-family residential development and other sections are devoted to other uses, then the developer may apply the appropriate measurement to the different sections or may use the built-upon area measurement for the entire development. Single-family or two-family residential development using the built-upon area measurement shall assume 3,000 square feet of built-upon area per lot. The built-upon area maximum shall apply to the entire development, including streets, buildings, drives, and other impervious surfaces. The maximum built-upon area allowed shall be allocated throughout the development. In single-family and two-family residential developments, the allocation to each lot shall be uniform. In all other developments, the allocation may vary among lots. In all cases, the recorded plat shall clearly state each lot's allocation and restrictive covenants shall record these allocations.

**TABLE 7-5-1
MINIMUM STORMWATER CONTROLS REQUIRED IN THE GENERAL WATERSHED
AREA AND IN NON-WATER SUPPLY WATERSHEDS**

Watershed	Density/Built-Up Area ¹		Minimum Stormwater Control Required
	Residential	Multifamily and Nonresidential	
All watersheds EXCEPT Randleman	≤ 1 du/2 acre	≤ 6% built-upon area	None
	≤ 2 du/acre ²	≤ 24% built-upon area ²	Alternate measures ³
	> 2 du/acre	> 24% built-upon area	Engineered stormwater controls ⁴
Randleman Lake	≤ 1 du/2 acre	≤ 6% built-upon area	None
	≤ 1 du/acre	≤ 12% built-upon area	Alternate measures ³
	> 1 du/acre	> 12% built-upon area	Engineered stormwater controls ⁴

1. Single-family and two-family development utilizing the low density option shall use the density standards except as approved by modification pursuant to Section 9-7-5(a)(1). Single-family and two-family development exceeding the density limits shall use the built-upon area standards. Multifamily residential and nonresidential development shall use the built-upon area standards.
2. May be increased to three dwelling units per gross acre or 36% built-upon area for developments without a curb and gutter street system.
3. Alternate measures in accordance with Section 9-7-5(b)(2). Low Density Development is development that is equal to or less than two dwelling units per acre or 24% built-upon area (bua) in all watersheds except Randleman. Low Density Development in Randleman watershed is development that is equal to or less than one dwelling unit per acre or 12% built-upon area.
4. Engineered Stormwater Control in accordance with Section 9-7-5(b)(3). High Density Development is development that is greater than two dwelling units per acre or 24% bua in all watersheds except Randleman. High Density Development in Randleman watershed is development that is greater than one dwelling unit per acre or 12% bua.

**TABLE 7-5-2
MINIMUM STORMWATER CONTROLS REQUIRED
IN THE WATERSHED CRITICAL AREA**

Watershed	Density/Built-Up Area		Minimum Stormwater Control Required
	Residential	Multifamily and Nonresidential	
ALL water supply watersheds EXCEPT Randleman Lake	≤ 1 du/2 acre	≤ 6% built-upon area	None
	≤ 2 du/acre	≤ 24% built-upon area	Alternate measures ¹
	N/A	> 24% built-upon area	Engineered stormwater controls ²
Randleman Lake	≤ 1 du/2 acre	≤ 6% built-upon area	None
	> 1 du/2 acre ³	> 6% built-upon area ³	Engineered stormwater controls ²

1. Alternate measures in accordance with Section 9-7-5(b)(2).
2. Engineered stormwater controls in accordance with Section 9-7-5(b)(3).
3. In Tier 4, residential development > 1du/2 acres and ≤ 1du/acre may use alternate measures in accordance with Section 9-7-5(b)(2) in lieu of engineered stormwater controls. Multifamily and nonresidential development > 6% and ≤ 12% built-upon area may do the same.

(Ord. No.93-87, § 1,7-1-93; Ord. No.93-93. § 1, 9-16-93; Ord. No.94-46, § 1,4-21-94; Ord. No. ,§ 1,1997; Ord. No.98-07, § 1,1-22-98; Ord. No. 99-83, Pt. 3, (§ 1), 11-4-99; Ord. No. 00-48, Pt. 1, (§ 1),5-18-00)

(b) METHODS OF STORMWATER CONTROL

- (1) Vegetated Conveyances for Low Density Development: Stormwater runoff shall be transported from the development by vegetated conveyances to the maximum extent practical as determined by the Technical Review Committee.
- (2) Alternate Measures for Low Density Development: As required by Table 7-5-1 and Table 7-5-2, the following stormwater management facilities are considered alternate measures that may be allowed provided that they meet the standards of the City of High Point Stormwater Best Management Practices Design Manual:
 - a. Extended Dry Pond.
 - b. Infiltration Trench.
 - c. Natural Infiltration Area.
 - d. Participation in a public or private regional runoff control program, in compliance with Section 9-7-5(c).
 - e. Low Impact Design.
 - f. Any best management practice approved by the Enforcement Officer that meets the performance standards of control of the first one-half inch of rainfall.
- (3) Engineered Stormwater Controls for High Density Development: In accordance with Tables 7-5-1 and 7-5-2, stormwater management facilities, such as wet detention ponds, meeting the performance standards of control of the first one inch of rainfall and removal of 85% of total suspended solids (TSS) shall be used to control stormwater runoff in compliance with the City of High Point Stormwater Best Management Practices Design Manual. In lieu of an on-site engineered stormwater control, developments may participate in a regional stormwater control program in compliance with the requirements of Section 9-7-5(c).

(c) PARTICIPATION IN A REGIONAL STORMWATER CONTROL PROGRAM

- (1) Public Regional Stormwater Control Program:
 - a. Where Permitted: Where a regional stormwater control program has been established by one or more local governments, or by an authority operating on behalf of one or more local governments, a development may participate in said program in lieu of any certification of stormwater control required by this Article, provided that:

1. The development is within an area covered by a public regional stormwater control program;
 2. Stormwater from the development drains to an existing or funded public regional engineered stormwater control structure which is proposed to be built and is part of said program;
 3. Participation is in the form of contribution of funds, contribution of land, contribution of engineered stormwater control structure construction work, or a combination of these, the total value of which shall be in accordance with a fee schedule adopted by the city or in accordance with an intergovernmental agreement; and
 4. The Technical Review Committee finds that the watershed development plan is in compliance with all other applicable requirements of this Ordinance.
- b. Developments participating in a public regional stormwater control program are encouraged to maintain pre-development hydrology at the project site.
 - c. Use of Contributions: Each contribution from a development participating in a public regional engineered stormwater control structure program shall be used for acquisition, engineering, construction and/or maintenance of one or more such structures in the same watershed in which development lies. The use of contributions for these purposes does not preclude the use or imposition of other revenue sources for these purposes.

(2) Private Regional Stormwater Control Program:

- a. Where Permitted: Participation in a private regional engineered stormwater control program is permitted where a private off-site stormwater control program has been established by one or more property owners and approved by the Technical Review Committee. A development may participate in said program in lieu of any certification of runoff control required by this Article, provided that:
 1. The development is within an area covered by an off-site engineered stormwater control structure;
 2. Runoff from the development drains to an existing engineered stormwater control structure;
 3. The parties agree to share the cost of any required maintenance and/or construction;
 4. The agreement runs with the property;

5. The agreement is recorded with the county Register of Deeds in accordance with Section 9-7-5(d)(3);
 6. The Enforcement Officer finds that the watershed development plan is in compliance with all other applicable requirements of this Ordinance.
- b. Developments participating in a private regional stormwater control program are encouraged to maintain pre-development hydrology at the project site.

(d) IMPROVEMENTS

(1) Design of Improvements:

- a. The design of all stormwater management facilities shall be performed by a North Carolina registered professional engineer, approved by the Technical Review Committee, and meet or exceed the standards of the city's City of High Point Stormwater Best Management Practices Design Manual.
- b. The Technical Review Committee shall require that a stormwater management facility be positioned on a site such that water quality protection is improved.

(2) Construction of Improvements:

- a. The construction of all stormwater management facilities as shown on an approved watershed development plan shall be completed and have received final approval prior to any plat recordation, or said improvements shall be guaranteed by a surety in accordance with Section 9-3-9 (Sureties or Improvement Guarantees).
- b. The construction of all stormwater management facilities as shown on an approved watershed development plan shall be completed and have received final approval prior to the issuance of building certificate of compliance.
- c. If a building permit is not required for a site, then any required stormwater management facility shall be completed prior to installation of any built-upon area on the site.

(3) Recordation of Improvements: All stormwater management facilities and associated access/maintenance easement(s) shall be recorded on a plat, and a mechanism to ensure their maintenance shall be established and recorded concurrent with or prior to plat recordation.

(4) Engineer's Certificate of Completion Required: An engineer's Certification of Completion for stormwater management facilities (found in the city's Guidebook of Standards and Practices for Development) shall be submitted prior to issuance of any building certificate of compliance.

(5) Operation and Maintenance Agreement:

- a. Maintenance responsibility for stormwater management facilities and their access shall be vested with a responsible party by means of a legally binding and enforceable operation and maintenance agreement that is executed as a condition of plan approval, as provided for in Section 9-7-5(d)(3). Said agreement must be approved by the Enforcement Officer and shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the stormwater management facilities. In the case of participation in a regional runoff control program per Section 9-7-5(c), a binding contract or agreement shall be required for participation.
- b. The operation and maintenance agreement shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operation and maintenance agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.
- c. The operation and maintenance agreement shall require the owner or owners' association to maintain, repair and, if necessary, reconstruct the stormwater management facilities, and shall state the terms, conditions, and schedule of maintenance for such. The owner of each stormwater management facility installed pursuant to this Ordinance shall maintain and operate it so as to preserve and continue its function in controlling water quality and quantity in accordance with the function for which it was designed. The operation and maintenance agreement shall refer the property owner or owners' association to the City of High Point for specific maintenance requirements of stormwater management facilities. In addition, it shall grant to the City a right of entry in the event that the Enforcement Officer has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the stormwater management facilities. In no case shall the right of entry, of itself, confer an obligation on the City to assume responsibility for maintenance of the stormwater management facilities.
- d. The Enforcement Officer shall have the responsibility to inspect the engineered stormwater control structures annually, as required by NC Environmental Management Commission, to record the results on forms approved or supplied by the North Carolina Division of Water Quality, to inspect any other stormwater management facilities as deemed necessary, and to notify the responsible property owner or owners' association when maintenance or repairs are required. All required repairs and maintenance shall be performed within 90 days after such notice. In case of failure by the responsible party to perform the required maintenance or repairs within the stated period, the city may perform such maintenance or repairs and recover all costs attendant thereto from the property owner or owners' association.

- e. For all stormwater management facilities required pursuant to this Ordinance that are owned by a private property owner or an owners' association, the required operation and maintenance agreement shall include all of the following provisions:
1. Acknowledgment that the owner or owners' association shall continuously operate and maintain the stormwater management facilities.
 2. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater management facilities. If stormwater management facilities are not performing adequately or as intended or are not properly maintained, the City, in its sole discretion, may remedy the situation, and in such instances the City shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the owner or owners' association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the stormwater management facilities.
 3. Granting to the City a right of entry to inspect, monitor, maintain, repair, and reconstruct stormwater management facilities.
 4. Allowing the City to recover from the owner or owners' association and its members any and all costs the City expends to maintain or repair the stormwater management facilities or to correct any operational deficiencies. Failure to pay the City all of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the agreement. In case of a deficiency, the City shall thereafter be entitled to bring an action against the owner or owners' association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.
 5. A statement that this agreement shall not obligate the City to maintain or repair any stormwater management facility, and the City shall not be liable to any person for the condition or operation of stormwater management facilities.
 6. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law.
 7. A provision indemnifying and holding harmless the City for any costs and injuries arising from or related to the stormwater management facilities, unless the City has agreed in writing to assume the maintenance

responsibility and has accepted dedication of any and all rights necessary to carry out that maintenance.

(6) Inspection Program:

- a. Inspections and inspection programs by the City may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities.
- b. If the owner or occupant of any property refuses to permit such inspection, the Enforcement Officer shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Enforcement Officer while carrying out his or her official duties.

(e) WATERSHED DEVELOPMENT PLAN

- (1) Plan Required: A watershed development plan prepared by a North Carolina registered professional engineer in accordance with the requirements of this Article shall be submitted to the Enforcement Officer for all development throughout the jurisdiction.
- (2) Construction Plans a Part of Watershed Development Plan: The construction plans for required runoff control structure(s) shall be approved as part of the watershed development plan, and prior to issuance of any building or land-disturbing permit on a site. For subdivisions, construction plans shall be submitted in accordance with Section 9-6-5 (Submission of Plans).
- (3) Master Watershed Development Plan: Where authorized by the Technical Review Committee, a master watershed development plan may be approved for certain large-scale nonresidential and multifamily developments, in lieu of a watershed development plan with the required construction plans. Where authorized, said master watershed development plan shall be approved by the Technical Review Committee prior to the recordation of any plat, or issuance of any grading or building permits for the total site. Prior to the approval of any site plans or group development plans, grading or building permits for any development site included on a given master watershed development plan, a site-specific watershed development plan shall be approved subject to the requirements of this Article.
- (4) Plan Approval: The Technical Review Committee shall approve any watershed development plan that is in conformance with the requirements of this Article.
- (5) Approved Plan a Prerequisite: A watershed development plan shall be approved prior to the recordation of any plat, or issuance of any grading or building permits for the site. The Enforcement Officer is not authorized to issue any permits, except as provided in Section 9-3-4(a) for development on any land in High Point's jurisdiction or planning area unless and until a watershed development plan has been approved.
- (6) Engineered Stormwater Controls and Alternate Measures: When a permanent engineered stormwater control structure or alternate measure, including participation in a regional stormwater control program, is required for a development to meet the requirements of this Article, a North Carolina registered professional engineer shall prepare the plan with the Engineer's Certification of Runoff Control (found in the city's Guidebook of Standards and Practices for Development) affixed, signed, sealed, and dated.

9-7-6 WATER SUPPLY OVERLAY DISTRICT DESCRIPTIONS AND BOUNDARIES

Two overlay districts cover water supply watersheds. They are the Watershed Critical Area Overlay District and the General Watershed Area Overlay District. Where a boundary is questionable, see Section 9-1-12(a)(9) (Boundary Interpretation, Watersheds).

(a) GENERAL WATERSHED AREA OVERLAY DISTRICT

The General Watershed Area (GWA) is an overlay district that includes all land draining into designated water supply reservoirs within the city's jurisdiction, but outside any Watershed Critical Area Overlay District. Reservoirs designated for purposes of the Article are Oak Hollow Lake, City Lake, Oakdale Reservoir (Jamestown), Randleman Lake, Uwharrie (Lake Reese) and Lake Thom-A-Lex.

(b) WATERSHED CRITICAL AREA OVERLAY DISTRICT

The City of High Point Watershed Map shows the Watershed Critical Area District boundaries. The Watershed Critical Area District is an overlay district covering the portion of the watershed adjacent to a designated water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The Watershed Critical Area Overlay District boundary extends either a minimum of 2,750 feet from the normal pool elevation of the reservoir in which the intake is located or to the ridgeline of designated water supply reservoir basins whichever comes first. In the case of major streams feeding the water supply reservoir (East and West Forks of the Deep River and Hiatt Branch), the district boundary extends to the nearest identifiable major feature which crosses the stream, and which is at least 2,750 feet upstream of the reservoir measured horizontally, except for the West Fork of the Deep River upstream from Oak Hollow Lake, where the major identifiable feature shall be defined as Sandy Ridge Road. The identifiable major feature may be a street, railroad, easement or other means of travel, which can be used by emergency personnel to respond to spills. The WCA consists of four tier divisions as follows:

- (1) Tier 1: Tier 1 consists of those lands within 200 feet measured horizontally from the pool elevation of the designated reservoirs, which is 803 feet above mean sea level for Oak Hollow Lake, 756 feet above mean sea level for City Lake, 716 feet above mean sea level for Oakdale Reservoir, and 682 feet above mean sea level for Randleman Lake.
- (2) Tier 2: Tier 2 consists of those lands lying within an area bounded by Tier 1 and a line parallel to and 750 feet in distance from the normal pool elevation.
- (3) Tier 3: Tier 3 consists of those lands lying within an area bounded by Tier 2 and a line parallel to and 2,750 feet, measured horizontally from the normal pool elevation, or to the boundary of the WCA, whichever comes first, for all WCAs except the Randleman Lake WCA. Randleman Lake's WCA consists of those lands lying within an area bounded by Tier 2 and a line parallel to and 3,000 feet measured horizontally from the normal pool elevation, or to the boundary of the

WCA, which ever comes first, except that Tier 3 along Richland Creek consists of those lands lying within an area bounded by Tier 2 and a line parallel to and 2,640 feet (1/2 mile) measured horizontally from the normal pool elevation or to the boundary of the WCA, whichever comes first.

- (4) Tier 4: Tier 4 consists of those lands lying in the area between the boundary of Tier 3 and the WCA boundary.

(Ord. No.93-87, § I, 7-1-93; Ord. No.95-94, § I, 10-19-95; Ord. No.98-07, § 1,1-22-98; Ord. No. 99-83, Pt. 3, § 1, 11-4-99; Ord. No. 00-48, Pt. 1, (§ 1),5-18-00;)

9-7-7 GENERAL WATERSHED AREA OVERLAY DISTRICT (GWA) STANDARDS AND RESTRICTIONS

(a) SPILL RISK REDUCTION IN THE GWA

- (1) Prohibited Uses: The following uses shall be prohibited in a General Watershed Area (GWA): Hazardous or toxic substance generator or handler as defined in Section 9-7-26.
- (2) Restricted Use: The following use shall be restricted in a GWA: No expansion of any existing private solid waste landfill or establishment of any new public or private solid waste landfill shall be permitted.

(b) GWA BUILT-UPON AREA LIMITS

- (1) Built-Upon Area Limits in Oak Hollow Lake, City Lake and Oakdale Reservoir Watersheds: Oak Hollow Lake, City Lake and Oakdale Reservoir are classified as WS IV CW water supply watersheds, and development in the General Watershed Area (GWA) Overlay Districts shall not exceed 70% built-upon area.
- (2) Built-Upon Area Limits in Randleman Lake Watershed: Randleman Lake is classified as a WS IV CW water supply watershed, and development in the Randleman Lake GWA Overlay District shall not exceed 50% built-upon area, except as otherwise provided in this Subsection.
- a. In the Randleman Lake Downtown Area, as shown on the City of High Point Watershed Map, development shall not exceed 90% built-upon area. In the Randleman Lake Credit Area, which is in the Deep River 1 subbasin as shown on the City of High Point Watershed Map, nonresidential development shall not exceed 70% on parcels totaling a maximum of 2,357 acres.
- b. Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of

a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.

(3) Built-Up Area Limits in the Uwharrie (Lake Reece) Watershed and the Lake Thom-A-Lex Watershed: Uwharrie (Lake Reece) and Lake Thom-A-Lex are classified as WS III water supply watersheds, and development in a WS-III General Watershed Area (GWA) Overlay District shall not exceed 50% built-upon area, except as otherwise provided in this Subsection.

- a. Ten percent of the local jurisdiction’s portion of the Uwharrie (Lake Reece) Watershed and the Lake Thom-A-Lex Watershed may be developed with new nonresidential development at up to 70% built-upon area.
- b. Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.

(Ord. No. 00-48, Pt. 1, (§ 1),5-18-00;)

9-7-8 WATERSHED CRITICAL AREA OVERLAY DISTRICT (WCA) STANDARDS AND RESTRICTIONS

(a) PROTECTION OF FRAGILE AREAS IN A WATERSHED CRITICAL AREA OVERLAY DISTRICT

For the purposes of this Article, slopes greater than 15%, wetlands, and drainage areas are considered fragile areas warranting protection.

(1) Slopes Greater than 15% and Wetlands: Slopes greater than 15% lying adjacent to natural drainageways, intermittent streams, perennial streams and wetlands shall remain in a natural and undisturbed condition except for road crossings, utilities, erosion control devices and runoff control devices.

- a. Dedication of these areas to the city as drainageway and open space may be required wherever authorized by Section 9-6-16(g) of this Ordinance or any other provision in local ordinances.
- b. Where such dedication is not required, a water quality conservation easement shall be recorded over such wetlands and slopes.
- c. Where a water quality conservation easement serves to bring two or more properties into compliance with the WCA requirements of this Article, the Technical Review Committee may require that the wetlands and slopes covered by such easements be held as common area by an Owners’ Association.
- d. The natural ground cover and the natural tree canopy within a water quality conservation easement shall be preserved with the following exceptions, which

are permitted only after issuance of a permit by the Public Services Department (refer to Section 9-3-3(g)):

1. Public utilities can be constructed and maintained by the city of High Point or its designee;
 2. Soil erosion and sedimentation control structures can be constructed and maintained by the developer of the property, subject to approval of a land-disturbing permit by the Department of Engineering Services. After these structures are no longer needed, they shall be removed and the water quality conservation easement restored to a natural state;
 3. Normal maintenance by mechanical means is allowed for the removal of dead, diseased, deformed, poisonous or noxious vegetation and pests harmful to health;
 4. Mechanical mowing of utility areas is allowed for the purpose of controlling growth.
- e. Nothing in this Subsection shall supercede the surface water buffer requirements of Section 9-7-3(c) of this Article.

(2) Drainage:

- a. Drainage within the Watershed Critical Area Overlay District shall be provided by means of open channels, unless it is determined by the Technical Review Committee that better water quality protection is provided by alternative means.
- b. Drainageways shall have protected channels or remain in a natural, undisturbed state, except for road crossings, utilities, erosion control devices, runoff control devices, and desirable artificial stream bank stabilization.
- c. No new development shall be allowed in such drainageways; except that water dependent structures and public projects such as greenways may be allowed where no practicable alternative exists. Where these activities are allowed, they shall minimize built-upon surface area and maximize the utilization of Best Management Practices (BMP's).
- d. Perennial and intermittent streams, lakes and ponds shall be protected as specified in Section 9-7- 3(c).

(b) **SPILL RISK REDUCTION**

- (1) Prohibited Uses: The following uses shall be prohibited in a Watershed Critical Area Overlay District (WCA):

DESCRIPTION	SIC INDUSTRY GROUP MAJOR GROUP NUMBERS
Agricultural Uses	
Animal Feeder/Breeder	0210
Chemical Treatment for Crops; Fertilizer Application for Crops; Weed Control for Crop Operations; including Aerial Crop Dusting	0710, 0721
Business Professional and Personal Services	
Automobile Rental or Leasing	7510
Automobile Repair Services, Major	0000
Automobile Repair Services, Minor	0000
Automotive Towing and Storage Services	7549
Boat Repairs	3730
Car Washes	7542
Commercial Physical & Biological Research	8731
Equipment Repair, Heavy, including: Agricultural Equipment Repair, Boiler Cleaning and Repair, Cesspool Cleaning	7690
Engine Repair except automotive Industrial Truck Repair, and Welding Repair Shops	7690
Farm Machinery Repair	7690
Furniture Stripping or Refinishing (including secondary or accessory operations)	7641
Heavy Construction Equipment Rental & Leasing	7353
Industrial Truck Rental & Leasing	7359
Laundry or Dry Cleaning Plants	7211, 7216, 7217, 7218
Landscape and Horticultural Services	0780
Machinery Cleaning	7690
Motorcycle Repair Service	7690
Pest or Termite Control Services	7342
Rebabbiting	7690
Repair of Service Station Equipment	7690
Septic Tank Services	7699
Sewer Tank Cleaning and Rodding	7690
Solvent Recovery Services	7389
Tank and Boiler Cleaning Service	7690
Tank Truck Cleaning Service	7690
Tractor Repair	7690
Truck Driving Schools	8249
Truck Tractor & Semi Rental & Leasing, Heavy	0000
Truck & Util. Trailer Rental & Leasing, Light	0000
Truck Washing	7542
Welding Repair Shops	7692
Retail Trade Uses	
Convenience Stores (with gasoline pumps)	5411

DESCRIPTION	SIC INDUSTRY GROUP MAJOR GROUP NUMBERS
Fuel Oil Sales	5980
Motor Vehicle Sales (new and used)	5511
Motorcycle Sales	5571
Recreational Vehicle Sales	5561
Service Stations, Gasoline	5541
Truck Stops	5541
Wholesale Trade	
Agricultural Chemicals, Pesticides, Fertilizers	5191
Chemical and Allied Products	5169
Motor Vehicles	5012
Nursery Stock, Plants Potted	5193
Paints & Varnishes	5198
Petroleum & Petroleum Products	5170
Resins	5162
Scrap and Waste Materials	5093
Transportation, Warehousing, and Utilities	
Air Transportation Facilities	4500
Bus Terminals & Service Facilities	4100, 4170
Demolition Debris Landfills, Major	0000
Demolition Debris Landfills, Minor (less than two acres)	0000
Hazardous & Radioactive Waste (transportation, storage, disposal)	4953
Petroleum Contaminated Soil	0000
Pipelines, except Natural Gas	4600
Railroad Terminal Yard	4010
Recycling Processing Centers	0000
Refuse & Raw Material Hauling	4212
Plant Sludge Application Sites	4953
Remediation Disposal Sites	0000
Solid Waste Disposal (nonhazardous)	4953
Trucking or Freight Terminals	4230, 4213
Manufacturing and Industrial Uses	
Animal Slaughter or Rendering	0000
Arms and Weapons	3480
Asbestos, Abrasive and Related Products	3290
Asphalt Plant	2951
Batteries	3690
Chemicals, Paints & Allied Products	2800
Concrete, Cut Stone & Clay Products	3240, 3270
Cement, Hydraulic	3241
Contractors, Heavy Construction	1600
Contractors, Special Trade	1700
Dairy Products	2020

DESCRIPTION	SIC INDUSTRY GROUP MAJOR GROUP NUMBERS
Explosives	2892
Fats and Oils, Animal	2077
Fats and Oils, Plant	2070
Fish, Canned, Cured or Frozen	2091
Hazardous Waste Handler (refer to Section 9-7-26)	0000
Leather and Leather Products (tanning)	3110
Magnetic & Optical Recording Media	3695
Meat & Poultry, Packing & Processing (no renderings)	2010
Metal Coating and Engraving	3470
Mining and Quarrying	1000
Paper Products (no coating and laminating)	2670
Paper Products (coating and laminating)	2670
Petroleum and Related Products	2900
Photographic Supplies	3861
Primary Metal Products & Foundries	3300
Pulp and Paper Mills	2610
Rubber & Plastics, Misc.	3000
Rubber & Plastics, Raw	3000
Salvage Yards, Auto Parts	5015
Salvage Yards, Scrap Processing	5093
Solvent Recovery	7389
Surface Active Agents	2843
Textile Products (no dyeing & finishing)	2200
Textile Products (with dyeing & finishing)	2260
Hazardous or toxic substance generators prohibited by Section 9-7-26(b)(2) (regulations for hazardous or toxic substance generators)	0000

(2) Containment Structures:

- a. Storage tanks for fuels and chemicals and associated pumping and piping shall have a spill containment system.
- b. Such containment systems shall be of sufficient volume to contain 100% of all the tank(s) contents stored in the area and shall have a leak detection system installed.
- c. The containment system shall be approved by the Enforcement Officer and the Fire Marshall.
- d. Such tanks and containment structures shall not be placed closer than 1,000 feet to the normal pool elevation of the applicable reservoir.

- e. Such a containment system shall be a minimum of 50 feet from the property line of the facility if the area adjacent to the facility is in a zoning district other than light or heavy industrial.
 - f. Provisions shall be made to remove stormwater without removal of the product except for mistable materials. Contaminated water may not be discharged to the sewer system without a permit or to a waterbody or to a water-course.
- (3) Underground Storage Tanks: In a Watershed Critical Area Overlay District, underground storage tanks for fuels and chemicals shall not be permitted except for the replacement of existing tanks.
- (4) Point Source Discharges:
- a. No expansion of any existing private wastewater facilities or establishment of any new public or private wastewater treatment plants of any kind shall be permitted in WCA districts.
 - b. Industrial pre-treatment facilities that prepare wastewater for discharge into a public sewer system shall be permitted in WCA districts.

(c)

DENSITY SHIFTING

The location of development on soils and terrain most suited to protecting the water quality of water supply reservoirs is encouraged in the WCA by density shifting. The overall density of a development utilizing density shifting shall meet the applicable WCA density and stormwater control requirements, except as modified by this Subsection. Built-upon areas within such developments shall be designed and sited to minimize stormwater runoff impact to the receiving waters, and the remainder of the tract should remain in an undisturbed or natural state.

Density shifting is utilized in developments having lot sizes in accordance with the minimum area permitted by the underlying zoning district or in approved cluster developments. Through density shifting, developments may increase the maximum permitted residential densities otherwise established in this Article if the development rights attached to acreage located within a tier are transferred within the same property to an adjacent tier located farther from the water supply reservoir. Such transfer shall permit an additional number of dwelling units in the receiving tier. This addition is calculated by adding the density or dwelling units transferred from the adjacent tier to the density or dwelling units permitted in the receiving tier. The dwelling units permitted by acreage transfer from an adjacent tier shall be in addition to the number of dwelling units otherwise permitted in the receiving tier, but in no case shall the density allowed by the underlying zoning district be exceeded.

(d) PUBLIC SANITARY SEWER REQUIRED

All new development in a Watershed Critical Area Overlay District shall be served by public sanitary sewer except development in the Randleman Lake Watershed Critical Area Overlay District under the low density option.

9-7-9 INDIVIDUAL WATER SUPPLY WATERSHEDS**(a) OAK HOLLOW LAKE**

- (1) General Watershed Area (GWA) Built-Up Area Limits: Development in Oak Hollow Lake General Watershed Area (GWA) Overlay District shall not exceed 70% built-upon area.
- (2) Watershed Critical Area (WCA) Density and Built-Up Area Limits: Density and built-upon area in the Oak Hollow WCA shall be as follows:
 - a. Tier 1: None, except for public water dependent structures.
 - b. Tier 2: 1 dwelling unit per acre.
 - c. Tier 3: 2 dwelling units per acre or 35% built-upon area.
 - d. Tier 4: 2 dwelling units per acre or 50% built-upon area.

(b) CITY LAKE

- (1) General Watershed Area (GWA) Built-Up Area Limits: Development in City Lake General Watershed Area (GWA) Overlay District shall not exceed 70% built-upon area.
- (2) Watershed Critical Area (WCA) Density and Built-Up Area Limits: Density and built-upon area in the City Lake WCA shall be as follows:
 - a. Tier 1: None, except for public water dependent structures.
 - b. Tier 2: 1 dwelling unit per acre.
 - c. Tier 3: 2 dwelling units per acre or 35% built-upon area.
 - d. Tier 4, 2 dwelling units per acre or 50% built-upon area.

(c) OAKDALE RESERVOIR

- (1) General Watershed Area (GWA) Built-Up Area Limits: Development in Oakdale Reservoir General Watershed Area (GWA) Overlay District shall not exceed 70% built-upon area.
- (2) Watershed Critical Area (WCA) Density and Built-Up Area Limits: Density and Built-Up Area in Oakdale Reservoir WCA shall be as follows:
 - a. Tier 1: None, except for public water dependent structures.
 - b. Tier 2: 1 dwelling unit per acre.
 - c. Tier 3: 2 dwelling units per acre or 35% built-upon area.
 - d. Tier 4: Oakdale Reservoir does not have a Tier 4.

(d) RANDLEMAN RESERVOIR

- (1) General Watershed Area (GWA) Built-Up Area Limits: Development in the Randleman Lake General Watershed Area (GWA) Overlay District shall not exceed 50% built-upon area, except as otherwise provided in this Subsection.
 - a. In the Randleman Lake Downtown Area, as shown on the High Point Watershed Map, development shall not exceed 90% built-upon area. In the Randleman Lake Credit Area, which is in the Deep River 1 subbasin as shown on the High Point Watershed Map, nonresidential development shall not exceed 70% on parcels totaling a maximum of 2,357 acres.
 - b. Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.
- (2) Watershed Critical Area (WCA) Density and Built-Up Area Limits: Density and built-upon area in the Randleman Lake WCA shall be as follows:
 - a. Tier 1: None, except for public water dependent structures.
 - b. Tier 2: 1 dwelling unit per 5 acres or 2.5% built-upon area.
 - c. Tier 3: 1 dwelling unit per 3 acres or 4% built-upon area, except 30% built-upon area using the High Density Option as provided for in Subsection 9-7-9(d)(3).
 - d. Tier 4: 1 dwelling unit per acre or 12% built-upon area, except 40% built-upon area using the High Density Option as provided for in Subsection 9-7-9(d)(3).

- (3) Watershed Critical Area (WCA) High Density Option: Built-upon area in the Randleman Lake WCA may be increased in the following subbasins using the high density option.
- a. In Tier 3 of the Richland Creek subbasin, a total of 255 acres may be developed with nonresidential development under the high density option at 30% built-upon area. In the Business 85/Riverdale Road subbasin, a total of 482 acres may be developed with nonresidential development under the high density option at 30% built-upon area in Tier 3 and 40% built-upon area in Tier 4. However, of that total 482 acres in the Business 85/Riverdale Road subbasin, only a maximum of 284 acres shall be developed in Tier 3.
 - b. Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.

(e) **UWHARRIE (LAKE REECE)**

Built-Upon Area Limits in the Uwharrie (Lake Reese) Watershed: Development in a WS-III General Watershed Area (GWA) Overlay District shall not exceed 50% built-upon area, except as otherwise provided in this Subsection.

- (1) Ten percent of the local jurisdiction's portion of the Uwharrie (Lake Reese) Watershed, as delineated on the adoption date of this Article (July 1, 1993), may be developed with new nonresidential development at up to 70% built-upon area.
- (2) Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.

(f) **LAKE THOM-A-LEX**

Built-Upon Area Limits in the Lake Thom-a Lex Watershed: Development in a WS-III General Watershed Area (GWA) Overlay District shall not exceed 50% built-upon area, except as otherwise provided in this Subsection.

- (1) Ten percent of the local jurisdiction's portion of the Lake Thom-A-Lex Watershed, may be developed with new nonresidential development at up to 70% built-upon area.
- (2) Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.

9-7-10 WATERSHED ACCOUNTING**(a) RANDLEMAN LAKE GWA BUILT-UPON AREA LIMITS**

The Enforcement Officer shall keep records on the city's use of the provision allowing land in the Randleman Lake GWA to be developed with a maximum of 70% built-upon area. Records for the watershed shall include the total area of the GWA, total acres eligible to be developed under this provision, total acres approved for development under this provision, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan.

(b) RANDLEMAN LAKE WCA BUILT-UPON AREA LIMITS

The Enforcement Officer shall keep records on the city's use of the provision allowing land in the Richland Creek subbasin and the Business 85 Riverdale Road subbasin of the Randleman Lake WCA to be developed with a maximum of 30% built-upon area in Tier 3 and 40% built-upon area in Tier 4. High density nonresidential development shall be limited in the WCA to these two subbasins of the Randleman Lake Watershed, as shown on the High Point Watershed Map. Records for the watershed shall include the total area of the WCA, total area of Tiers 3 and 4 of the WCA within the two subbasins, total acres eligible to be developed in Tiers 3 and 4 under this provision, total acres approved for development under this provision, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan.

(c) 10/70 PROVISION

The Enforcement Officer shall keep records on the city's use of the provision allowing a maximum of 10% of the GWA of the Uwharrie (Lake Reese) Watershed and the Lake Thom-A-Lex Watershed to be developed with a maximum of 70% built-upon area. Records for the watershed shall include the total area of the watershed's GWA, total acres eligible to be developed under this provision, total acres approved for development under this provision, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan. Development under this provision requires engineered stormwater controls.

(d) WATERSHED VARIANCES

The Enforcement Officer shall keep a record of all watershed variances. This record shall be submitted for each calendar year to the North Carolina Division of Water Quality on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variances.

ARTICLE B
SOIL EROSION AND SEDIMENTATION CONTROL

9-7-11 GENERAL PROVISIONS

(a) BASIC REQUIREMENTS

- (1) Plan and Permit Required: No person shall initiate any land-disturbing activity without a soil erosion and sedimentation control plan and land-disturbing permit approved by the Enforcement Officer, if the land-disturbing activity:
 - a. Exceeds one (1) acre (lands under one ownership or diverse lands being developed as a unit shall be aggregated);
 - b. Will take place on highly erodible soils with a "k" factor greater than 0.36;
 - c. Includes a water quality pond or retention structure in a watershed, or drains into a water quality pond or retention structure in any part of a watershed;
 - d. Will take place in Tier 1 or Tier 2 of a watershed critical area;
 - e. Is located in an existing uncovered area requiring extensive soil erosion control measures in accordance with Subsection 9-7-11(k)(3); or
 - f. In any instance where extensive erosion control measures are required.
- (2) Protection of Property: Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.
- (3) More Restrictive Rules Shall Apply: Whenever conflicts exist between federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.
- (4) Land-disturbing Permit Exemptions:

Land-disturbing permits are not required for the following land-disturbing activities:

- a. For an activity which is essential to protect human life during an emergency;
- b. Areas that do not meet the criteria for Section 9-7-11(a)(1)(b-f);
- c. Undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals; bees and aviary products; fur animals;

- d. Undertaken on forest land for the production and harvesting of timber and timber products and which are conducted in accordance with Forest Practice Guidelines Related to Water Quality (best management practices) as adopted by the Department (DENR). If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this Ordinance shall apply to such activity and any related land-disturbing activity on the tract;
 1. Although a land-disturbing permit is not required on the above Silviculture activities, The Forestland Owner shall provide the Office of Erosion Control a copy of the Reforestation/Regeneration Plan and the Forest Stewardship Program Plan for review of the Erosion and Sedimentation Control Plan.
 2. A Forest Stewardship Plan submitted under the guise of any reason other than that of a true Forest Stewardship Plan (subdivision or commercial development) shall be void. The plan shall be treated as a subdivision or commercial development and shall be governed under the approximate standard within this Ordinance.
- e. Undertaken by persons as defined in NCGS 113A-52(8) who are otherwise regulated by the provisions of The Mining Act of 1971, NCGS 74-46 through 74-68; and
- f. Over which the State has exclusive regulatory jurisdiction as provided in NCGS 113A-56(a).

(b) BASIC CONTROL OBJECTIVES

A soil erosion and sedimentation control plan may be disapproved pursuant to Subsection 9-7-11(l)(8) (Grounds for Plan Disapproval) of this Ordinance if the plan fails to address the following control objectives:

- (1) Identify Critical Areas: On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention;
- (2) Limit Time of Exposure: All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time;
- (3) Limit Exposed Areas: All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;
- (4) Control Surface Water: Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;

- (5) Control Sedimentation: All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage; and
- (6) Manage Storm Water Runoff: When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(c) **MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY**

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with the following mandatory standards:

- (1) Buffer Zone: No land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless an undisturbed buffer zone twenty-five (25) feet wide is provided, or a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearer the land-disturbing activity, provided that this subsection (1) shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse. Unless otherwise provided, the width of a buffer-zone is measured from the edge of the water to the nearest edge of the disturbed area, with the twenty-five percent (25%) of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone twenty-five (25) feet wide, or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Enforcement Officer may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. The twenty-five (25) foot minimum width factor for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank.

Where a temporary and minimal disturbance is permitted as an exception by this subsection, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten percent (10%) of the total length of the buffer zone within the tract, to be distributed such that there is not more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Director (DENR).

No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations in these waters, as set forth in 15 NCAC 2B.0211 "Fresh Surface Water Classification and Standards";

- (2) Fill Material. Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding twelve (12) inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.
- (3) Graded Slopes and Fills: The angle for graded slopes and fills shall be no greater than two (2) horizontal to one (1) slope if they are to be stabilized with vegetative cover. Slopes or fills steeper than two (2) to one (1) vertical slope if they are to be stabilized with vegetative cover. Slopes or fills steeper than two (2) to one (1) slope must be protected by structures. In any event, slopes left exposed will, within twenty-one (21) calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion;
- (4) Ground Cover: Whenever land-disturbing activity is undertaken on a tract, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Subsection 9-7-11(d)(2)e. of this Ordinance, provisions for a ground cover sufficient to restrain erosion must be accomplished within fifteen (15) working days or thirty (30) calendar days following completion, whichever period is shorter; and
- (5) Prior Plan Approval: No person shall initiate any land-disturbing activity without an approved Erosion and Sedimentation Control Plan if more than one (1) acre is to be uncovered. The plan must be submitted thirty (30) or more days prior to initiating the activity. The jurisdiction shall require the Owner/Developer to forward to the Director of the Division of Water Quality a copy of each Plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract. Written documentation of this plan submittal must be provided to the Enforcement Officer prior to an Erosion and Sedimentation Control Plan approval.

(d) DESIGN AND PERFORMANCE STANDARDS

- (1) Design for Ten-Year Storm: Except as provided in Subsection 9-7-11(d)(2)b. of this Ordinance, soil erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.

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- (2) High Quality Water Zones: In High Quality Water (HQW) zones the following design standards shall apply:
- a. Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of twenty (20) acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this subsection. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director. (DEHNR)
 - b. Soil erosion and sedimentation control measures, structures, and devices within HQW zones shall be so planned, designed, and constructed to provide protection from the runoff of the twenty-five-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
 - c. Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least seventy percent (70%) for the 40 micron (0.04 mm) size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
 - d. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two (2) horizontal to one (1) vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
 - e. Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within fifteen (15) working days or sixty (60) calendar days following completion of construction or development, whichever period is shorter.
- (3) Sedimentation Basins: Except as provided for in Subsection 9-7-11(d)(2) above, all sedimentation basins shall be designed and constructed to have a settling efficiency of at least seventy percent (70%) for the 40 micron (0.04 mm) size soil particle.
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(e) STORM WATER OUTLET PROTECTION

- (1) Intent: Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.
- (2) Performance Standard: Persons shall conduct land-disturbing activity so that the post-construction velocity of the ten-year storm runoff in the receiving natural watercourse to the discharge point does not exceed the greater of:
 - a. The velocity established by Table 7-11-1; or
 - b. The velocity of the ten-year storm runoff in the receiving natural watercourse prior to development.

If conditions a. or b. above cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten percent (10%).

**TABLE 7-11-1
MAXIMUM PERMISSIBLE VELOCITY FOR
STORMWATER DISCHARGES**

Material	Maximum Permissible Velocities	
	F.P.S.M.	M.P.S.M.
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

- (3) Acceptable Management Measures: Measures applied alone or in combination to satisfy the intent of this Section are acceptable if there are no objectionable secondary consequences. The Sedimentation Commission and the City recognize

that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results.

Some alternatives are to:

- a. Avoid increases to surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
 - b. Avoid increases in stormwater discharge velocities by using detention devices, vegetated or roughened swales, and waterways in lieu of closed drains and high velocity paved sections;
 - c. Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures;
 - d. Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; or
 - e. Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.
- (4) Exceptions: This rule shall not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(f) BORROW AND WASTE AREAS

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Solid Waste Management, shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

(g) ACCESS AND HAUL ROADS

Temporary access and haul roads, other than existing public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

(h) OPERATIONS IN LAKES OR NATURAL WATERCOURSES

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided. The U.S. Army Corps of Engineers shall be notified by the developer of any planned operation in lakes or natural watercourses for possible issuance of Section 404 or other permits.

(i) RESPONSIBILITY FOR MAINTENANCE

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent soil erosion and sedimentation control measures as required by the approved plan, by any provision of this Ordinance, the Act, or by any order adopted pursuant to this Ordinance or the Act. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent soil erosion and sedimentation control measures, except those measures installed within a road or street right-of way or easement accepted for maintenance by a governmental agency.

(j) ADDITIONAL MEASURES

Whenever the Enforcement Officer determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-distributing activity will be required to and shall take additional protective action.

(k) EXISTING UNCOVERED AREAS

- (1) Applicability: All uncovered areas existing on the effective date of this Ordinance which are the result of land-disturbing activity, which exceed one (1) acre, which are subject to continued accelerated erosion, and which are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
- (2) Notice of Violation: The Enforcement Officer will serve upon the landowner or other person in possession or control of the land, a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the Enforcement Officer shall take into consideration the economic feasibility,

technology, and quantity of work required and shall set reasonably attainable time limits for compliance.

- (3) Requiring Erosion Control Plan: The Enforcement Officer reserves the right to require preparation and approval of a soil erosion and sedimentation control plan in any instance where extensive control measures are required.
- (4) Exemption: This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

(I) SOIL EROSION AND SEDIMENTATION CONTROL PLANS

- (1) Applicability: An erosion control plan shall be prepared for all land-disturbing activities subject to this Ordinance, if more than one (1) acre is to be uncovered in accordance with Section 9-7-11(a)(1)a. (Plan and Permit Required).
- (2) Preparation of Plan: The soil erosion and sedimentation control plan shall be prepared by, and shall bear the seal and signature of a registered professional engineer, architect, landscape architect, Certified Professional in Erosion and Sedimentation Control (CPESC), or a registered surveyor to the extent permitted by North Carolina laws, at a scale not smaller than one (1) inch equals one hundred (100) feet. The plan shall be filed with the Enforcement Officer, and the applicable Soil and Water Conservation District, thirty (30) days prior to the commencement of the proposed activity.

Plans submitted for sites less than one(1) acre do not require a seal and signature of a registered professional engineer, architect, landscape architect, Certified Professional in Erosion and Sedimentation Control (CPESC), or registered surveyor.

- (3) Submission of Plan: Persons conducting land-disturbing activity that propose to disturb or uncover one (1) or more acres shall file three (3) copies of the erosion control plan with the Enforcement Officer, at least thirty (30) days prior to beginning such activity and shall keep another copy of the plan on file at the job site. If the Enforcement Officer, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Enforcement Officer will require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.
- (4) Financial Responsibility Statement: Soil erosion and sedimentation control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of North

Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance.

- (5) Conservation District Review: The applicable Soil and Water Conservation District within twenty (20) days of receipt of any plan, shall review such plan and submit its comments and recommendations to the Enforcement Officer. Failure of the Soil and Water Conservation District to submit its comments and recommendations within these twenty (20) days will not delay final action on the plan.
- (6) Local Jurisdiction Review: The Enforcement Officer will review each complete plan submitted to them and within thirty (30) days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. The Enforcement Officer shall condition approval of a draft erosion control plan upon the applicant's compliance with Federal and State water quality laws, regulations and rules. Failure to approve or disapprove a complete soil erosion and sedimentation control plan within thirty (30) days of receipt shall be deemed to be approved. Denial of a plan must specifically state in writing the reasons for denial. The Enforcement Officer must approve or deny a revised plan within fifteen (15) days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved plan, the Enforcement Officer determines that the plan is inadequate to meet the requirements of this Ordinance, the Enforcement Officer may require such revisions as are necessary to comply with this Ordinance.

Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Enforcement Officer shall promptly notify the person submitting the plan that the 30 day time limit for review of the plan pursuant to this section shall not begin until a complete environmental document is available for review.

- (7) Plan Requirements: The plan required by this Section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures proposed to ensure compliance with the requirements of this Ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation can be found in Appendix-Map Standards of this Ordinance.
- (8) Grounds for Plan Disapproval: Any soil erosion and sedimentation control plan that fails to adequately meet the basic control objectives or detail provisions of this Ordinance shall be disapproved. The Enforcement Officer shall disapprove an erosion control plan if, implementation of the plan would result in a violation of

rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Enforcement Officer shall disapprove a Plan or draft Plan based on its content. A disapproval based upon a Plan's content must specifically state in writing the reasons for disapproval.

- (9) Other Disapprovals: The Enforcement Officer may disapprove a Plan or draft Plans if implementation of the Plan would result in a violation of the rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove a Plan upon finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:
- a. Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Sedimentation Commission or the Enforcement Officer and has not complied with the notice within the time specified in the notice;
 - b. Has failed to pay a civil penalty assessed pursuant to the Act or this Ordinance which is due and for which no appeal is pending;
 - c. Has been convicted of a misdemeanor pursuant to NCGS 113A-64(b) or any criminal provision of this Ordinance; or
 - d. Has failed to substantially comply with State rules adopted pursuant to the Act or regulations of this Ordinance.

For purposes of this Subsection, an applicant's record may be considered for only the two (2) years prior to the application date.

In the event that a Plan is disapproved pursuant to this subsection, the Enforcement Officer shall notify the Director of such disapproval within ten (10) days. The Enforcement Officer shall advise the applicant and the Director in writing as to the specific reasons that the Plan was disapproved.

- (10) Application Amendments: Applications for amendment of a soil erosion and sedimentation control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Enforcement Officer, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.
- (11) Work Conducted from Approved Plan: Any person engaged in land-disturbing activity who fails to file a plan in accordance with this Ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Ordinance.
- (12) Plan Approval Required for Permit: No building permits shall be issued, unless and until a soil erosion and sedimentation control plan has been submitted to the Enforcement Officer, a land-disturbing permit has been issued, and initial soil

erosion and sedimentation control devices have been installed and are functioning properly.

- (13) Work Completed Before Final Subdivision Approval: No final subdivision plat approval nor any Certificate of Compliance shall be issued unless and until work at the site has been completed in accordance with a valid land-disturbing permit, or an improvement security or bond has been approved and accepted as required by this Ordinance.

- (14) Surety: The applicant for a land-disturbing permit to grade more than one (1) acre may be required to file with the Enforcement Officer an improvement security, bond, or other instrument satisfactory to the Enforcement Officer to cover all costs of protection of the site according to requirements of this Ordinance. Such surety shall remain in force until the work is completed in accordance with the land-disturbing permit and said work is approved by the Enforcement Officer. Upon violation of this Ordinance, applicable surety shall be used to establish protective cover on the site, to control the velocity of runoff, and/or prevent off-site sedimentation. Any monies in excess of the cost of providing protective measures shall be refunded to the appropriate person.

(m) RESTORATION AFTER NON-COMPLIANCE

The Enforcement Officer may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Ordinance.

(Ord. No. 93-113, Pt. 2(§ 1), 9-16-93; Ord. No. 93-113, Pt. 1(§ 1), 12-13-93; Ord. No. 94-57, § 1, 12-16-93; Ord. No. 98-07, § 1, 1-22-98; Ord. No. 00-49, Pt. 2, 3, 4, (§ 1) 6-1-00; Dev. Ord. 05-101, Pts. 7, 8, 9, 10, 11, 12, §1, 12-22-05)

9-7-12 THROUGH 9-7-15 (Reserved)

ARTICLE C

FLOOD DAMAGE PREVENTION

9-7-16 FLOOD DAMAGE PREVENTION REGULATIONS

(a) GENERAL PROVISIONS

- (1) Lands To Which This Article Applies: This Article shall apply to all Special Flood Hazard Areas within the City of High Point’s jurisdiction, including its Extra-Territorial Jurisdiction (ETJ).
- (2) Basis for Establishing the Special Flood Hazard Areas: The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Guilford County dated June 18, 2007, or any subsequent revision of such maps, which are adopted by reference and declared to be a part of this Article. Also declared to be a part of this Article are the equivalent maps, studies and related information for Davidson, Forsyth and Randolph Counties as they apply to areas within the City of High Point and its planning area, and any subsequent revisions of them.
- (3) Establishment of Floodplain Development Permit: A Floodplain Development Permit shall be required in conformance with the provisions of this Article prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 9-7-16(a)(2) of this Article.
- (4) Compliance: No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Article and other applicable regulations.
- (5) Abrogation and Greater Restrictions: This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another ordinance or regulation conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (6) Interpretation: In the interpretation and application of this Article, all provisions shall be:
 - a. Considered as minimum requirements;
 - b. Liberally construed in favor of the governing body; and
 - c. Deemed neither to limit nor repeal any other powers granted under State statutes.

- (7) Warning and Disclaimer of Liability: The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of High Point or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.
- (8) Penalties for Violation: Violation of the provisions of this Article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent High Point from taking such other lawful action as is necessary to prevent or remedy any violation.

(b) FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

- (1) Application Requirements: An application for a Floodplain Development Permit shall be made to the Enforcement Officer prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Enforcement Officer to apply for a floodplain development permit:
- a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 2. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in 9-7-16(a)(2), or a statement that the entire lot is within the Special Flood Hazard;
 3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in 9-7-16(a)(2);
 4. The boundary of the floodway(s) or non-encroachment area(s) as determined in 9-7-16(a)(2);

5. The Base Flood Elevation (BFE) where provided as set forth in 9-7-16(a)(2); 9-9-9(c); or 9-7-16(e)(3);
 6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development in accordance with 9-7-6(e)(4);
 7. The certification of the plot plan by a registered land surveyor or professional engineer.
- b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 1. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 2. Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
 3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
 - c. If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
 - d. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Article are met. These details include but are not limited to:
 1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with 9-7-16(e)(2)d.3., when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.
 - e. Usage details of any enclosed areas below the lowest floor.
 - f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 - g. Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)

- h. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of 9-7-16(e)(2)f. and 9-7-16(e)(2)g. of this Article are met.
 - i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) Permit Requirements: The Floodplain Development Permit shall include, but not be limited to:
- a. A description of the development to be permitted under the floodplain development permit.
 - b. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in 9-7-16(a)(2).
 - c. The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - d. The regulatory flood protection elevation required for the protection of all public utilities.
 - e. All certification submittal requirements with timelines.
 - f. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - g. The flood openings requirements, if in Zones A, AO, AE or A1-30.
 - h. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only.)
- (3) Certification Requirements:
- a. Elevation Certificates:
 - 1. An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Enforcement Officer a certification of the elevation of the reference level, in relation to mean sea level. The Enforcement Officer shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the

certification or failure to make required corrections shall be cause to deny a floodplain development permit.

2. An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Enforcement Officer a certification of the elevation of the reference level, in relation to mean sea level. . Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Enforcement Officer shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 3. A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Enforcement Officer a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Enforcement Officer shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- b. Floodproofing Certificate: If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Enforcement Officer a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Enforcement Officer shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- c. If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of 9-7-16(e)(2)c.
- d. If a watercourse is to be altered or relocated, 1) a description of the extent of watercourse alteration or relocation, 2) a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream, and 3) a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- e. Certification Exemptions The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (1) and (2) of this subsection:
 1. Recreational Vehicles meeting requirements of 9-7-16(e)(2)f.1.;
 2. Temporary Structures meeting requirements of 9-7-16(e)(2)g.; and
 3. Accessory Structures less than 150 square feet meeting requirements of 9-7-16(e)(2)h.

(c) **CORRECTIVE PROCEDURES**

- (1) Violations to be Corrected: When the Enforcement Officer finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Enforcement Officer shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - a. That the building or property is in violation of the floodplain management regulations;
 - b. That a hearing will be held before the Enforcement Officer at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and.
 - c. That following the hearing, the Enforcement Officer may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Enforcement Officer shall find that the building or development is in violation of the Flood Damage Prevention regulations, he/she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than 180 calendar days. Where the Enforcement Officer finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Enforcement Officer and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Enforcement Officer shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(d) VARIANCE PROCEDURES

Variances from the requirements of this Article shall be heard and decided by the Board of Adjustment in accordance with Section 9-9-6(k) of this Ordinance.

(e) PROVISIONS FOR FLOOD HAZARD REDUCTION

- (1) General Standards: In all Special Flood Hazard Areas the following provisions are required:
 - a. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure;
 - b. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - c. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages;
 - d. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are

not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches;

- e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- g. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- h. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Article, shall meet the requirements of “new construction” as contained in this Ordinance;
- i. Nothing in this Article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Article;
- j. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in 9-9-6(k)(9). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of 9-7-16(b)(3);
- k. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage;
- l. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- m. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards;
- n. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is

required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

- o. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements; and
 - p. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.
- (2) Specific Standards: In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in 9-7-16(a)(2), or 9-7-16(e)(3), the following provisions, in addition to the provisions of 9-7-16(e)(1), are required:
- a. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply;
 - b. Non-Residential Construction: New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in this Ordinance. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with 9-7-16(e)(6). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Enforcement Officer as set forth in 9-7-16(b)(3), along with the operational and maintenance plans;
 - c. Manufactured Homes:
 - 1. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in this Ordinance.
 - 2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance

pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

3. All enclosures or skirting below the lowest floor shall meet the requirement of 9-7-16(e)(2)d.
 4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Enforcement Officer and the local Emergency Management coordinator.
- d. Elevated Buildings: Full enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas.
 2. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation.
 3. Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria.
 - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

- iv. The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
 - v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- e. Additions/Improvements:
- 1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure;
 - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - 2. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
 - 3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction;
 - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- f. Recreational Vehicles: Recreational vehicles shall either:
- 1. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if

it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

2. Meet all the requirements for new construction.

g. Temporary Non-Residential Structures:

1. A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one year.
2. The name, address, and phone number of the individual responsible for the removal of the temporary structure.
3. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification.
4. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure.
5. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

h. Accessory Structures

1. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas).
2. Accessory structures shall not be temperature-controlled.
3. Accessory structures shall be designed to have low flood damage potential.
4. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
5. Accessory structures shall be firmly anchored in accordance with the provisions of 9-7-16(e)(1)a.
6. All service facilities such as electrical shall be installed in accordance with the provisions of 9-7-16(e)(1)d.
7. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of 9-7-16(e)(2)d.3.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with 9-7-16(b)(3).

- (3) Standards For Floodplains Without Established Base Flood Elevations: Within the Special Flood Hazard Areas designated as Approximate Zone A and established in 9-7-16(a)(2), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of 9-7-16(e)(1) and 9-7-16(e)(2) shall apply:
- a. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;
 - b. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
 1. When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Ordinance and shall be elevated or floodproofed in accordance with standards in 9-7-16(e)(1) and 9-7-16(e)(2).
 2. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with 9-7-16(a)(2) and utilized in implementing this Article.
 3. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation.
- (4) Standards for Riverine Floodplains with BFE, but Without Established Floodways or Non-Encroachment Areas: Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- a. Standards of 9-7-16(e)(1) and 9-7-16(e)(2); and
 - b. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (5) Floodways and Non-Encroachment Areas: Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in 9-7-16(a)(2). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in 9-7-16(e)(1) and 9-7-16(e)(2), shall apply to all development within such areas:
- a. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - 1. It is demonstrated that the proposed It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Enforcement Officer prior to issuance of floodplain development permit or
 - 2. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
 - b. If 9-7-16(e)(5)a. is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Article.
 - c. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met.
 - 1. The anchoring and the elevation standards of 9-7-16(e)(2)c; and
 - 2. The no encroachment standard of 9-7-16(e)(5)a.
- (6) Standards for Areas of Shallow Flooding (Zone AO): Located within the Special Flood Hazard Areas established in 9-7-16(a)(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and

where the path of flooding is unpredictable and indeterminate. In addition to 9-7-16(e)(1) and 9-7-16(e)(2), all new construction and substantial improvements shall meet the following requirements:

- a. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified;
- b. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in 9-7-16(e)(6)a. so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with 9-7-16(b)(3) and 9-7-16(e)(2)b;
- c. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. 93-113, Pt. 2(§ 1), 9-16-93; Ord. No. 93-113, Pt. 1(§ 1), 12-13-93; Ord. No. 94-57, § 1, 12-16-93; Ord. No. 98-07, § 1, 1-22-98; Ord. No. 98-64, Pt. 3, § 1, 5-21-98)

9-7-17 THROUGH 9-7-20 (Reserved)

ARTICLE D
GREENWAY REGULATIONS

9-7-21 DONATION PROVISIONS

(a) DENSITY CREDITS

Land donated to and accepted by the City of High Point in fee-simple for the expressed purpose of establishing a public greenway shall be credited toward the donating parcel, lot or tract area for the purpose of calculating the density of development and area coverage calculations though no longer part of the parcel.

(b) DENSITY CREDITS BINDING TO PROPERTY

Dedicated land credits shall be transferred to subsequent holders if properly noted in transfer deeds.

(c) SETBACKS

All required setbacks shall be measured from the border of the remaining parcel with the donated greenway area.

9-7-22 THROUGH 9-7-25 (Reserved)

ARTICLE E**HAZARDOUS AND TOXIC SUBSTANCES****9-7-26 GENERAL PROVISIONS****(a) APPLICABILITY**

- (1) Hazardous or Toxic Substance Generator: A hazardous or toxic substance generator shall be considered those individuals, firms, and corporations listed as "Hazardous Waste Facilities" by the North Carolina Department of Human Resources, Solid and Hazardous Waste Management Division, and/or those uses contained in the "Categorical Pretreatment List" compiled by the U.S. Environmental Protection Agency.
- (2) Hazardous or Toxic Substance Handler: A hazardous or toxic substance handler shall be considered those individuals, firms, and corporations engaged in the storage, treatment, transporting and/or disposal of hazardous or toxic substances including a building, structure or use of land devoted, or intended to be devoted, to changing by any method, technique, or process, the physical, chemical, or biological character of any hazardous or toxic substance so as to neutralize such material or render it nonhazardous or nontoxic, safer for transport, amenable for recovery, amenable for storage or reduced in bulk, or to reprocess the hazardous or toxic substance to form a new material, or for the temporary or long term storage of hazardous or toxic substance(s). Such uses may also be considered temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation; however, under no circumstances is a hazardous or toxic substance handler to be construed to be either of the following:
 - a. A facility which generates a hazardous or toxic substance, provided that generator does not include a facility which accepts a hazardous or toxic substance for the purpose of storage, treatment, or disposal, and in that process creates a different hazardous or toxic substance; or
 - b. A facility for the storage, treatment, transportation, or disposal of a hazardous or toxic substance which is clearly subordinate, incidental, and related to the principal structure, building, or use of land if located on the same lot as the principal structure, building, or use of land.

(b) GENERATOR REGULATIONS

- (1) Those hazardous or toxic substance generators listed in Section 9-7-8(b)(1), Prohibited Uses within a Watershed Critical Area Overlay District, shall be prohibited from locating and/or operating within any Watershed Critical Area (WCA) Overlay District.

- (2) Those hazardous or toxic waste generators listed or qualified to be listed as a large-scale (type "G") generator on the "Hazardous Waste Facilities" list by the North Carolina Department of Environment, Health and Natural Resources, Solid Waste Management Division, shall be prohibited from locating within any Watershed Critical Area (WCA) Overlay District. Such facilities located within a General Watershed Area (GWA) Overlay District shall be permitted subject to compliance with the following development standards:
- a. The site shall be served by public water and sewer.
 - b. Process waste discharges to the surface shall be prohibited. All process waste discharges shall be to the public sanitary sewer system, in accordance with applicable pretreatment requirements.
 - c. Outside storage of any hazardous or toxic material or waste shall be prohibited.
 - d. A copy of any submission to the Guilford County Local Emergency Planning Committee required by the Superfund Amendments and Reauthorization Act (SARA) Title III disclosing in writing all chemical constituents present or potentially present in their wastes and chemicals which could be spilled or be present in runoff from their facility shall be provided to the city's Director of Public Services.
 - e. A preliminary spill containment and countermeasures plan shall be submitted for review by the Director of Public Services prior to the issuance of any building permits, and a final plan shall be submitted to the Director prior to commencement of operations, for determination of compliance with all applicable laws, ordinances, or policies as adopted by City Council and subsequently amended. The plans shall include and address at least the following:
 1. All locations where hazardous or toxic materials are handled, used or stored.
 2. Available lined containment for fire protection water, as required by federal and/or state regulations.
 3. Procedures and resources for handling hazardous or toxic material spills.
 4. On-site recycling of waste containing hazardous or toxic constituents shall comply with effluent limitations that require the best available technology economically achievable (BAT) as defined by Environmental Protection Agency (EPA) regulations. Proposed recycling technology shall be designed and certified to meet this standard by a recognized professional in the field.
 5. Procedures for on-site containment of all material spills.

In such cases where a large-scale (type "G") hazardous or toxic waste generator would be located in a General Watershed Area (GWA) Overlay District and proposes alternative means for complying with all the above development standards, such large-scale generators may be permitted subject to the issuance of a Special Use Permit by City Council in accordance with Section 9-3-14 of this Ordinance. In addition to the findings of fact required by Subsection 9-3-14(c), the approval of said Special Use Permit shall be subject to the additional finding of fact that the use will not have an adverse impact upon any municipal water supply. Said additional finding shall be based upon written analysis provided by the applicant, and shall consider specific operational standards which may be incorporated as conditions of Permit approval which provide comparable protection to municipal water supplies when compared to all of the standards outlined above.

(c) **HANDLER REGULATIONS**

- (1) Watershed Protection District Prohibition: All land uses, individuals, firms, or corporations considered as handlers of hazardous or toxic substances shall be prohibited from locating and/or operating within any Watershed Protection Overlay Districts, (Refer to Chapter 7, Article A).
- (2) Permitted in Heavy Industrial (HI) District: All land uses, individuals, firms, or corporations considered as handlers of hazardous or toxic substances shall be allowed to locate only within areas zoned Heavy Industrial (HI), and only there as a Special Use.
- (3) Special Use Permit Required: All land uses, individuals, firms, or corporations considered as handlers of hazardous or toxic substances shall be required to receive a Hazardous or Toxic Substance Handler Special Use Permit, (Refer to Subsection 9-7-26(d)).
- (4) Privilege License Required: All land uses, individuals, firms, or corporations considered as handlers of hazardous or toxic substances shall be required to obtain a Hazardous or Toxic Substance Privilege License.
- (5) Special Use Permit Minimum Requirements: All facilities under consideration for approval of a Hazardous or Toxic Substance Handler Special Use Permit shall meet the following conditions:
 - a. A hazardous or toxic substance handler facility shall only be permitted in Heavy Industrial (HI) districts that are located outside of water supply watersheds as defined by this Ordinance;
 - b. A complete list of chemicals, their quantity and physical composition, to be stored, transported, treated and/or disposed of shall be supplied to the Director

of Planning and Development and all other members of the Technical Review Committee;

- c. Access to hazardous or toxic substance facility shall not make use of any residential collector or residential local streets;
- d. The minimum lot size for a hazardous or toxic substance handler facility shall be ten (10) acres;
- e. Storage of hazardous or toxic substances shall be in above ground closed storage tanks or drums;
- f. Storage for processing areas shall have a concrete containment system that does not have a drain and be located inside a building to prevent rainwater accumulation;
- g. The storage for processing area containment system shall be one and one-half (1 1/2) times larger than the largest storage tank. If the storage vessels are drums, then the storage area containment system shall be fifty percent (50%) of their total storage volume;
- h. All hazardous or toxic substance handler facilities shall provide a spill provision and countermeasure plan to the Director of Planning and Development and to all members of the Technical Review Committee;
- i. A hazardous or toxic substance handler facility shall comply with the following separation distances:
 1. All hazardous or toxic substances shall be treated, stored, and/or disposed of a minimum of fifty (50) feet from the property line of the facility, if the area adjacent to the facility is zoned Heavy Industrial (HI); a minimum of six hundred (600) feet from the property line of the facility shall be required if the area adjacent to the facility is zoned anything other than Heavy Industrial (HI);
 2. These separation distances required by 1. above, are minimum distances, and the City may require any hazardous or toxic substance handler facility to comply with greater separation distances or other protective measures when necessary to avoid unacceptable risks posed by the proximity of the facility to water table levels, water supplies, and population centers or to provide an adequate buffer zone. In determining whether to require greater separation distances or other protective measures, the City shall consider the following factors:
 - i. The type of hazardous or toxic substance to be stored, treated, transported, and/or disposed of at the facility; and the degree of hazard or toxicity associated with such waste or substance;

- ii. The volume of hazardous or toxic substances to be stored, treated, transported, and/or disposed of at the facility;
 - iii. The number of residents in proximity to the facility;
 - iv. The number of institutional, school, and commercial structures in proximity to the facility; their distance from the facility; and the particular nature of the activities that take place in the structures;
 - v. The lateral distance and slope from the facility to surface water supplies or to watersheds draining directly into surface water supplies;
 - vi. The vertical distance, and type of soils and geologic conditions separating the facility from the water table;
 - vii. The direction of flow of groundwater from the sites; and
 - viii. Any other relevant factors;
- j. A hazardous waste or toxic substance handler facility shall comply with the following security measures:
- 1. The facility must have an artificial or natural barrier (e.g., a fence in good repair or a fence combined with a cliff), which completely surrounds the facility;
 - 2. The facility must have a means to control entry, at all times, through the gates or other entrances to the facility (e.g., attendant(s), television monitors, locked entrances, or controlled roadway access to the facility);
 - 3. A sign with the legend, "DANGER-UNAUTHORIZED PERSONNEL KEEP OUT", must be posted at each entrance to the facility, and at other locations, in sufficient numbers to be seen from any approach; and
 - 4. A 24-hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel), which continuously monitors and controls entry into the facility;
- k. All sanitary and storm water management systems on the site shall be protected so as to minimize to the greatest extent reasonable the probability of contamination by hazardous or toxic substances;
- l. Written recommendations of the Planning and Zoning Commission and the Technical Review Committee shall be forwarded to the City Council prior to final approval of an application for a Special Use Permit. After final approval by the City Council, the facility shall be operated in accordance with all applicable provisions of the appropriate state and federal legislation and shall

hold the proper valid permit(s) issued by the appropriate state and federal agencies governing the facility's operation;

- m. All hazardous or toxic substance facilities shall be located at least one thousand (1000) feet from any stream identified on the seven and one-half minute quadrangle topographic map supplied by U.S.G.S.; and
- n. All materials which are stored in landfills shall be rendered nonhazardous and nontoxic before being placed in a landfill.

(d) PROCEDURE FOR REQUEST FOR HAZARDOUS OR TOXIC SUBSTANCE HANDLER SPECIAL USE PERMIT

- (1) Application: Application for a permit for a hazardous or toxic substance handler facility to be used for storage, treatment, disposal, and/or transportation as a special use shall be submitted in accordance with this Section and with the general requirements of Section 9-3-14 which address all Special Uses.
- (2) Submission: Applications requesting a Hazardous or Toxic Substance Handler Special Use Permit shall submit to the Department of Planning and Development four (4) copies of all documents required by any state or federal agency for a permit to operate a hazardous or toxic substance handler facility as defined by this Ordinance. Four (4) copies of a site plan prepared in accordance with this Ordinance shall accompany applications for the permit.
- (3) Process: The Department of Planning and Development and the Technical Review Committee shall review applications for hazardous or toxic substance handler facilities and make recommendations to the Planning and Zoning Commission. The Planning and Zoning Commission shall make and forward recommendations to the City Council. Hazardous or Toxic Substance Handler Special Use Permits shall be issued only upon approval of the use and plans by the City Council following the requirements of Section 9-3-14 and this Article.

(e) REVOCATION OF HAZARDOUS OR TOXIC SUBSTANCE SPECIAL USE PERMIT

- (1) Violations: Any Hazardous or Toxic Substance Handler Special Use Permit may be revoked for violations of the provisions of this Ordinance.
- (2) Notice: Whenever, upon inspection of facilities, equipment, operating methods, or practices of any permittee authorized and performing hazardous or toxic substance storage, treatment, transportation, and/or disposal services in the City or within the environs for which the City exercises extraterritorial jurisdiction, the Enforcement Officer shall notify the permittee that unless conditions or practices are corrected or remedied within ten (10) days, the permit may be revoked. Notice shall include the date, time, and place of re-inspection by the Enforcement Officer.

- (3) Cease and Desist Order: If, after re-inspection, the Enforcement Officer finds conditions or practices not corrected, the permittee shall be notified by certified mail to cease and desist all activities until the violations are corrected. The cease and desist order shall give notice to appear before the City Council to show why the permit should not be revoked. The City Council may revoke the permit, leave it in effect, or add other conditions as it deems necessary.
- (4) Automatic Revocation: Revocation of any state or federal permit automatically revokes the Hazardous or Toxic Substance Special Use Permit issued under this Ordinance.
- (5) Deviation from Permit Conditions: If there occurs any substantial deviation from the Special Use Permit issued or any revision or substantial modification of Part B of the State permit, the applicant shall reapply for a Hazardous or Toxic Substance Handler Facility Special Use Permit under this Ordinance. A permittee shall have thirty (30) days to reapply for said permit. If reapplication is made within this period, the City Council may, but is not required to, extend the existing Special Use Permit pending action on the new application. However, if application is not made within the thirty (30) day period, the Special Use Permit shall expire and become void.

(f) LIABILITY

All hazardous or toxic substance handler facilities are subject to the following liability requirements:

All individuals, firms, and corporations storing, treating, transporting, or disposing of hazardous or toxic substances shall be held to a standard of strict liability for spills, accidents, contamination or other discharges and hazards arising from the facility. As used in this section, the term "strict liability" shall mean that persons storing, treating, transporting, or disposing of hazardous or toxic substances shall be liable for all emergency clean-up costs, clean-up costs in general, damages to persons and property, and other costs resulting from discharges or contamination, regardless of fault, or regardless of whether the discharge or contamination was the result of intentional or negligent conduct, accident, or other cause.

(g) BONDING

All hazardous or toxic substance handling facilities shall be subject to the following bond requirements:

- (1) The City of High Point shall be named as an additional insured on all bonds and/or insurance policies that may be required by the State of North Carolina or the United States of America. If not required by the state, then the City of High Point may establish a bonding requirement. A certified copy of the above-stated bonds or insurance policies shall be filed in the Office of the City Manager prior to approval

of the Hazardous or Toxic Substance Handler Facility Special Use Permit by the City Council; and

- (2) Should the above-stated bond or insurance policy expire or be revoked, then the hazardous or toxic substance handler facility must cease operation immediately and remove all hazardous or toxic substances from the site. The Hazardous or Toxic Substance Handler Special Use Permit may be revoked by City Council under such conditions.

(h) PRIVILEGE LICENSE

- (1) Application: Every person, firm, and corporation engaged in the storage, treatment, transportation, and/or disposal of hazardous or toxic substances shall make application to and secure from the City of High Point a privilege license for each facility.
- (2) Approval Period: All licenses issued under these provisions shall be for one year which shall be for the fiscal year beginning July 1st and ending June 30th. Licenses issued within a fiscal year shall only be for the period beginning on the date such license is issued and ending the following June 30th.
- (3) Fees: The City Council shall have full authority to set, regulate, and govern the fees to be charged by licensed handlers of hazardous or toxic substances.

(Ord. No. 93-113, Pt. 2(§ 1), 9-16-93; Ord. No. 94-03, § 1, 3-30-94; Ord. No. 94-46, § 1, 4-21-94; Ord. No. 95-5, § 1, 1-5-95)

ARTICLE F
CITY TREE CONSERVATION

9-7-31 APPLICABILITY

(a) JURISDICTION

The requirements of this Article shall apply only to city owned or controlled property, which is property owned or leased by the City of High Point or is property that the city controls through public rights-of-way and easements for public purposes, such as streets, the construction and maintenance of public utilities, the provision of pedestrian access across private land, the development and maintenance of greenways and open space, or the protection of water quality.

(b) RIGHTS OF CITY

The City of High Point and the Urban Forestry Committee, as an agent of the city, has the inherent right to plant, prune, maintain and remove any tree, plant or shrub on city owned or controlled property as deemed necessary to ensure the public health and safety, to preserve and enhance the symmetry and beauty of public property, or to protect public improvements and utilities.

9-7-32 TREE MAINTENANCE AND PROTECTION

(a) TREE TOPPING

It is a violation of this Ordinance for any person, firm, organization or city department, including any utility, to top any tree on city owned or controlled property without prior approval of the Urban Forestry Committee, as this activity weakens future tree growth and severely impacts the long-term health of the tree. Topping is defined as the severe pruning of tree limbs larger than three inches in diameter within the tree’s crown to such a degree as to remove the normal canopy or disfigure the tree. Approval for topping trees shall be granted only in cases where trees have been severely damaged by storms or other natural causes or where the Urban Forestry Committee deems other pruning practices impractical, such as the pruning of trees directly under overhead utility lines.

(b) REMOVAL OF DAMAGED OR INFESTED TREES

The Urban Forestry Committee may cause to be removed any tree or part thereof which is in an unsafe condition, significantly damaged due to severe weather or other natural conditions, or is infested with any disease, injurious fungus, insect or other pest.

(c) UNAUTHORIZED REMOVAL OR DAMAGE

It shall be a violation of this Ordinance for any person to remove any tree on city owned or controlled property without prior approval, or to attach any rope, wire, nail, or sign to

any tree, or to apply any liquid or solid substance to any tree that is harmful and could damage or destroy the tree. Furthermore, it shall be a violation of this Ordinance to deposit, place, store or maintain on city owned or controlled property any stone, brick, sand, concrete or other impervious materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein.

(d) PROTECTION DURING CONSTRUCTION

Trees on city owned or controlled property shall be protected during any construction or excavation on city property or on adjoining private property. Protection measures, as specified in the City's standards and practices for tree conservation and maintenance, shall be taken to protect such trees.

9-7-33 TREE PLANTING, PRUNING AND REMOVAL

(a) PRIOR AUTHORIZATION REQUIRED

Persons, firms, organizations or city departments that wish to plant, prune or remove trees on city owned or controlled property shall first secure authorization prior to such requested action. The Urban Forestry Committee shall review the request to ensure that the intended activities meet the expectations of the urban forestry program and are consistent with the City's adopted standards and practices for tree conservation and maintenance. If the Urban Forestry Committee does not approve the request, the reason(s) for such action shall be provided in writing to the applicant.

(b) EXEMPTIONS

Public and private utilities (water, sewer, electrical, gas, telecommunications, cable, etc.) that maintain infrastructure in public rights-of-way or in dedicated utility easements on city owned or controlled property shall be exempt from obtaining prior approval for the pruning or removal of trees in such rights-of-way and easements. In addition, city departments shall be exempt from obtaining approval for the pruning of trees that restrict traffic visibility, pedestrian activity and other similar public safety matters. The Committee may allow other exemptions to the authorization requirement provided such exemptions are specified in the City's adopted guidelines and standards, and such exemptions are deemed by the Committee to be necessary and practical for ensuring the public health, safety and general welfare. Nonetheless, those entities with allowed exemptions shall ensure that such tree pruning and removal is consistent with the City's adopted standards and practices for tree conservation and maintenance.

(c) WAIVER

The Urban Forestry Committee shall provide a waiver to the authorization requirement for the pruning or removal of trees on city owned or controlled property when there is

significant tree damage resulting from severe weather, fire or other emergency conditions and where immediate removal of such tree(s) is necessary to protect the health and safety of the public, restore order, or remove obstructions blocking access to streets and property. The Committee shall provide for such waiver in the City’s adopted standards and practices for tree conservation and maintenance, and such waivers shall be implemented for a specified period of time or for specified emergency situations as stated in the City’s standards and practices. The Committee may allow waivers to the authorization requirement for other situations, provided such waivers are specified in the City’s adopted guidelines and standards and such waivers are deemed by the Committee to be necessary and practical for ensuring the public health, safety and general welfare.

9-7-34 GUIDELINES AND STANDARDS FOR TREE PLANTING, PRUNING AND REMOVAL

To implement the requirements of this Article, the Urban Forestry Committee shall develop, adopt and maintain guidelines and specifications for tree plantings, and standards and practices for tree conservation and maintenance. Such guidelines and standards shall, at a minimum, include provisions concerning permits, plantings, spacing, care, maintenance and removal. All tree planting, pruning and removal on city owned or controlled property shall be consistent with the City’s guidelines and standards.

9-7-35 APPEALS

Any person aggrieved thereby or by any officer, department, board or commission of the city may take an appeal from any decision of the Urban Forestry Committee. Any appeal from the Urban Forestry Committee shall be taken within thirty (30) days from the rendering of the decision by filing with the Urban Forestry Committee and the City Council a notice of appeal.

9-7-36 THROUGH 9-7-40 (RESERVED)

(Ord. No. 04-76 Pt. 2, (§1), 10-21-04)