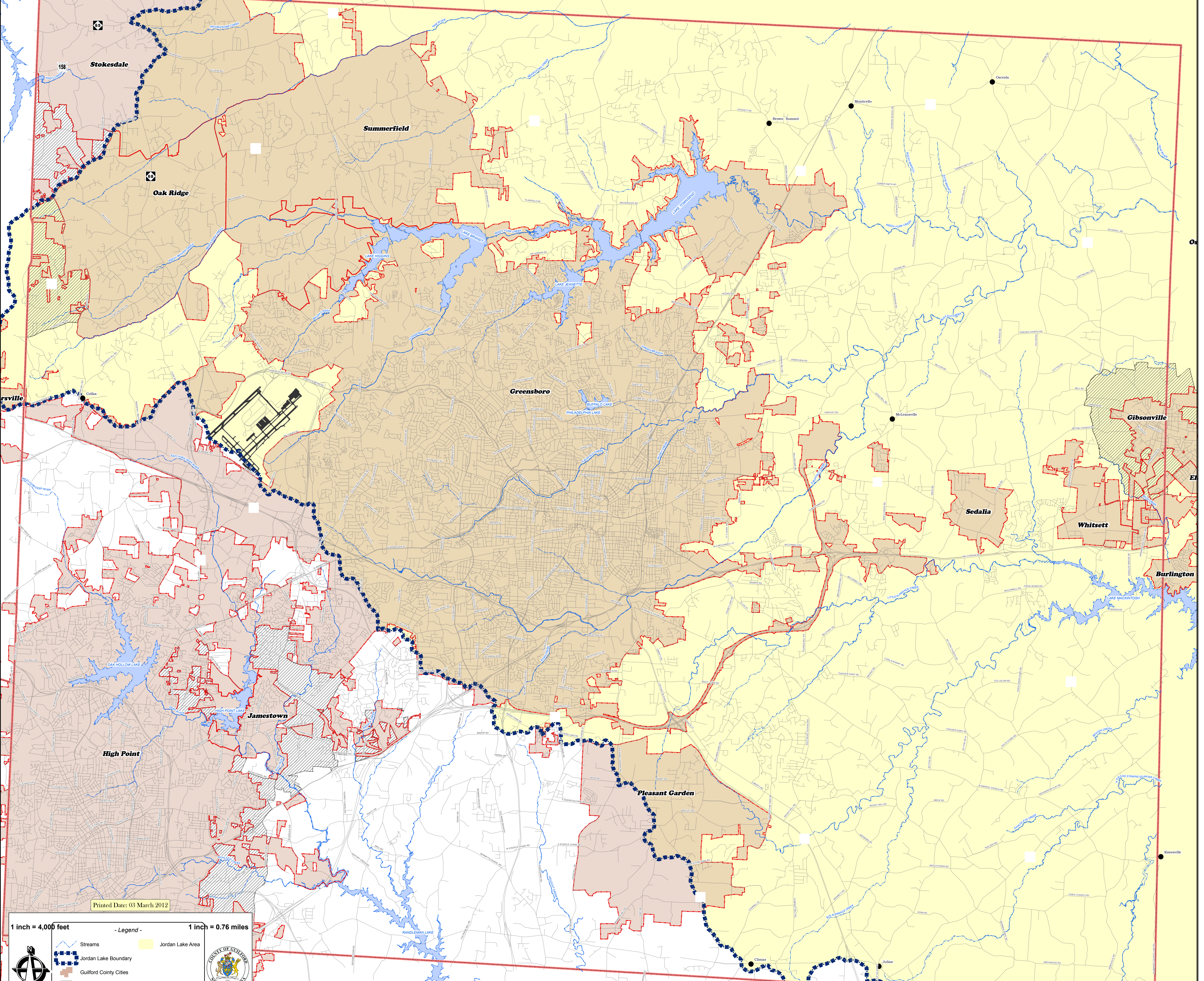




Guilford County Stormwater Program for New Development
AS REQUIRED BY THE JORDAN NEW DEVELOPMENT
STORMWATER RULE (15A NCAC 2B.0265)

for Submittal to NCDENR by September 10, 2011

JORDAN WATERSHED STORMWATER MAP

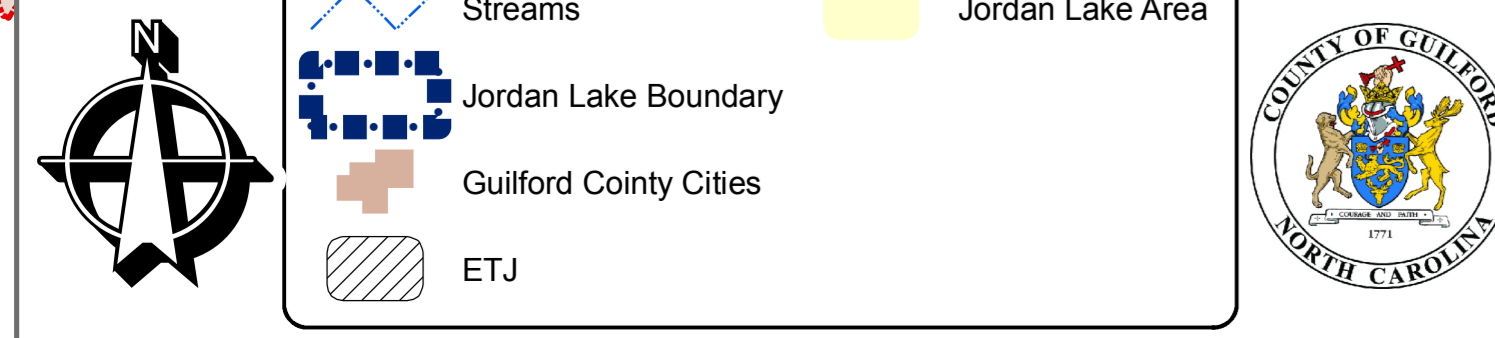


Printed Date: 03 March 2012

1 inch = 4,000 feet 1 inch = 0.76 miles

Legend

- Streams
- Jordan Lake Area
- Jordan Lake Boundary
- Guilford County Cities
- ETJ



Map Prepared by Garcia D Chavis - Guilford County GIS Department

GUILFORD COUNTY, NC

Local Government:

Check List for Reviewing the Jordan Lake Stormwater Rule Ordinances

Item	Location
Title	1-1.
Authority	1-5.
Findings	1-3.12
Purpose	1-3
Applicability & Jurisdiction: -General -Exemptions -No Development / Redevelopment Until Compliance Permit -Map	1.4.1 & 7.13 7-1.3(B) 7-1.5(C) 7-1.2
Interpretation	1-7. & 7-1.5(i)
Design Manual -Reference to Design Manual -Changes to Standards & Specifications	7-2.1(D)(3) & 7-1.6(A)(1) 7-1.6(A)
Relationship to other Laws, Regulations & Private Agreements	1-7.2.
Severability	1-13.
Effective Date & Transitional Provisions	Effective upon adoption & no Transitional Provision
Review & Decision Making Entities	7-1.5(I)
Review Procedures	7-1.5(A)
Establishment of Application Requirements, Schedules, & Fees	7-1.5(A)
Applications for Approval - Concept Plan & Consultation Meeting	Optional but not required by County
Approvals	7-1.5(B)
Appeals	7-1.5(G)
General Standards	7-1.8
Nitrogen & Phosphorus Loading Standards	7-2.4(C)
Nitrogen & Phosphorus Standard is Supplemental	Since the GDO covers all of the required stormwater standards this language was not incorporated because it was not needed.
85% TSS Requirement	7-2.1(D)
Controls & Treatment of Runoff	7-2.1(D)(1)
Partial Offset of Nutrient Control Requirements	7-2.4(C)(1)(b)
Evaluation of Standards for Stormwater Control Measures - Evaluation According to Design Manual - Determination of Adequacy; Presumptions and Alternatives	7-2.3(G)(2)
Dedication of BMPs, Facilities & Improvements	7-1.6
Variances	7-1.9
General Standards for Maintenance - Function of BMPs as Intended - Annual Maintenance Inspection & Report	7-1.6(F) 7-1.6(F)
Operation & Maintenance Agreement - In General - Special Requirements for Homeowners' & Other Associations	7-1.6(F) 7-1.6(F)(1) & 5-8.2
Inspection Program	
Performance Security for Installation & Maintenance - May Be Required - Amount	Pond must be complete before Final CO is issued 7-1.6(D) No maintenance bond required by County

Local Government:

- Uses of Performance Security - Costs in Excess of Performance Security - Refund	No maintenance bond required by County
Item	Location
Notice to Owners - Deed Recordation - Signage	7-1.6(D) Not required by Guilford County
Records of Installation & Maintenance Activities	County Keeps Inspection & Maintenance Records
Nuisance	
Maintenance Easement	7-1.6(D)
Enforcement & Violations - General - Authority - Violation Unlawful - Each Day Separate Offense - Responsible Persons / Entities	7-1.6(F)(2) 7-1.6(F)(2) 7-1.6(F)(2) 7-1.6(F)
Remedies & Penalties - Withholding of Certificate of Occupancy - Disapproval of Subsequent Permits & Development Approvals -Injunctions, Abatements - Corrections as Public Health Nuisance, Costs as Lien - Stop Work Order - Civil / Criminal Penalties	7-1.6(C) 1-9.3 & 8-4.3 8-4.1 8-3. 8-4.5 7-1.6(F)(2) & 8-5.1
Procedures - Initiation / Complaint - Inspection - Notice of Violation & Order to Correct	8-3. 7-1.6(F)(2) 7-1.6(F)(2)
Definitions	2-1.2

Notes:

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Introduction and Proposed Changes

According to the US Census Bureau, Guilford County contains approximately 472,216 people (estimated as of 2008). Guilford County is part of the Piedmont Triad metropolitan area, centrally located in the state of North Carolina (NC). The county has a total area of 658 square miles, of which 649 square miles is land and 8 square miles (1.26%) of which is water.

Founded in 1770, the original county seat of government for Guilford County was Greensboro, and an additional county court was added in High Point in 1938, making Guilford County one of only a few counties nationwide with a dual court system.

The Guilford County is within the Haw River sub-basin of the Cape Fear River Basin. Approximately sixty percent (60%) of Guilford County flows to a water supply watershed under a local Water Supply Watershed Protection program, the County protects nine different water supplies. Of those nine, the Lower Randleman Lake has rules more restrictive than a typical WS-IV watershed. Guilford County initiated its water quality regulations in 1984. The County has more stringent requirements, in both the General Watershed Area and the Critical Area for all water supplies, than those under the State's guidelines.

The Jordan Lake New Development Rule sets out standards that named communities are to incorporate into local stormwater programs, and requires the Division of Water Quality to develop a model local stormwater program for those communities to use to create a New Development Program that complies with the rule. The Jordan Lake New Development Ordinance is the legal mechanism that local governments will use to enforce these standards on new development projects greater than ½ acre in disturbed area (or 1 acre for single family residential or commercial, industrial, and multi-family development that disturbs a half acre or more (as is stated in the “Permitting” section)).

Many communities within the Jordan Lake watershed are NPDES MS4 Phase II communities that have, or will be required to have, Phase II Stormwater Post-Construction Ordinances. These Phase II Ordinances have specific standards that apply to development of properties greater than 1 acre in size within the corporate and extraterritorial jurisdictions of the community. These standards include High and Low Density designations, with projects that exceed 24% Built Upon Area being designated as High Density Projects. Projects that are designated as High Density are then required to treat the “first flush” (or 1” of rain) to remove 85% of the Total Suspended Solids (TSS).

The Jordan Lake New Development Rule is centered on removal of Nitrogen and Phosphorous from stormwater. These two pollutants can be removed with many of the same processes as TSS but at differing removal rates and with a different calculation to determine the effectiveness of the treatment processes.

The County utilized the majority of the model ordinance in crafting these text amendments after comparing the adopted regulations with the model ordinance to ensure the consistent requirements were included. Later the NC Environmental Management Commission approved our proposed ordinance text amendments on May, 2012.

Jordan Lake

The B. Everett Jordan Reservoir is a multi-use impoundment operated by the US Army Corps of Engineers formed by the construction of a dam on the Haw River east of Pittsboro in Chatham County, NC. The lake is operated for flood control, water quality, fish and wildlife conservation, recreation, and water supply. There are two arms of the Reservoir—the Haw River and the New Hope Creek. The watershed encompasses 1,686 square miles and includes parts of Alamance, Caswell, Chatham, Durham, Forsyth, Guilford, Orange, Randolph, Rockingham, and Wake counties. The reservoir is considered to be a nutrient sensitive watershed, causing algae blooms, and taste and odor problems in drinking water.

The Jordan Lake Nutrient Management Strategy (“Jordan Lake Rules”) aims to restore and maintain the water quality, protect the lake’s classified uses, and maintain or enhance protections currently implemented by local governments in existing water supply watersheds. The Total Maximum Daily Load for nutrients was established to provide specific limits to the amount of nitrogen and phosphorus entering the lake to control the algae blooms and associated problems. This is being done through a series of rules and regulations aimed at New

Development, Existing Development, Agricultural Activities, Fertilizer Management, Riparian Buffers, and Wastewater Discharge activities.

The Local Stormwater Program for New Development is one of a comprehensive set of thirteen rules known as the Jordan Nutrient Strategy. This Strategy is generally designed to reduce excess nutrient impacts, specifically nitrogen and phosphorus, into Jordan Lake to reduce algal growth and other nutrient related water quality problems.

Program Adoption and Effective Date

This New Development Program and Ordinance have been reviewed at a staff level and many of the components of the program are similar (or the same as) NPDES Phase II practices. The program has been reviewed by the Guilford County Environmental Review Board and after EMC approval the program will be reviewed submitted to the planning board and then to the Board of Commissioners for approval. The program will be effective August 01, 2012, dependent upon EMC approval in May, 2012.

Other Stormwater Programs

The Guilford County has implemented a Water Supply Watershed Protection Program since 1984 and the Unified Development Ordinance Article VII Watershed Protection was adopted. Two overlay districts cover the unincorporated areas of Guilford County. They are the National Pollutant Discharge Elimination System (NPDES) and the Water Supply Watershed overlays. The Water Supply Watershed area is further divided into the Watershed Critical Area (WCA) and the General Watershed Area (GWA). The WCA covers the portion of the watershed adjacent to a water supply intake or reservoir. The GWA covers the rest of the watershed draining to the reservoir or intake.

The adoption of the Jordan Lake Nutrient Management Strategy by the State in August 2009 and the Jordan Lake Buffer Ordinance adopted October, 2010. The Guilford County is exempt from the Phase II National Pollution Discharge Elimination System (NPDES) permitting requirements due to absence of a municipal owned MS4 and concentrated flow of storm water from public streets and properties.

Statement of Riparian Buffer Ordinance Compliance

The Guilford County adopted the Jordan Lake Buffer Ordinance based on a State Model in October of 2010. The buffer ordinance was found by the North Carolina Department of Environment and Natural Resources (DNER) to comply with all State requirements.

The Guilford County affirms our program and will carry out the review process. This process is described in the Guilford County Development Ordinance under Article 7, Environmental Regulations, and Section 7-1.9.

State and Federal Entities Implementation

The Guilford County DRAFT Jordan Stormwater Ordinance for New Development does not include language that provides for the County to permit State and Federal projects that do not have an NPDES stormwater permit. The Guilford County will refer State and Federal projects to the Division of Water Quality for permitting under the Jordan State and Federal Rule 15A NCAC 02B.0271.

Area of Applicability

The Jordan new Development Stormwater Rule will apply all the property located within the county limits in exception of Polecat Creek, and Lower Randleman Lake watershed areas of the Guilford County.

Minimum Qualifications of the Enforcement Official

At a minimum the Enforcement Official will be certified Stormwater Plan Reviewer by the NC Division of Water Quality and /or a graduate of the NC DWQ Surface Water Identification Course. It is preferred that this person is a Professional Engineer with a background in storm water or water resource, but persons with the above qualifications would be considered adequately qualified.

Maintenance and inspection Program

Where BMPs are implemented to achieve compliance with the water supply watershed regulations, the nitrogen and phosphorus loading, and flow attenuation requirements for a development, then the Guilford County is responsible for ensuring that BMPs continue to function for the life of the development. The Guilford County believes that an annual inspection of a BMP by qualified town staff is needed to ensure ongoing performance.

Maintenance of runoff control structures shall be performed at such time as the designated sediment storage volume of the structure has been lost to sediment or a part of the installation is not functioning as originally designed. The Guilford County Planning Department shall have the responsibility to inspect runoff control structures annually, to record the results on forms approved or supplied by the N. C. Division of Water Quality, and to notify the responsible property owner or owner's association when maintenance or repairs are required. All required repairs and maintenance shall be performed within ninety (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 jurisdiction may perform such maintenance or repairs and recover all costs attendant thereto from the property owner or owner's association.

The Guilford County will maintain a database of BMPs installed to comply with the requirements of the Ordinance, to track activities associated with those BMPs, and to provide the Division of Water Quality access to this information upon request. When runoff control structures serve more than one lot, an owner's association or binding contract for the purpose of maintenance shall be required.

Forms in Administrative Manual

Forms have been copied from DWQ site and are available for use.

The following is a list of forms included in Appendix C:

Forms have been copied from DWQ site and are available for use.

The following is a list of forms included in Appendix C:

- 1 **Operation and Maintenance Agreement**
- 2 **Stormwater Permit Application**
- 3 **Stormwater As-Built Submission Form**
- 4 Watershed Protection Inspection Report
- 5 Bioretention Area Certification
- 6 Bioretention Area Checklist
- 7 Wet Detention Pond Certification
- 8 Wet Detention Pond Checklist
- 9 Sand Filter Certification
- 10 Sand Filter Checklist
- 11 Extended Detention Wetland Certification
- 12 Extended Detention Wetland Checklist

Stormwater devices are to be reviewed as part of a submission for a building permit or a site plan review for a particular development. Operation and Maintenance Agreements will be treated similar to the current process according to the Guilford County Development Ordinance.

Ordinance

The Appendix offered all sections of ordinance that will be necessary to implement the rule. See Appendix under “Ordinance Changes” for description of the changes.

Nutrient Loading Accounting Tool

The Guilford County will use the Jordan/Falls Nutrient Load Accounting Tool as provided in the Jordan Model Program Appendices – Appendix O.

Program Contact and Professional Qualifications

Matt Williams, PE (PE, NCCES Certified for BMP Maintenance & Inspections)

County of Guilford
Planning & Development Department
400 W. Market Street
P.O. Box 3427
Greensboro, NC 27402
E-mail: mwillia5@co.guilford.nc.us
Direct: 336-641-5565
Fax: 336-641-6988

Frank Park, MS, PE (PE, NCCES Certified for BMP Reviewer)
County of Guilford
Planning & Development Department
400 W. Market Street
P.O. Box 3427
Greensboro, NC 27402
E-mail: fpark@co.guilford.nc.us
Direct: 336-641-3753
Fax: 336-641-6988

STATE OF NORTH CAROLINA Permit No. _____ COUNTY OF GUILFORD

OPERATION AND MAINTENANCE AGREEMENT

THIS AGREEMENT made pursuant to Guilford County Watershed Protection Ordinance and entered into this _____ day of _____, 20____, by and between the Guilford County, a North Carolina Municipal Corporation, Party of the First Part, hereinafter referred to as "COUNTY"; and _____ and _____, Parties of the Second Part, here-in after referred to as "Property Owner".

WITNESSETH:

1. The Property Owner is the owner of certain lands lying in Tax Block _____, Tax Lot _____ as more particularly described in Deed Book _____, Page _____, in the Office of the Register of Deeds of Guilford County, North Carolina upon which it is erecting and will make improvements, said development to be known as _____ (hereinafter the "PROPERTY").

2. The Property Owner desires to build engineered stormwater controls using wet detention ponds and related structures (hereinafter Stormwater Control Structure) to provide storage and treatment of stormwater runoff to serve the development on said Property, as required by the Guilford County Watershed Protection Ordinance (hereinafter the "ORDINANCE").

3. The Property Owner has applied to the COUNTY for the issuance of a stormwater permit to construct, maintain and operate the Stormwater Control Structure consistent with the plans and specifications of the Stormwater Control Structure and the Operation and Maintenance Agreement on file at the office of the Enforcement Official and to develop lands within the Lake Mackintosh Watershed.

4. The Property Owner has conveyed unto the Guilford County, or its successors or assigns an Easement and Right-of-Way establishing the right of ingress, egress and regress over the property for the purpose of inspection, repair, or maintenance of the stormwater control structure(s).A description of the area containing the stormwater control structure(s) within a drainage easement is contained within the Deed of Easement filed with the Register of Deeds together with all dedication(s) necessary for access to and from the storm-water control structure(s) and a public street. The detention pond, vegetative filters, all pipes and water control structures, including berms and dikes, and sufficient area to perform inspections, maintenance, repairs and reconstruction together with all Easements and Right-of-Way applying thereto has been described in the Deed of Easement.

5. The COUNTY desires to assure that the Stormwater Control Structure(s) on the PROPERTY are properly constructed, maintained and operated in accordance with law, the ORDINANCE, and High Density Watershed Permit (hereinafter "PERMIT") provisions in order to protect the quality of the waters of the State and the public interest therein.

NOW, THEREFORE, in consideration of the promises and the benefits to be derived by each of the parties hereto, the COUNTY and Property Owner do hereby mutually agree as follows:

1. The Property Owner shall construct the Stormwater Control Structure(s) in accordance with the ORDINANCE, PERMIT and plans and specifications hereafter issued and approved by the COUNTY; and

shall thereafter properly operate and maintain such systems and facilities in accordance with the ORDINANCE, and applicable PERMIT provisions, the plans and specifications of the Stormwater Control Structure(s), the Operation and Maintenance Agreement and State Law.

2. The Property Owner shall not transfer ownership and/or control of any lots until construction of the Stormwater Control Structure has been completed in accordance with the PERMIT and approved plans, and the Guilford County has inspected and the Guilford County Environmental Review Board has approved of the facilities. In order to change the name of the permit holder, the Property Owner must request that the permit be re-issued to the property owners.

3. The Property Owner shall provide in an Operation and Maintenance Plan that the Stormwater Control Structure, appurtenances and access easements thereto shall thereafter be property maintained and operated in conformity with law and the provisions of the PERMIT for construction, operation, repair and maintenance of the Stormwater Control Structure.

4. The agreements set forth in numbered paragraphs 1,2,3,4,and 5 above shall be conditions of any PERMIT issued by the COUNTY to the Property Owner for the construction, maintenance, repair and operation of the Stormwater Control Structure.

5. A copy of this Operation and Maintenance Agreement shall be filed at the Guilford County Register of Deeds and in the office of the Guilford County Planning and Development.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, this _____ day of _____, 20__:

PARTY OF THE FIRST PART:

GUILFORD COUNTY

By: _____ "Skip" Alston, Chairman Guilford County Board of Commissioners

ATTESTED TO:

Brenda Fox, County Manager

PARTY OF THE SECOND PART:

_____ (SEAL)

By: _____

ATTESTED TO: STATE OF NORTH CAROLINA) COUNTY OF GUILFORD

I, _____, a Notary Public of Guilford County, North Carolina, do hereby certify that _____ personally came before me this day and acknowledged that he is the Enforcement Officer of the Guilford County, a North Carolina municipal corporation, and that by authority duly given as the act of the Guilford County, the foregoing instrument was signed in its name by its Chairman Guilford County Board of Commissioners, sealed with its corporate seal and attested by him as its Enforcement Officer.

Witness my hand and official seal, this the _____ day of _____, 20__.

Notary Public Print/Type Name: _____

My Commission Expires: _____

===== STATE OF NORTH CAROLINA)COUNTY OF _____)

I, _____, a Notary Public of _____ County, North Carolina, do hereby certify that _____, the _____ of _____ personally came before me this day and acknowledged the execution and sealing of the foregoing instrument as _____ on behalf of and as the act of the company referred to in this acknowledgment.

Witness my hand and notarial seal, this the _____ day of _____, 20__.

_____ My Commission Expires: _____ Notary Public

=====

(or, if individual owner)

STATE OF NORTH CAROLINA)

COUNTY OF _____)

I, _____, a Notary Public in and for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the execution of the foregoing Deed of Easement.

Witness my hand and notarial seal, this the _____ day of _____, 20__.

_____ My Commission Expires: _____

Notary Public



Guilford County Stormwater Permit Application

Section A. SUMMARY INFORMATION

DEVELOPMENT NAME: _____

LOCATION: _____

PARCEL ID NO.: _____

TOTAL ACRES: _____ TOTAL DWELLING UNITS (if applicable) : _____

TOTAL DU/Acre: _____ % Built Upon Area: _____ TOTAL Built Upon Area: _____

LOW DENSITY (no more than two dwelling units per acre or twenty-four percent built-upon area).

HIGH DENSITY (exceeds the low density thresholds for dwelling units per acre or built-upon area).

Section B. APPLICANT INFORMATION

Owner (Owner or Developer)

Owner: _____ Phone No.: _____

Company: _____ Fax No: _____

Address: _____

_____ Zip: _____

Fax No: _____ Email Address: _____

Consultant (Person to contact regarding questions or revisions to the plan)

Contact Name: _____ Phone No.: _____

Company: _____ Fax No.: _____

Address: _____

_____ Zip: _____

Fax No: _____ Email Address: _____

ALL ITEMS ON THIS APPLICATION MUST BE ADDRESSED PRIOR TO SUBMITTAL. ALL INCOMPLETE SUBMITTALS WILL BE RETURNED.

Section C. REQUIRED ITEMS CHECKLIST

The following checklists outline submittal requirements. Initial in the space provided to indicate the following submittal requirements have been met and supporting documentation is attached.

General Requirements:

Applicant's initials

- _____ 1. Sheets shall be no larger than 36" x 24" plan and profile paper.
- _____ 2. Minimum text size shall be 1/8".
- _____ 3. Scale on plan view shall be no smaller than 1" = 50'; scale on profile view shall be no smaller than 1" = 50' horizontally and 1" = 5' vertically using a grid showing 1' intervals.
- _____ 4. All drawings to be in North Carolina State Plane coordinate system.
- _____ 5. Cover sheet shall have a vicinity map at a scale no smaller than 1" = 200'.
- _____ 6. Provide a legend indicating existing and proposed lines, features and symbols.
- _____ 7. Cover sheet shall include all general notes, owner's name, telephone number, and mailing address.
- _____ 8. All elevations shall be given in relation to mean sea level; elevations in profile view shall be labeled in 10' intervals on the heavy lines (Ex. 350, 360).
- _____ 9. Benchmark elevations and locations shall be shown on plan view.
- _____ 10. Plan views shall have a north arrow on each drawing.
- _____ 11. Each drawing shall have the following information in the title block: Street or project title, limits, horizontal and vertical scales, original date, revisions date, drawing number, checked by and drawn by. Recommended placement is lower right-hand corner.
- _____ 12. All drawings sealed, signed and dated by a NC Professional Engineer.

- _____ 13. A signed and sealed statement on the plans (if a high density project) certifying that the design of all stormwater management facilities and practices will control and treat the runoff from the from the first one inch of rain over the total drainage area, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Stormwater BMP Design Manual*, and that the designs and plans ensure compliance with the County's Stormwater Ordinance.
- _____ 14. Plan view shall show all actual street names. State road numbers shall be shown if applicable. Plan view should also indicate whether street is asphalt, concrete, gravel or dirt. Proposed street & Right-of-way widths will be dimensioned back to-back and labeled in plan view.
- _____ 15. Plan view shall show proposed and existing curb and gutter, pavement, storm sewers, drainage structures, driveway pipes, water mains, sanitary sewer mains, etc. All available elevations shall be shown on the profile view. Direction of flow shall be shown on plan view for all sanitary sewers and storm drains. Materials and pipe sizes shall be labeled.
- _____ 16. Existing utility lines shall be shown and labeled on plan view and indicated in the legend.
- _____ 17. Plans shall show final proposed locations and dimensions of all water, storm drain, and sanitary sewer lines, devices to be installed on the system, catch basins, culverts, ditches, including grades, pipes sizes, elevations, assumptions, calculations, invert elevations for all inlets and manholes and profiles of sanitary sewer lines.
- _____ 18. All existing and proposed water, storm drainage and sanitary sewer easements shall be shown on all applicable sheets.
- _____ 19. Number of dwelling units.
- _____ 20. Existing and proposed topographic lines (minimum 2-foot intervals).
- _____ 21. City limits, county lines, and other jurisdiction lines, if any.
- _____ 22. Streams, ponds, wetlands, etc. on the project site and within 50 feet of the property lines.
- _____ 23. Location of floodplain and floodway (if applicable).
- _____ 24. Location of drainage ways and easements.

Site Drainage Features:

- _____ 25. Existing and planned drainage patterns (include off-site areas that drain through project).
- _____ 26. Any existing stormwater control systems.
- _____ 27. Sub-watershed delineation showing drainage areas.
- _____ 28. Show extent and number of disturbed acres.
- _____ 29. Proposed impervious areas.
- _____ 30. Soil information: type, special characteristics.
- _____ 31. Name and classification of receiving

Permanent Stormwater Control Measures (High Density only):

- _____ 32. Type of BMP (wet pond, rain-garden, etc).
- _____ 33. Designer's certification.
- _____ 34. Narrative description of proposed stormwater system (where runoff originates (e.g. roofs, roads, parking lots etc.), its conveyance within the project, its treatment, and its conveyance from the project to the receiving water body).
- _____ 35. Profile along the centerline of the principal spillway/outfall pipe extending below the protected outfall or to the downstream structure.
- _____ 36. Elevations of the "water quality" surface, temporary storage water surface, and the 10 and 100 year storms.
- _____ 37. Stage-storage table for each BMP.
- _____ 38. If BMP is to be used to treat construction site runoff, provide steps necessary to restore BMP to original design condition.
- _____ 39. All necessary construction specifications.
- _____ 40. Sequence of construction.
- _____ 41. Individual drainage areas for each stormwater BMP.
- _____ 42. Construction drawings and details for permanent measures.
- _____ 43. Size and location of culverts.
- _____ 44. Size and location of subsurface drainage conveyances.
- _____ 45. Disclosure of party ultimately responsible for operation and maintenance of the stormwater system.

Stormwater Calculations:

- _____ 46. Narrative description of calculations (methods, variables, assumptions, etc.) and results.
- _____ 47. Stormwater BMPs designed in accordance with North Carolina Department of the Environment and Natural Resources-Division of Water Quality's *Manual of Stormwater Best Management Practices*.
- _____ 48. Time of concentration for pre/post development conditions
- _____ 49. Pre-construction and post-construction runoff calculations for each outlet from the site (at peak discharge points).
- _____ 50. Pre-construction and post-construction design calculations and hydrographs.

- _____ 51. Design calculations of culverts and storm sewers.
- _____ 52. Discharge and velocity calculations for open channel and ditch flows (easement & right-of-ways).
- _____ 53. Design calcs of cross sections and method of stabilization of existing and planned channels (include temporary linings).
- _____ 54. Design calcs and construction details of energy dissipators below culvert and storm sewer outlets (diameters & apron dimensions).
- _____ 55. Amount and type of existing and proposed land use.

Operation and Maintenance Manual (for each BMP, High Density only):

- _____ 56. Narrative description of the purpose and operation of the BMP.
- _____ 57. Detailed list, description, and procedure of routine maintenance items.
- _____ 58. Detailed list, description, and procedure of non-routine maintenance items.
- _____ 59. Maintenance schedule.
- _____ 60. Steps needed to restore BMP in the event of a failure.
- _____ 61. Maintenance checklist and inspection form.
- _____ 62. BMP construction drawings. Replace with record drawings when BMP is complete.
- _____ 63. Latitude and longitude of each stormwater BMP.

Section D. ATTACHMENTS

- 3 Sets of plans
- 1 set of calculations
- Operation and Maintenance Manual
- Application Fee



Guilford County Stormwater As-built Submission Form

Prior to obtaining a Certificate of Occupancy, the following items must be provided to the Guilford County Enforcement Official for approval. These will be compared to the approved stormwater permit application for any irregularities or non-conformance with the approved plans.

- As-built Drawings (2 paper copies)
- Electronic As-built Drawings (.dwg, or pdf format.)
- Designer’s Stormwater BMP Certification

The as-built drawings shall reflect the “as-constructed” condition of the development, and shall include sufficient information to demonstrate conformance with the approved stormwater permit application. Significant deviations from the approved plan shall be considered violations of the Guilford County Stormwater Ordinance and are grounds for the invocation of the injunctions and penalties defined therein, and/or withholding the release of any bond pending the completion of corrective action(s), and/or requiring a submittal of a revised stormwater permit application.

In the event that the Enforcement Official requires submittal of a revised plan, the revision shall include a description of the discrepancies between the site conditions and the prior approved stormwater permit application, along with design calculations that demonstrate that the as-built conditions comply with the Guilford County Stormwater Ordinance. Should the as-built conditions be shown to have a negative impact with regards to flooding, maintenance, erosion or water quality, the Enforcement official has the authority to require other mitigation measures and proposed design plans to mitigate any potential impacts from the development.

Submitted By: _____ Date: _____

(Signature Required)

Print Name: _____

Seal (N.C.P.E. or A.S.L.A.)

WATERSHED PROTECTION INSPECTION REPORT
 Guilford County – Planning & Development Department

The Guilford County Development Ordinance requires that runoff control structures be inspected annually to insure they are being maintained and are functioning as originally designed.

A. General Information:

Project Name: _____	Owner/Contact Name: _____
Date: _____	Address: _____
Index No.: _____	_____
Watershed: _____	_____

B. The following stormwater runoff controls are found at this project site:

- | | | |
|--|--|--|
| Wet Detention Pond
..... Extended Detention Wetland
..... Grassed Swales | _____ Sand Filters
_____ Bio-retention Area
..... Infiltration Devices | _____ WQCE
_____ Stream Buffers: _____ ft
..... Other: |
|--|--|--|

C. THE RESULTS OF THIS YEAR'S INSPECTION ARE AS FOLLOWS:

- VISUAL INSPECTION FOUND NO APPARENT PROBLEMS.
- COMPLETE THE REPAIR AND/OR MAINTENANCE ITEMS INDICATED BELOW WITHIN 90 DAYS OF THIS REPORT:

D. Repair and/or Maintenance Items to be completed within 90 Days:

<p>Ponds/Basins:</p> <p><u>DAM TOP & SLOPES / FACES</u> <u>Type:</u></p> _____ Remove trees & high bushes. _____ Repair eroded areas. _____ Seed bare areas. _____ Repair holes, slides, depressions, cracks. _____ Evidence of seepage, overtopping. _____ Other <hr style="border-top: 1px dashed black;"/> <p><u>EMERGENCY SPILLWAY</u> <u>Type:</u></p> _____ Remove trees and high bushes. _____ Repair eroded areas. _____ Seed bare areas. _____ Repair displaced rip-rap. _____ Remove obstructions from spillway. _____ Enlarge spillway to adequate capacity. _____ Other	<p><u>PRINCIPAL & WQ SPILLWAYS</u> <u>Type:</u></p> _____ Clear obstructed water quality hole or riser. _____ Repair leaking, cracked, deteriorated, collapsed, damaged riser/barrel. _____ Repair leaking, cracked, deteriorated, spalling, damaged concrete spillway _____ Outlet end of barrel is eroded or blocked. _____ Filter rock is clogged. _____ Other <hr style="border-top: 1px dashed black;"/> <p><u>IMPOUNDMENT</u> <u>Type:</u></p> _____ Repair eroded inlet channel and/or drains. _____ Repair eroded slopes. _____ Clean sediment from forebay area. _____ Permanent pool less than 3 feet. Perform pond volume check. _____ Clean clogged filter surface. _____ Other
---	---

E. Additional Comments/Recommendations:

Please notify us when work is complete or if you have questions (336)641-3753.

Inspection by: _____

Bioretention Area
Record of Construction
Engineer's Statement of Completion

Project: _____ **Date:** _____

	<u>Description</u>	<u>Design</u>	<u>As-built</u>
1.	Surface area		
2.	Elevations of the following:		
a.	Bottom of planting soil		
b.	Top of planting soil		
c.	Top of mulch layer		
3.	Emergency spillway or top of berm – base width and elevation		
4.	Ponding depth (3 - 2c)		
5.	Runoff volume captured (1 x 4)		
6.	Underdrain system:		
a.	Size and type of material		
b.	Number of lines		
c.	Invert elevation of underdrain		
d.	Invert elevation of outflow pipe at outlet		
7.	Planting soil (attach soil test reports)		
a.	Depth (2b - 2a)		
b.	Percentage clay		
c.	Percentage silt		
d.	Percentage sand		
e.	Percentage of organic material		
f.	pH		
8.	Plants:		
a.	Number of trees		
b.	Number of shrubs		
c.	Groundcover (if applicable)		

ENGINEER'S STATEMENT OF COMPLETION

I state to the best of my knowledge and belief that the permanent runoff control structure for _____ is duly recorded in the Office of the Guilford County Register of Deeds and has been completed in conformance with the approved plans and specifications dated _____.

(name of plat) *(approval date)*

SIGNATURE _____

DATE _____

(P.E. SEAL)

PROJECT: _____ DATE: _____

**BIORETENTION AREA
CONSTRUCTION PLAN CHECKLIST**

GENERAL INFORMATION:

- | | |
|--|---|
| <input type="checkbox"/> BIO-CELL LOCATION | <input type="checkbox"/> COORD. WITH CITY REQUIREMENTS |
| <input type="checkbox"/> EX. & PROP. TOPOGRAPHY | <input type="checkbox"/> UTILITY CONFLICTS |
| <input type="checkbox"/> ACCESS & MAINTENANCE EASEMENT | <input type="checkbox"/> 100 YR. FLOODPLAIN |
| <input type="checkbox"/> VICINITY MAP | <input type="checkbox"/> LABEL CELL "PERMANENT BIORETENTION AREA" |
| <input type="checkbox"/> NORTH ARROW & GRAPHIC SCALE | <input type="checkbox"/> CERTIFICATION OF RUNOFF CONTROL |
| <input type="checkbox"/> PE SEAL & SIGNATURE | <input type="checkbox"/> ENGINEER - NAME, ADDRESS, TELEPHONE |
| | <input type="checkbox"/> OWNER - NAME, ADDRESS, TELEPHONE |

CELL DESIGN:

- | | |
|---|--|
| <input type="checkbox"/> DRAINAGE AREA < 5 ACRES | <input type="checkbox"/> INLET PROTECTION |
| <input type="checkbox"/> LAYOUT DIMENSIONS | <input type="checkbox"/> BYPASS OUTLET |
| <input type="checkbox"/> CROSS SECTION | <input type="checkbox"/> OUTLET PROTECTION |
| <input type="checkbox"/> SURFACE AREA | <input type="checkbox"/> SLOPE ON EMBANKMENT (3:1 MIN.) |
| <input type="checkbox"/> PONDING DEPTH (6" MAXIMUM) | <input type="checkbox"/> 10' BENCH FOR MAINT. AROUND FILTER |
| <input type="checkbox"/> RUNOFF VOLUME CAPTURED | <input type="checkbox"/> UNDERDRAIN SYSTEM (SIZE & TYPE OF MATERIAL) |
| <input type="checkbox"/> HARDWOOD MULCH (2"-3", SHREDDED, AGED) | <input type="checkbox"/> NUMBER OF UNDERDRAIN LINES |
| <input type="checkbox"/> WATER TABLE 2' BELOW BOTTOM OF CELL | <input type="checkbox"/> GRAVEL ENVELOPE 2" OVER UNDERDRAIN |
| <input type="checkbox"/> DIVERSION DITCHES | |

PLANTS:

- HERBACIOUS GROUND COVER
- TREE DENSITY (100 TREES PER ACRE)
- SHRUB DENSITY (300 SHRUBS PER ACRE)
- SIZE REQUIREMENTS MET
- PLANT SPECIES

PLANTING SOIL:

- DEPTH
- CLAY (15% MAXIMUM)
- SILT (25% MAXIMUM)
- SAND (65% - 75%)
- ORGANIC MATERIAL (0 - 10%)
- Ph (5.5 - 6.5)

NOTES:

- | | |
|--|---|
| <input type="checkbox"/> POND MAINTENANCE RESPONSIBILITY | <input type="checkbox"/> PE CERTIFICATION OF COMPLETION |
| <input type="checkbox"/> PRECONSTRUCTION MEETING | <input type="checkbox"/> RIGHT OF ACCESS FOR INSPECTION |
| <input type="checkbox"/> FULL DESIGN VOLUME | |

OTHER:

- | | |
|---|--|
| <input type="checkbox"/> OPERATION & MAINTENANCE MANUAL | <input type="checkbox"/> OTHER PERMITS (WETLAND, FLOODPLAIN, DAM SAFETY) |
| <input type="checkbox"/> SPECIFICATIONS | |

COMMENTS:

Wet Detention Pond
Record of Construction
Engineer's Statement of Completion

Project: _____

Date: _____

	<u>Description</u>	<u>Design</u>		<u>As-built</u>	
1	Slope of embankments (3:1)				
2	Elevations on the following:				
a	Bottom of pond				
b	Bottom of riser				
c	Top of riser				
d	Water quality hole				
e	Invert of inflow and outflow pipes				
3	Top of dam: Elevation and width				
4	Width of maintenance benches				
5	Anti-seep collars - size				
6	Size and material of riser/barrel				
7	Verification of volume:				
a	Permanent Sediment Storage (CF)				
b	Permanent Water Quality (SF)				
c	Temporary Water Quality (CF)				
8	Baffle location and top elevation				
9	Emergency Spillway - Width and Elevation				
10	Waterstops installed (if applicable)				
11	Reinforcing according to plan (if applicable)				
12	Size of footing (if applicable)				

ENGINEER'S STATEMENT OF COMPLETION

I state to the best of my knowledge and belief that the permanent runoff control structure for _____ is duly recorded in the Office of the Guilford County Register of Deeds and has
(name of plat)
 been completed in conformance with the approved plans and specifications dated _____.
(approval date)

SIGNATURE _____

DATE _____

(P.E. SEAL)

PROJECT: _____ DATE: _____

WET DETENTION POND CONSTRUCTION PLAN CHECKLIST

GENERAL INFORMATION:

- | | |
|--|--|
| <input type="checkbox"/> POND LOCATION | <input type="checkbox"/> COORD. WITH CITY REQUIREMENTS |
| <input type="checkbox"/> EX. & PROP. TOPOGRAPHY | <input type="checkbox"/> UTILITY CONFLICTS |
| <input type="checkbox"/> ACCESS & MAINTENANCE EASEMENT | <input type="checkbox"/> 100 YR. FLOODPLAIN |
| <input type="checkbox"/> VICINITY MAP | <input type="checkbox"/> POND LABEL |
| <input type="checkbox"/> NORTH ARROW & GRAPHIC SCALE | <input type="checkbox"/> CERTIFICATION OF RUNOFF CONTROL |
| <input type="checkbox"/> PE SEAL & SIGNATURE | <input type="checkbox"/> ENGINEER - NAME, ADDRESS, TELEPHONE |
| | <input type="checkbox"/> OWNER - NAME, ADDRESS, TELEPHONE |

POND DESIGN:

- | | |
|---|--|
| <input type="checkbox"/> LAYOUT DIMENSIONS | <input type="checkbox"/> TRASH RACK |
| <input type="checkbox"/> CROSS SECTION | <input type="checkbox"/> W. Q. RELEASE HOLE |
| <input type="checkbox"/> SEDIMENT STORAGE | <input type="checkbox"/> TRASH GUARD FOR WQ HOLE |
| <input type="checkbox"/> PERMANENT WATER QUALITY | <input type="checkbox"/> ANTISEEP COLLAR (BAR. DIA. + 4 FT.) |
| <input type="checkbox"/> TEMPORARY WATER QUALITY | <input type="checkbox"/> COLLAR LOCATED DOWNSTR. OF DAM CL |
| <input type="checkbox"/> PRINCIPAL SPILLWAY | <input type="checkbox"/> FLANGE JOINTS W/ GASKET(CAP) OR O-RING(RCP) |
| <input type="checkbox"/> EMERGENCY SPILLWAY | <input type="checkbox"/> CUT-OFF TRENCH (4' WIDTH) |
| <input type="checkbox"/> INLET & OUTLET VELOCITY PADS | <input type="checkbox"/> CL OF TRENCH @ CL OF DAM |
| <input type="checkbox"/> FLOTATION OF RISER | <input type="checkbox"/> SLOPE ON EMBANKMENT (3:1 MIN.) |
| <input type="checkbox"/> RIP-RAP BAFFLE | <input type="checkbox"/> 10' BENCH FOR MAINT. AROUND POND |
| <input type="checkbox"/> POND DRAIN W/ HANDLE | <u>CONCRETE CONSTRUCTION:</u> |
| <input type="checkbox"/> 50' SEPARATION FROM WELL | <input type="checkbox"/> THICKNESS OF SLAB OR WALL |
| <input type="checkbox"/> 50' SEPARATION FROM SEPTIC | <input type="checkbox"/> REINFORCING |
| | <input type="checkbox"/> STRENGTH OF CONCRETE |
| | <input type="checkbox"/> WATERSTOPS |
| | <input type="checkbox"/> JOINT SPACING |

NOTES:

- | | |
|--|---|
| <input type="checkbox"/> POND MAINTENANCE RESPONSIBILITY | <input type="checkbox"/> PE CERTIFICATION OF COMPLETION |
| <input type="checkbox"/> PRECONSTRUCTION MEETING | <input type="checkbox"/> RIGHT OF ACCESS FOR INSPECTION |
| <input type="checkbox"/> FULL DESIGN VOLUME | |

OTHER:

- | | |
|---|---|
| <input type="checkbox"/> OPERATION & MAINTENANCE MANUAL | <input type="checkbox"/> SPECIFICATIONS |
| <input type="checkbox"/> OTHER PERMITS (WETLAND, FLOODPLAIN,
DAM SAFETY) | |

COMMENTS:

Sand Filter
Record of Construction
Engineer's Statement of Completion

Project: _____ Date: _____

	Description	Design	As-built
1	Sediment Chamber:		
a	Bottom Elevation		
b	Depth of Chamber		
c	Surface Area		
d	Volume		
2	Weir Elevation		
3	Sand Chamber:		
a	Top of Sand Elevation		
b	Depth of Sand		
c	Surface Area		
d	Volume		
e	Sand Particle Size		
4	Underdrain System:		
a	Size and type of perforated pipe		
b	Number of lines		
c	Invert elevation of underdrain		
d	Invert elevation of outflow pipe at outlet		
5	Dissipator Pad, Length and Width		

ENGINEER'S STATEMENT OF COMPLETION

I state to the best of my knowledge and belief that the permanent runoff control structure for _____ is duly recorded in the Office of the Guilford County Register of Deeds and has been completed in conformance with the approved plans and specifications dated _____.

(name of plat) *(approval date)*

SIGNATURE _____

DATE _____

(P.E. SEAL)

PROJECT: _____

DATE: _____

SAND FILTER CONSTRUCTION PLAN CHECKLIST

GENERAL INFORMATION:

- _____ FILTER LOCATION
- _____ EX. & PROP. TOPOGRAPHY
- _____ ACCESS & MAINTENANCE EASEMENT
- _____ VICINITY MAP
- _____ NORTH ARROW & GRAPHIC SCALE
- _____ PE SEAL & SIGNATURE

- _____ COORD. WITH CITY REQUIREMENTS
- _____ UTILITY CONFLICTS
- _____ 100 YR. FLOODPLAIN
- _____ FILTER LABEL
- _____ CERTIFICATION OF RUNOFF CONTROL
- _____ ENGINEER - NAME, ADDRESS, TELEPHONE
- _____ OWNER - NAME, ADDRESS, TELEPHONE

FILTER DESIGN:

- _____ DRAINAGE AREA < 5AC.
- _____ LAYOUT DIMENSIONS
- _____ CROSS SECTION
- _____ SEDIMENT CHAMBER VOLUME
- _____ SEDIMENT CHAMBER SURFACE AREA
- _____ SEDIMENT CHAMBER DEPTH
- _____ SAND CHAMBER VOLUME
- _____ SAND CHAMBER SURFACE AREA
- _____ SAND CHAMBER DEPTH

- _____ UNDERDRAIN LINE W/ SOCK OR GRAVEL JACKET
- _____ 6" MAX. UNDERDRAIN
- _____ MIN. 12" SAND OVER UNDERDRAIN
- _____ DIVERSION DITCHES NEEDED
- _____ TOP OF SAND 2" - 6" BELOW WEIR
- _____ SLOPE ON EMBANKMENT (3:1 MIN.)
- _____ 10' BENCH FOR MAINT. AROUND FILTER
- _____ INLET PROTECTION

CONCRETE CONSTRUCTION:

- _____ THICKNESS OF SLAB OR WALL
- _____ REINFORCING
- _____ STRENGTH OF CONCRETE
- _____ WATERSTOPS
- _____ JOINT SPACING

NOTES:

- _____ SAND FILTER MAINTENANCE RESPONSIBILITY
- _____ PRECONSTRUCTION MEETING
- _____ FULL DESIGN VOLUME

- _____ PE CERTIFICATION OF COMPLETION
- _____ RIGHT OF ACCESS FOR INSPECTION

OTHER:

- _____ OPERATION & MAINTENANCE MANUAL
- _____ OTHER PERMITS (WETLAND, FLOODPLAIN, DAM SAFETY)
- _____ SPECIFICATIONS

COMMENTS:

Extended Detention Wetland

Record of Construction

Engineer's Statement of Completion

Project: _____

Date: _____

	Description	Design		As-built	
1	Slope of embankments (3:1)				
2	Elevations on the following:				
a	Bottom of pond				
b	Bottom of riser				
c	Top of riser				
d	Water quality hole				
e	Invert of inflow and outflow pipes				
3	Top of dam: Elevation and width				
4	Width of maintenance benches				
5	Anti-seep collars - size				
6	Size and material of riser/barrel				
7	Verification of volume:				
a	Permanent Sediment Storage (CF)				
b	Permanent Water Quality (SF)				
b(i)	Perm. Pool 0" – 18" (Surf. Area)				
b(ii)	Perm. Pool 0" – 9" (Surf. Area)				
b(iii)	Perm. Pool 9" – 18" (Surf. Area)				
c	Temporary Water Quality (CF)				
8	Pool @ Principal Spillway				
9	Micropool (SF)				
10	Emergency Spillway - Width and Elevation				

ENGINEER'S STATEMENT OF COMPLETION

I state to the best of my knowledge and belief that the permanent runoff control structure for _____ is duly recorded in the Office of the Guilford County Register of Deeds and has
 (name of plat)
 been completed in conformance with the approved plans and specifications dated _____.
 (approval date)

SIGNATURE _____

DATE _____

(P.E. SEAL)

PROJECT: _____ DATE: _____

**EXTENDED DETENTION WETLAND
CONSTRUCTION PLAN CHECKLIST**

GENERAL INFORMATION:

- | | |
|--|--|
| <input type="checkbox"/> WETLAND LOCATION | <input type="checkbox"/> COORD. WITH CITY REQUIREMENTS |
| <input type="checkbox"/> EX. & PROP. TOPOGRAPHY | <input type="checkbox"/> UTILITY CONFLICTS |
| <input type="checkbox"/> ACCESS & MAINTENANCE EASEMENT | <input type="checkbox"/> 100 YR. FLOODPLAIN |
| <input type="checkbox"/> VICINITY MAP | <input type="checkbox"/> LABEL AS PERM. EXTENDED DETENTION WETLAND |
| <input type="checkbox"/> NORTH ARROW & GRAPHIC SCALE | <input type="checkbox"/> CERTIFICATION OF RUNOFF CONTROL |
| <input type="checkbox"/> PE SEAL & SIGNATURE | <input type="checkbox"/> ENGINEER - NAME, ADDRESS, TELEPHONE |
| | <input type="checkbox"/> OWNER - NAME, ADDRESS, TELEPHONE |

POND DESIGN:

- | | |
|---|--|
| <input type="checkbox"/> LAYOUT DIMENSIONS | <input type="checkbox"/> TRASH RACK |
| <input type="checkbox"/> DRAINAGE AREA > 10 ACRES | <input type="checkbox"/> W. Q. RELEASE HOLE |
| <input type="checkbox"/> CROSS SECTION | <input type="checkbox"/> TRASH GUARD FOR WQ HOLE |
| <input type="checkbox"/> SEDIMENT STORAGE (FOREBAY) | <input type="checkbox"/> ANTISEEP COLLAR (BAR. DIA. + 4 FT.) |
| <input type="checkbox"/> PERMANENT WATER QUALITY (3' PRM. POOL) | <input type="checkbox"/> COL. LOCATED DOWNSTR. OF DAM CL |
| <input type="checkbox"/> PERM. POOL 0" - 18" (70% SA) | <input type="checkbox"/> FLANGE JOINTS W/ GASKET(CAP) OR O-RING(RCP) |
| <input type="checkbox"/> PERM. POOL 0" - 9" (35% SA) | <input type="checkbox"/> CUT-OFF TRENCH (4' WIDTH) |
| <input type="checkbox"/> PERM. POOL 9" - 18" (35% SA) | <input type="checkbox"/> CL OF TRENCH @ CL OF DAM |
| <input type="checkbox"/> TEMPORARY WATER QUALITY | <input type="checkbox"/> SLOPE ON EMBANKMENT (3:1 MIN.) |
| <input type="checkbox"/> PRINCIPAL SPILLWAY | <input type="checkbox"/> 10' BENCH FOR MAINT. AROUND POND |
| <input type="checkbox"/> EMERGENCY SPILLWAY | <input type="checkbox"/> PLANTING PLAN & SCHEDULE |
| <input type="checkbox"/> INLET & OUTLET VELOCITY PADS | <input type="checkbox"/> POND BUFFER > 30' |
| <input type="checkbox"/> FLOTATION OF RISER | <input type="checkbox"/> 50' SEPARATION FROM WELL |
| <input type="checkbox"/> MICROPOOL (15% SURFACE AREA) | <input type="checkbox"/> 50' SEPARATION FROM SEPTIC FIELD |
| <input type="checkbox"/> POND DRAIN W/ HANDLE | |

NOTES:

- | | |
|--|---|
| <input type="checkbox"/> POND MAINTENANCE RESPONSIBILITY | <input type="checkbox"/> PE CERTIFICATION OF COMPLETION |
| <input type="checkbox"/> PRECONSTRUCTION MEETING | <input type="checkbox"/> RIGHT OF ACCESS FOR INSPECTION |
| <input type="checkbox"/> FULL DESIGN VOLUME | |

OTHER:

- | | |
|---|---|
| <input type="checkbox"/> OPERATION & MAINTENANCE MANUAL | <input type="checkbox"/> SPECIFICATIONS |
| <input type="checkbox"/> OTHER PERMITS (WETLAND, FLOODPLAIN,
DAM SAFETY) | |

COMMENTS:

Article II

DEFINITIONS

2-1. Definitions

- 2-1.1. Building and Structure.
- 2-1.2. Drainage and Watershed Protection.
- 2-1.3. Dwelling.
- 2-1.4. Easements.
- 2-1.5. Soil Erosion and Sedimentation Control.
- 2-1.6. Flood Damage Prevention.
- 2-1.7. General.
- 2-1.8. Hazardous Waste.
- 2-1.9. Lot.
- 2-1.10. Setback--See Figure 2-D.
- 2-1.11. Signs--See Figure 2-E.
- 2-1.12. Streets, Drives, and Lanes--See Figure 2-F.
- 2-1.13. Historic Districts.

2-2. Definition Index

2-1.

DEFINITIONS

These definitions are grouped in the following functional groups 1) Building and Structure, 2) Drainage and Watershed Protection, 3) Dwelling, 4) Easements, 5) Erosion and Sedimentation Control, 6) Flood Damage Prevention, 7) General, 8) Hazardous Waste, 9) Lot, 10) Setback, 11) Signs, 12) Streets, Drives, and Lanes, and 13) Historic Districts. Refer to Section 2-2 (Definition Index) for location of specific words.

2-1.1. Building and Structure.

- (A) *ACCESSORY BUILDING*. A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot therewith.
- (B) *ACCESSORY STRUCTURE*. A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith.
- (C) *BUILDING*. Any structure having a roof supported by walls or columns constructed or used for residence, business, industry or other public or private purposes.
- (D) *BUILDING HEIGHT*. The vertical distance measured from the average elevation of the finished grade to the topmost section of the roof. See Figure 2-A.

GRAPHIC UNAVAILABLE: [Click here](#)

- (E) *BUILDING LINE*. A line perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line excluding the outermost steps, uncovered

porches, gutters, and similar fixtures. See Figure 2-B.

- (F) *BUILDING SEPARATION*. The minimum required horizontal distance between buildings.
- (G) *PRINCIPAL BUILDING*. A building in which is conducted the principal use of the zone lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is an accessory dwelling in compliance with Section 6-4.3 (Accessory Dwelling Units on Single Family Lots), farm tenant dwelling, or a residence for a pastor, or caretaker dwelling accessory to a nonresidential use (limited to one (1) such residence per lot).
- (H) *PRINCIPAL STRUCTURE*. A structure(s) in which is conducted the principal use(s) of the zone lot on which it is located.

GRAPHIC UNAVAILABLE: [Click here](#)

- (I) *STRUCTURE*. Anything constructed, erected, or placed.
- (J) *TEMPORARY BUILDING*. Any building of an impermanent nature, or which is designed for use for a limited time, including any tent or canopy.
- (K) *TEMPORARY STRUCTURE*. Any structure of an impermanent nature or which is designed for use for a limited time, including any tent or canopy.
- (L) *UTILITY SUBSTATION*. Any public or private utility facility which is designed for the purposes of switching, storage, compression, transfer, rebroadcast or transmission or re-transmission purposes, exclusive of individual transmission lines(s), which provides services including, but not limited to, cable television, telephone, gas, and electricity.

(Case No. 4-10, 3-3-11)

2-1.2. Drainage and Watershed Protection.

- (A) APPROVED ACCOUNTING TOOL. The accounting tool for nutrient loading approval by the EMC for the relevant geography and development type under review.
- (BA) *BEST MANAGEMENT PRACTICE (BMP)*. A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- (CB) *BUILT-UPON AREA (BUA)*. That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel (for pedestrian or vehicular use), recreation facilities (e.g. tennis courts), etc. ~~(Note: Wooden slatted decks and the water area of a swimming pool are not considered built-upon area.)~~ “Built-upon area” does not include a wooden slatted deck, the water are of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. The project site or area must exclude any land adjustment to the area

disturbed by the project that has been counted as pervious by any other development regulated under a federal, state or local stormwater regulation.

- (D) COMMISSION. The North Carolina Environmental Management Commission.
- (E) DEPARTMENT. The North Carolina Department of Environment and Natural Resources.
- (F) DESIGN MANUAL. The stormwater design manual approved for use in this part of the Jordan Watershed and Water Supply Watershed by the Department for the proper implementation of the requirement of the Jordan Watershed and Water Supply Watershed by the Department for the proper implementation of the requirements of the Jordan Watershed and Water Supply Watershed Stormwater program. All references herein to the Design Manual are to the latest published edition or revision.
- (GE) *DEVELOPMENT.* Any land-disturbing activity which adds to or changes the amount of built-upon area or otherwise decreases the infiltration of precipitation into the soil. (This definition applies only with respect to watershed protection regulations.)
- ~~(D) *DEVELOPMENT, EXISTING.* Those projects that are built and those projects that, at a minimum, have established a vested right under N.C. zoning law prior to the implementation of applicable stormwater regulations, based on at least one of the following criteria: 1) substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or 2) having a valid outstanding building permit; or 3) having expended substantial resources (time, labor, money) and having an approved site specific (or phased) development plan in compliance with NCGS 153A-344.1 or NCGS 160A-385.1. (This definition applies only with respect to watershed protection regulations.)~~
- (HE) *DISCHARGING LANDFILL.* A facility with liners, monitoring equipment, and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream. These facilities require approval and a discharge permit from the N.C Department of Environment and Natural Resources for legal operation.
- (IF) *DRAINAGEWAY AND OPEN SPACE EASEMENT.* Land designated for use as an open channel conveying the flow from a one-hundred year storm event and for use as open space. Granting of the easement does not transfer title. Drainageway and open space shall be left in its natural condition or graded to a section approved by the Jurisdiction which will allow economical and efficient maintenance and shall be stabilized with permanent vegetative cover. The area within the easement can be included in the gross property area used for calculation of density of development.
- (JG) *DRAINAGE, REQUIRED CHANNEL.* The theoretical stream bed section which is required to carry and discharge the runoff from a one-hundred-year storm.
- (KH) *DRAINAGE, TYPICAL REQUIRED CHANNEL SECTION.* A cross-sectional view of a required drainage channel.

- (~~L~~) *DRAINAGEWAY*. Any natural or manmade channel that carries surface runoff from precipitation.
- (~~M~~) *ENGINEERED STORMWATER CONTROL*. A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Engineered stormwater control includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. “Engineered stormwater control” is synonymous with “structural practice,” “stormwater control facility,” “stormwater control practice,” “stormwater treatment practice,” “stormwater management practice,” “stormwater control measures,” “structural stormwater treatment systems,” “runoff control structure,” and similar terms used in this ordinance.
- (~~N~~) *EXISTING DEVELOPMENT*. Development not otherwise exempted by this ordinance that meets one of the following criteria:
 (a) It either is built or has established a statutory or common-law vested right as of the effective date of this ordinance; or
 (b) It occurs after the effective date of this ordinance, but does not result in a net increase in built-upon area and does not decrease the infiltration of precipitation into the soil.
- (~~O~~) *HAZARDOUS MATERIAL*. Any material listed as such in: Superfund Amendments and Reauthorization Act (SARA) Section 302 Extremely Hazardous Substances (42 USC 1100 et seq.); Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Hazardous Substances (42 USC 9601 et seq.); or Section 311 of the Clean Water Act, as amended (CWA) (33 USC 1251 et seq.; oil and hazardous substances) hereby incorporated by reference including any subsequent amendments and editions.
- (~~P~~) *HIGH DENSITY OPTION*. A density or intensity option for development wherein the density or intensity exceeds the applicable limit for development under the Low Density Option (see Performance Tables in Article VII), thereby imposing a requirement for engineered stormwater controls (runoff control structures) in conformance with the requirements of Article VII (Environmental Regulations) of this Ordinance.
- (~~Q~~) *LAND DISTURBING ACTIVITY*. Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.
- (~~R~~) *LARGER COMMON PLAN OF DEVELOPMENT OR SALE*: Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

- (~~S~~) *LOW DENSITY OPTION.* A density or intensity option for development wherein the density, expressed in dwelling units per acre, and/or the intensity, expressed in percentage of the land surface covered by built-upon area, does not exceed certain limits established in Article VII of this Ordinance. The limits vary depending upon the classification of the watershed and upon which overlay zone. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.
- (T) MAJOR VARIANCE. A variance from the minimum statewide watershed protection or Jordan rules that results in the relaxation, by a factor greater than five percent of any buffer, density or built-upon area requirement under the high density option; any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system; or relaxation by a factor greater than 10 percent, of any management requirement under the low density option. For provisions in this ordinance that are more stringent than the state's minimum water supply protection rules and Jordan rules, a variance to this ordinance is not considered a major variance as long as the result of the variance is not less stringent than the state's minimum requirements.
- (U) MINOR VARIANCE. A variance from the minimum statewide watershed protection or Jordan rules that results in a relaxation, by a factor of up to five percent of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation by a factor up to 10 percent, of any management requirement under the low density option.
- (V) NEW DEVELOPMENT. Any development project that does not meet the definition of existing development set out in this Ordinance.
- (W) ONE-YEAR, 24-HOUR STORM. The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.
- (X) OUTFALL. A point at which stormwater(1) enters surface water or (2) exits the property of a particular owner. "Outfall" is used at various places in the N.C. General Statutes with reference to sewers, and always as a discharge point to surface water. "Stormwater outfall" is used in various places in title 15A of the North Carolina Administrative Code, but without a definition. Here the definition is intended to make clear that the term includes both the more familiar discharge to a stream, as well as the point at which stormwater leaves a piece of property under control of a particular owner. The term "surface water" is defined in the Jordan Rule, definitions section (15A NCAC 2B.0263). From G.S. 143-212(4).
- (Y) OWNER. The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

(ZM) *PERENNIAL AND INTERMITTENT STREAM*. Streams, with associated lakes and ponds, that are indicated as such on the following:

- i) On the most recent version of the United States Geological Survey 1:24000 scale (7.5 minute quadrangle) topographical map;
- ii) On the most recent version of the Soil Survey of Guilford County developed by the USDA--Natural Resource Conservation Service (formerly United States Department of Agricultural--Soil Science Service); or
- iii) By examination of site-specific evidence that indicates to the Enforcement Officer (using criteria approved by the N.C. Division of Water Quality) the presence of waters not shown on either of these two maps or, evidence that no actual stream or water body exists.

(AA) PERSON. Includes, without limitation, individuals, firms, partnerships, associations institutions, corporations, municipalities and other political subdivisions, and governmental agencies.

(ABN) *REDEVELOPMENT*. Any development on previously-developed land. Redevelopment of structures or improvements that (i) existed prior to December 2001 and (ii) would not result in an increase in *built-upon area* and (iii) provides stormwater control at least equal to the previous development is not required to meet the nutrient loading targets of this ordinance.

(ACQ) *SLUDGE*. Any solid or semisolid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under authority of the N.C. Environmental Management Commission.

(ADP) *STORM DRAINAGE FACILITIES*. The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

(AEQ) *STORM, TEN (10)--YEAR*. The surface runoff resulting from a rainfall of an intensity that has a ten (10) percent chance of being equaled or exceeded in any given year and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

(AFR) *STORM, ONE-HUNDRED (100)-YEAR*. The surface runoff resulting from a rainfall of an intensity that has a one (1) percent chance of being equaled or exceeded in any given year and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

(AGS) *STORMWATER RUNOFF*. The direct runoff of water resulting from precipitation in any form.

(AHT) *STREAM*. A watercourse that collects surface runoff.

- (~~AIU~~) *STREAM BUFFER*. A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer width is measured landward from the normal pool elevation of impoundments and from the top of bank of each side of streams or rivers. (This definition applies only with respect to watershed protection regulations.)
- (~~AJV~~) *SUBSTANTIALLY COMPLETED*. Work has progressed to the point that, in the opinion of the Enforcement Officer, it is sufficiently completed in accordance with the approved plans and specifications that the work can be utilized for its intended purposes. For permanent runoff control structures this generally means that the following have been accomplished: 1) the dam has been constructed to the approved lines and grades; 2) all slopes have been fine graded, seeded, mulched, fertilized, and tacked to establish permanent ground cover; 3) principal and emergency spillways have been installed at the approved elevations and dimensions; and 4) permanent velocity controls on the inlet and outlet pipes and channels have been installed.
- (AK) *SUBSTANTIAL PROGRESS*. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. “Substantial progress” for purposes of determining whether an approval plan is null and void is not necessarily the same as “substantial expenditures” used for determining vested rights pursuant to applicable law.
- (~~W~~) *VARIANCE, MAJOR WATERSHED*. ~~Variance of the existing regulations that does not meet the definition of a Minor Watershed Variance. The North Carolina Environmental Management Commission is designated to rule on all major watershed variance requests.~~
- (~~X~~) *VARIANCE, MINOR WATERSHED*. ~~Variance of the existing regulations that meets one of the following criteria: (A) Variance of any standard present in the Ordinance but not in the State Water Supply Watershed Protection Rules; (B) Variance of any standard on which the level of performance required by the Ordinance exceeds that required by the corresponding section of the State Water Supply Watershed Protection Rules, provided that approval of the variance does not lower the level of performance below that required by the State regulations; (C) Variance of the State Water Supply Watershed Protection Regulations by a factor of up to five (5) percent under the high density option or ten (10) percent under the low density option of any standard expressed as a number; or (D) Variance to National Pollutant Discharge Elimination System (NPDES) standards.~~
- (~~ALK~~) *VELOCITY*. The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

(~~AMZ~~) *WATER DEPENDENT STRUCTURES*. Structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

(~~ANAA~~) *WATERSHED, WATER SUPPLY*. The entire area contributing drainage to Lake Townsend, Lake Brandt, Lake Higgins, Oak Hollow Lake, High Point City Lake, Polecat Creek Lake, Reidsville Reservoir, Lake Mackintosh, Ramseur Reservoir, Madison intake, and the Randleman Dam reservoir.

(~~AOAB~~) *WATERSHED CRITICAL AREA*. That portion of the watershed within the lake basin of the water supply reservoir as delineated in Article VII (Environmental Regulations). (Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

2-1.3. Dwelling.

- (A) *ACCESSORY DWELLING UNIT*. A dwelling unit that exists either as part of a principal dwelling, or as an accessory building, and is secondary and incidental to the use of the property as single family residential.
- (B) *CONDOMINIUM*. Portions of real estate which are designated for separate ownership, and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.
- (C) *DWELLING UNIT*. One (1) or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, shelters for the homeless, or other structures designed for transient residents are not dwelling units.
- (D) *MANUFACTURED DWELLING*. A dwelling that 1) is composed of one (1) or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; 2) exceeds forty feet in length and eight feet in width; 3) is constructed in accordance with the National Manufactured Home Construction and Safety Standards; and 4) is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings.
 - 1) Class AA: A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction, and that satisfies the following additional criteria:
 - a) Is occupied only as a single family dwelling;
 - b) Has a minimum width of sixteen (16) feet;

- c) Has a length not exceeding four (4) times its width, with length measured along the longest axis, and width measured perpendicular to the longest axis at the narrowest part;
 - d) Has a minimum of seven hundred (700) square feet of enclosed and heated living area;
 - e) Has the towing apparatus, wheels, axles, and transporting lights removed, and not included in length and width measurements;
 - f) Has the longest axis oriented parallel or within a ten (10) degree deflection of being parallel to the lot frontage, unless other orientation is permitted by the Board of Adjustment following a public hearing;
 - g) Is set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous, permanent masonry foundation or masonry curtain wall constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings, unpierced except for required ventilation and access, shall be installed under the perimeter;
 - h) Has exterior siding, comparable in composition, appearance durability to the exterior siding commonly used in standard residential construction, consisting of one (1) or more of the following: 1) vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint); 2) cedar or other wood siding; 3) wood grain, weather resistant press board siding; 4) stucco siding; or 5) brick or stone siding;
 - i) Has a roof pitch minimum vertical rise of three and one-half (3 1/2) feet for each twelve (12) feet of horizontal run;
 - j) Has a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
 - k) All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter; and
 - l) Stairs, porches, entrance platforms, ramps and other means of entrance and exit are installed or constructed in accordance with the standards set by the North Carolina State Building Code, attached firmly to the primary structure and anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of twenty-four (24) square feet. The use of wood stairs only is prohibited at any entrance.
- 2) Class A: A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction and that meet or exceed criteria (a), (c), (d), (e), (g), (h), (i), (k), and (l) for Class AA manufactured dwellings above.
- 3) Class B: A manufactured home constructed after July 1, 1976 that meets or exceeds the

construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction, and that meet or exceed criteria (e), (g) and (h) for Class AA manufactured dwellings above.

- 4) Class C: Any manufactured home that does not meet the above definition and criteria of a Class AA, Class A or Class B manufactured dwelling. Class C Manufactured Dwellings, except those used as housing for migrant labor as part of a bona fide farm operation and are certified for migrant labor in accordance with Department of Labor regulations, are not allowed to be located or placed in any zoning district as it does not meet the construction standards of the N.C. Building Code nor those promulgated by the U.S. Department of Housing and Urban Development.
- (E) *MODULAR DWELLING*. A dwelling constructed in accordance with the standards set forth in the N.C. State Residential Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.
- (F) *MULTI-FAMILY DWELLING*. A building or portion thereof used or designed as a residence for three (3) or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartment, townhouses and residential condominiums.
- (G) *PRINCIPAL DWELLING*. Any principal building or structure which is used and designed for n including living, sleeping, cooking and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.
- (H) *ROOMING UNIT*. A room designed, occupied, or intended for occupancy as separate living quarters with sleeping, but not necessarily cooking and sanitary facilities provided therein.
- (I) *SHELTER FOR THE HOMELESS*. A facility operating year-round which provides lodging and supportive services including, but not limited to, a community kitchen; assistance in obtaining permanent housing; medical counseling, treatment, and/or supervision; psychological counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: 1) the facility shall be contained within the building and operated by a government agency or nonprofit organization; 2) a minimum floor space of fifty (50) square feet shall be provided for each individual sheltered; and 3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.
- (J) *SHELTER, EMERGENCY*. A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or man-made catastrophe including, but not limited to, earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substance(s) into the environment. Such a natural or man-made catastrophe must be designated by the responsible local, state, or federal official, or an emergency agency such as the American Red Cross or the

Emergency Management Assistance Agency.

- (K) *SHELTER, TEMPORARY.* A facility which provides temporary lodging during times of life-threatening weather conditions for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: 1) the facility shall be contained within the building of and operated by a government agency or nonprofit organization; 2) a minimum floor space of fifty (50) square feet shall be provided for each individual sheltered; and 3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.
- (L) *SINGLE-FAMILY DETACHED DWELLING.* A separate, detached building designed for and occupied exclusively by one (1) family.
- (M) *SINGLE ROOM OCCUPANCY (SRO) RESIDENCE.* A building containing twenty-five (25) or more rooming units, which are available for rental occupancy for periods of seven (7) days or longer, in which on-site management is provided on a twenty-four (24) hour basis. The building shall contain common space such as recreation areas, lounges, living rooms, dining rooms, or other congregate living spaces at a rate of five (5) square feet per rooming unit, but totaling not less than two hundred fifty (250) square feet. Bathrooms, laundries, hallways, the main lobby, vending areas, and kitchens shall not be counted as common space. This term does not include boarding houses, tourist homes, motels, hotels, private dormitories, congregate care facilities, family care homes and group care facilities.
- (N) *TENANT DWELLING.* A dwelling located on a bona fide farm, and occupied by a farm worker employed for agricultural purposes by the owner, or operator of the farm.
- (O) *TOWNHOUSE DWELLING.* A building consisting of single family residences attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks and open space in common area.
- (P) *TWIN HOME DWELLING.* A building consisting of two (2) single-family dwelling units, each dwelling unit occupying its own conventional lot and conveyed by deed, connected along a common party wall with no interior circulation between the two (2).
- (Q) *TWO-FAMILY DWELLING.* A building on one (1) zone lot arranged and designed to be occupied by two (2) families living independently of each other.

2-1.4. Easements.

- (A) *ACCESS EASEMENT.* An easement which grants the right to cross property.
- (B) *DRAINAGE EASEMENT.* An easement which grants the right of water drainage to pass in open channels or enclosed structures.
- (C) *DRAINAGE MAINTENANCE EASEMENT.* An easement which grants to the Governing Body the right to alter the typical drainage channel section and/or profile in order to improve water

flow.

- (D) *EASEMENT*. A grant of one (1) or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.
- (E) *PEDESTRIAN WAY*. A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent streets and properties.
- (F) *SIGHT DISTANCE EASEMENT*. An easement which grants to the Governing Body the right to maintain unobstructed view across property located at a street or lane intersection.
- (G) *UTILITY EASEMENT*. An easement which grants to the Governing Body or other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.
- (H) *WATER QUALITY CONSERVATION EASEMENT*. A permanent easement in which no structures or land-disturbing activities are allowed. The natural ground cover and the natural tree canopy must be preserved with the following exceptions: 1) the cutting or trimming of overcrowded trees is allowed provided that no trees in excess of three (3) inches in diameter as measured twelve (12) inches or less from the ground are removed; 2) utilities and erosion control structures can be constructed and maintained; 3) normal maintenance by mechanical means is allowed for the removal of dead, diseased, deformed, poisonous, or noxious vegetation and pests harmful to health and; 4) mechanical mowing of utilities areas is allowed to control growth.

2-1.5. Soil Erosion and Sedimentation Control.

- (A) *ACT*. The North Carolina Sedimentation Pollution Control Act of 1973 N.C.G.S. § 113A-50 et seq., and all rules and orders adopted pursuant to it.
- (B) *ACTIVE CONSTRUCTION*. Activities which contribute directly to the completion of facilities contemplated or shown on the construction plans.
- (C) *BEING CONDUCTED*. A land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.
- (D) *BERM, EROSION CONTROL*. A mound of material and/or ditch, the purpose of which is to divert the flow of run-off water.
- (E) *BORROW*. Fill material which is required for on-site construction and is obtained from other locations.
- (F) *BUFFER*. An area of land planted or constructed to separate uses.
- (G) *BUFFER ZONE*. The strip of land adjacent to a lake or natural watercourse.

- (H) *COASTAL COUNTIES*. The following counties are considered Coastal Counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.
- (I) *COMMISSION, SEDIMENTATION*. The North Carolina Sedimentation Control Commission.
- (J) *COMPLETION OF CONSTRUCTION OR DEVELOPMENT*. No further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
- (K) *DEPARTMENT (DEHNR)*. The North Carolina Department of Environment, Health and Natural Resources.
- (L) *DIRECTOR (DEHNR)*. The Director of the Division of Land Resources of the Department of Environment, Health and Natural Resources.
- (M) *DISCHARGE POINT*. That point at which runoff leaves a tract of land.
- (N) *DISTRICT, SOIL AND WATER CONSERVATION*. The Guilford Soil and Water Conservation District created pursuant to NCGS 139.
- (O) *ENERGY DISSIPATOR*. A structure or shaped channel section with mechanical armoring placed at the outlet pipes or conduits to receive and break down the energy from high velocity flow.
- (P) *EROSION*. The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.
- (Q) *EROSION, ACCELERATED*. Any increase over the rate of natural erosion as a result of land-disturbing activities.
- (R) *EROSION CONTROL MEASURE, STRUCTURE OR DEVICE, ADEQUATE*. A device which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.
- (S) *EROSION, NATURAL*. The wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
- (T) *GRADING*. Any operation or occurrence by which the existing site elevations are changed, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any watercourse or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. The term "grading" is interchangeable with "land-disturbing activity".
- (U) *GRADING, PHASE OF*. One (1) of the two (2) types of grading, rough or fine.
- (V) *GRADING PLAN*. The graphic plan, including narrative where appropriate, required by this

Ordinance as a prerequisite for a grading permit, the purpose of which is to explain existing conditions and proposed grading of land including any development, and to describe the activities and measures to be undertaken to control accelerated soil erosion and sedimentation.

- (W) *GROUND COVER*. Any vegetation, masonry, paving, riprap, or other material or materials which render the soil surface stable against accelerated erosion.
- (X) *HIGH QUALITY WATERS*. Those classified as such in 15A NCAC 2B.0101(e)(5) General Procedures, which is incorporated herein by reference to include further amendments pursuant to NCGS 150B-14(c).
- (Y) *HIGH QUALITY WATER (HQW) ZONES*. Areas in the coastal counties that are within five hundred seventy-five (575) feet of High Quality Waters and, for the remainder of the State, areas that are within one (1) mile and drain into HQW's.
- (Z) *LAKE or NATURAL WATERCOURSE*. Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.
- (AA) *LAND-DISTURBING ACTIVITY*. Any use of the land by any person or persons in residential, industrial, educational, institutional, or commercial development, highway or road construction or maintenance, that results in a change in natural cover or topography that may cause or contribute to sedimentation.
- (AB) *PERSON CONDUCTING LAND DISTURBING ACTIVITY*. Any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
- (AC) *PERSON RESPONSIBLE FOR LAND DISTURBING VIOLATION*. As used in this Ordinance, and NCGS 113A-64, a developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; or the landowner or person in possession or control of the land when he has directly or indirectly allowed the land-disturbing activity or has benefitted from it, or he has failed to comply with any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act as imposes a duty upon him.
- (AD) *PROTECTED AREA*. Any ground surface area having established cover, artificial or natural, of such density that not more than twenty (20) percent of the soil surface of any square yard of surface is exposed to the physical forces of meteorological elements.
- (AE) *SEDIMENT*. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.
- (AF) *SEDIMENTATION*. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity, or into a lake or natural

watercourse.

- (AG) *SILTATION*. Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity, and which has been deposited, or is in suspension in water.
- (AH) *SITE* or *TRACT*. All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
- (AI) *TWENTY-FIVE-YEAR STORM*. The surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in twenty-five (25) years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.
- (AJ) *UNCOVERED*. The removal of ground cover from, on or above the soil surface.
- (AK) *UNDERTAKEN*. The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
- (AL) *UNPROTECTED AREA*. Any ground surface area disturbed to such an extent that twenty (20) percent or more of the soil surface of any square is exposed to the physical forces of meteorological elements.
- (AM) *WASTE*. Surplus materials resulting from on-site construction and disposed of at other locations.
- (AN) *WORKING DAYS*. Days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

2-1.6. Flood Damage Prevention.

- (A) *ADDITION (TO AN EXISTING BUILDING)*. An extension or increase in the floor area or height of a building or structure.
- (B) *APPEAL*. A request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance. (This definition applies only with respect to flood hazard regulations.)
- (C) *BASEMENT*. Any area of the building having its floor subgrade (below ground level) on all sides. (This definition applies only with respect to flood hazard regulations.)
- (D) *BASE FLOOD*. The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- (E) *BASE FLOOD ELEVATION (BFE)*. A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a

"Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

- (F) *CHEMICAL STORAGE FACILITY*. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
- (G) *ELEVATED BUILDING*. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- (H) *ENCROACHMENT*. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. (This definition applies only with respect to flood hazard regulations.)
- (I) *EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION*. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.
- (J) *FLOOD* or *FLOODING*. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; and/or the unusual and rapid accumulation of runoff of surface waters from any source.
- (K) *FLOOD INSURANCE*. The insurance coverage provided under the National Flood Insurance Program.
- (L) *FLOOD INSURANCE RATE MAP (FIRM)*. An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.
- (M) *FLOOD INSURANCE STUDY (FIS)*. An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
- (N) *FLOODPLAIN*. Any land area susceptible to being inundated by water from any source.
- (O) *FLOODPLAIN ADMINISTRATOR*. The individual appointed to administer and enforce the floodplain management regulations.
- (P) *FLOODPLAIN DEVELOPMENT PERMIT*. Any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.

- (Q) *FLOODPLAIN MANAGEMENT*. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- (R) *FLOODPLAIN MANAGEMENT REGULATIONS*. This Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
- (S) *FLOODPROOFING*. Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
- (T) *FLOODWAY*. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- (U) *FLOOD ZONE*. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
- (V) *FREEBOARD*. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".
- (W) *FUNCTIONALLY DEPENDENT FACILITY*. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
- (X) *HIGHEST ADJACENT GRADE (HAG)*. The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
- (Y) *LOWEST ADJACENT GRADE (LAG)*. The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
- (Z) *LOWEST FLOOR*. Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

- (AA) *MANUFACTURED HOME*. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". (This definition applies only with respect to flood hazard regulations.)
- (BB) *MANUFACTURED HOME PARK OR SUBDIVISION*. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (This definition applies only with respect to flood hazard regulations.)
- (CC) *MARKET VALUE*. The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.
- (DD) *MEAN SEA LEVEL*. For purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.
- (EE) *NEW CONSTRUCTION*. Structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures. (This definition applies only with respect to flood hazard regulations.)
- (FF) *NON-ENCROACHMENT AREA*. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.
- (GG) *POST-FIRM*. Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.
- (HH) *PRE-FIRM*. Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.
- (II) *PRINCIPALLY ABOVE GROUND*. That at least 51% of the actual cash value of the structure is above ground.
- (JJ) *RECREATIONAL VEHICLE (RV)*. A vehicle, which is:
- 1) Built on a single chassis;
 - 2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - 3) Designed to be self-propelled or permanently towable by a light duty truck; and

- 4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (KK) *REFERENCE LEVEL*. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, or A99.
- (LL) *REGULATORY FLOOD PROTECTION ELEVATION*. The "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of Freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.
- (MM) *REMEDY A VIOLATION*. To bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development. (This definition applies only with respect to flood hazard regulations.)
- (NN) *RIVERINE*. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- (OO) *SPECIAL FLOOD HAZARD AREA (SFHA)*. The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Section 7-5.3(B) of this Ordinance.
- (PP) *START OF CONSTRUCTION*. Substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building. (This definition applies only with respect to flood hazard regulations.)
- (QQ) *STRUCTURE*. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground. (This definition applies only with respect to flood hazard regulations.)

- (RR) *SUBSTANTIAL DAMAGE*. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred. (This definition applies only with respect to flood hazard regulations.)
- (SS) *SUBSTANTIAL IMPROVEMENT*. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
- 1) Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
 - 2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(This definition applies only with respect to flood hazard regulations.)

- (TT) *VIOLATION*. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 3-3.5 and 7-5.8 is presumed to be in violation until such time as that documentation is provided. (This definition applies only with respect to flood hazard regulations.)
- (UU) *WATER SURFACE ELEVATION (WSE)*. The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- (VV) *WATERCOURSE*. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Amd. of 5-17-07)

2-1.7. General.

- (A) *ADDRESS*. The official street number assigned by the Jurisdiction for a specific lot, building or portion thereof.
- (B) *AGRICULTURAL TOURISM FACILITY*. An Agricultural use where agricultural products are

processed blended, made, stored, sold at wholesale or retail for consumption off or on the premises that offers tours to the public and provides samples and/or sales of agricultural products. A minor facility includes the production and sales of the product and offers tours. A major facility includes the uses listed above plus restaurants, tourist homes, outdoor event or activity/centers, or similar uses that will enhance the over-all property in relation to tourism and is subject to issuance of a special use permit.

- (C) *AIRPORT AND FLYING FIELD, COMMERCIAL (principal use)*. A public or private establishment engaged in operating and maintaining, as a permitted principal use, a general aviation airport or flying field. Such establishment may also service aircraft and provide minor aircraft repair and maintenance; provide aircraft storage and hangar facilities; and furnish coordinated handling services for air freight or passengers.
- (D) *ASSEMBLY*. A joining together of completely fabricated parts to create a finished product.
- (E) *ATHLETIC FIELD*. Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football).
- (F) *AUTO WRECKING*. A person that provides open storage, disassembling, or salvaging for more than two (2) junked motor vehicles.
- (G) *AUTOMOBILE REPAIR SERVICES, MAJOR*. An establishment primarily engaged in one (1) or more of the following activities: 1) general repair or service, 2) engine repair, 3) installation or repair of transmissions, 4) installation or repair of automotive glass, 5) installation or repair or exhaust systems, 6) repair of tops, bodies and interiors, and 7) automotive painting and refinishing.
- (H) *AUTOMOTIVE REPAIR SERVICES, MINOR*. An establishment primarily engaged in one (1) or more of the following activities: 1) diagnostic service and tune-ups, 2) installation or repair of air-conditioners, brakes, carburetors, electrical systems, fuel systems, generators, starters, and radiators, 3) lubricating service, and 4) front end and wheel alignment.
- (I) *BASEMENT*. A story of a building or structure having one-half (1/2) or more of its clear height below grade.
- (J) *BLOCK*. The land lying within an area bounded on all sides by streets.
- (K) *BOARD OF ADJUSTMENT*. A quasi-judicial body, appointed by the Governing Body, that is given certain powers under this Ordinance.
- (L) *BOARDING HOUSE*. A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three (3) boarders.
- (M) *CALIPER INCHES*. Quantity in inches of the diameter of trees measured at six (6) inches above the ground for trees four (4) inches or less in trunk diameter and twelve (12) inches above the ground for trees over four (4) inches in trunk diameter.

- (N) *CANOPY TREE*. A species of tree which normally grows to a mature height of forty (40) feet or more with a minimum mature crown width of thirty (30) feet.
- (O) *CERTIFICATE OF APPROPRIATENESS*. A statement issued by the Jurisdiction which states that the work proposed by the applicant is consistent with the architectural and historic guidelines for the historic district in which the property is located.
- (P) *CERTIFICATE OF COMPLIANCE/OCCUPANCY*. A statement, signed by the Enforcement Officer, setting forth either that a building or structure complies with the provisions of this Ordinance, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.
- (Q) *COMMON AREA(S)*. All areas, including private streets, conveyed to an owners' association within a development, or owned on a proportional undivided basis in a condominium development.
- (R) *COMMUNITY SEWAGE TREATMENT SYSTEM*. A sewage treatment system designed to treat waste water from, three (3) or more dwelling units, more than one (1) principal nonresidential use, or a Group Development. A Community Sewage Treatment System is not public sewer or a utility under the terms of this Ordinance.
- (S) *COMMUNITY WELL SYSTEM*. A system that supplies ground water to twenty-five (25) or more persons or has fifteen (15) or more connections. A Community Well System is not public water or a utility under the terms of this Ordinance.
- (T) *CONGREGATE CARE FACILITY*. A facility providing shelter and services for ambulatory individuals at least fifty-five (55) years of age, who by reason of their age, functional impairment, or infirmity may require meals, housekeeping, and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.
- (U) *COUNTY*. Refers to Guilford County, North Carolina.
- (V) *CRITICAL ROOT ZONE*. The rooting area of a tree established to limit root disturbance, generally defined as a circle with a radius extending from a tree's trunk to the furthest point of the crown dripline.
- (W) *DAY*. Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law.
- (X) *DENSITY CREDIT*. The potential for the development or subdivision of part or all of a parcel of real property, as permitted under the terms of this Ordinance, expressed in dwelling unit equivalents or other measures, or development density or intensity, or a fraction or multiple of that potential that may be transferred to other portions of the same parcel, or to contiguous land

that is part of a common development plan.

- (Y) *DEVELOPER*. A person engaging in development.
- (Z) *DEVELOPMENT, DENSITY OF*. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.
- (AA) *DEVELOPMENT*. Any man-made change to improved or unimproved real estate, including, but not limited, to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
- (AB) *DORMITORY, PRIVATE*. A multiple unit residential accommodation which is established directly or indirectly in association with a college, business college, trade school or university, for the purpose of housing students registered and attending such an institution. A private dormitory may contain food preparation and eating facilities primarily for the use of its occupants.
- (AC) *DRIPLINE*. A vertical line extending from the outermost portion of a tree's canopy to the ground.
- (AD) *ESTABLISHMENT, ADULT ORIENTED*. An adult arcade, adult bookstore or adult video store, adult cabaret, adult massage parlor, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or any combination, or any combination of the foregoing or any like or similar use as same are defined in Section 11-39, Guilford County Code, entitled "Ordinance Regulating Adult Oriented Establishments," as amended.
- (AE) *FAMILY*. One (1) or more persons occupying a dwelling unit and living as a single household.
- (AF) *FAMILY CARE HOME*. A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six (6) or less resident handicapped persons, pursuant to NCGS 168-21.
- (AG) *FENCE*. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.
- (AH) *FLOOR AREA, GROSS*. The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six (6) feet.
- (AI) *FLYING FIELD, PRIVATE (accessory use)*. A private airstrip used for individual aircraft take off and landing that is 1) located on the same lot with a permitted principal use; 2) intended for the exclusive use of the owner; 3) subject to all Accessory Use Area requirements of Section

4-5.4; and 4) that cannot be used or operated as a commercial airport.

- (AJ) *GRADE, FINISHED*. The final elevation of the ground surface after development.
- (AK) *GRADE, NATURAL*. The elevation of the ground surface in its natural state before man-made alterations.
- (AL) *GREENWAY*. Public open space owned and maintained by the local government which has been designated on an officially adopted greenway plan.
- (AM) *GROUP CARE FACILITY*. A facility licensed by the State of North Carolina (by whatever name it is called, other than "Family Care Home" as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than thirty (30) people.
- (AN) *GROUP DEVELOPMENT*. A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two (2) or more principal building sites for the purpose of building development (whether immediate or future), and occupancy by separate families, firms, businesses, or other enterprises.
- (AO) *HISTORIC STRUCTURE*. Any structure that is: 1) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior), or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; 2) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district, or a district preliminarily determined by the Secretary to qualify as a registered historic district; 3) individually listed on a state inventory of historic places; 4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified (a) by an approved state program as determined by the Secretary of Interior or (b) directly by the Secretary of Interior in states without approved programs.
- (AP) *HOME OCCUPATION*. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.
- (AQ) *JUNK/SALVAGE YARD*. Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.
- (AR) *LANDFILL, BENEFICIAL FILL AREA*. A disposal site that meets all of the following conditions:
- 1) The fill material consists only of inert debris strictly limited to concrete, brick, concrete block, uncontaminated soil, rock, and gravel;

- 2) The fill activity involves no excavation;
- 3) The fill activity will cover two (2) acres or less and be in operation one (1) year or less;
- 4) The purpose of the fill activity is to improve land use potential or other approved beneficial reuses.

Any disposal site not meeting all the requirements listed above shall be considered a Land Clearing and Inert Debris (LCID) Landfill.

(AS) *LANDFILL, CONSTRUCTION OR DEMOLITION DEBRIS (C-D) (MAJOR)*. A disposal site, other than a Minor Construction or Demolition Landfill, for solid waste resulting from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures, and which complies with all Sanitary Landfill requirements of Section 15.5-5 of the Guilford County Code and with all zoning and Special Use Permit requirements of this Ordinance.

(AT) *LANDFILL, CONSTRUCTION OR DEMOLITION DEBRIS (C-D) (MINOR)*. A disposal site for solid waste that meets the following criteria:

- 1) The waste results solely from construction, remodeling, repair or demolition operations on pavement, buildings, or other structures located on the same property and under the same ownership, and does not include inert debris, land-clearing, or yard trash.
- 2) The disposal site must be one (1) acre or less.

(AU) *LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID) (MAJOR)*. A disposal site other than a Minor Land Clearing and Inert Debris Landfill as defined in this Ordinance for stumps, limbs, leaves, concrete, brick, untreated wood and uncontaminated earth. Disposal of any other types of wastes must be approved by the State Division of Solid Waste Management.

(AV) *LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID) (MINOR)*. A disposal site that meets all of the following conditions:

- 1) The fill material consists of debris strictly limited to concrete, brick, concrete block, uncontaminated soil, rock, gravel, limbs, leaves, and stumps. Disposal of any other types of wastes must be approved by the State Division of Solid Waste Management; and
- 2) The fill activity will cover two (2) acres or less, be in operation three (3) years or less, provided that the Planning Board may upon request grant one (1) or more three-year renewals, and have direct access to a state maintained paved road, provided that the Planning Board may grant a waiver to the paving requirement upon reasonable conditions.

Any disposal site not meeting all the requirements listed above shall be considered a Major Land Clearing and Inert Debris (LCID) Landfill.

(AW) *LANDFILL, SANITARY/SOLID WASTE*. A site for solid waste disposal from residential,

industrial or commercial activities.

(AX) *MANUFACTURED DWELLING PARK*. A group development site with required improvements and utilities for the long-term location of manufactured dwellings which may include services and facilities for the residents.

(AY) *MANUFACTURED DWELLING SPACE*. A designated area of land within a manufactured dwelling park designed for the accommodation of a single manufactured dwelling home in accordance with the requirements of this Ordinance.

(AZ) *MATERNAL CARE HOME*. A home for nine (9) or less individuals with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for residential females who are pregnant or have recently given birth. For regulatory purposes, children less than one (1) year in age shall not be counted as individuals.

(BA) *MIXED DEVELOPMENT*. A mixture of residential and permitted office and/or commercial uses in the GB, HB, SC, and CP Districts.

(BB) *MOTOR VEHICLE, BUSINESS AND PERSONAL USE OF*. A motor vehicle used for transportation at least once every seven (7) days.

(BC) *MOTOR VEHICLE, JUNKED*. A motor vehicle that does not display a current license plate and is one (1) or more of the following: 1) is partially dismantled or wrecked; or 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00); provided that any motor vehicle used on a regular basis for business or personal use shall not be caused to be removed or disposed. Except that a motor vehicle junked, that is not visible from the public right-of-way or from an adjoining property shall be excluded from this definition.

(BD) *NONCONFORMING*. A lot, structure, sign, or use of land, which is now prohibited under the terms of this Ordinance, but was lawful at the date of this Ordinance's enactment, or any amendment or revision thereto.

(BE) *NONCONFORMING LOT(S)*. A Lot of Record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

(BF) *NONCONFORMING STRUCTURE(S)*. A structure that does not conform to the requirements of this Ordinance. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

(BG) *NONCONFORMING USE*. A use which once was a permitted use on a parcel of land or within a structure, but which is not now a permitted use. The nonconformity may result from the adoption of this Ordinance, or any subsequent amendment.

(BH) *NURSING HOME*. An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator, or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

(BI) *ON-SITE SEWAGE TREATMENT SYSTEM*. A sewage treatment system designed to serve a maximum of two (2) dwelling units or a principal permitted use where the system and dwelling unit(s) or use are located on the same zone lot.

(BJ) *OFF-SITE SEWAGE TREATMENT SYSTEM*. A sewage treatment system designed to serve a maximum of two (2) dwelling units or a principal permitted use where the system is on a separate Special Purpose Lot from the dwelling unit(s) or use.

(BK) *OPEN SPACE*. Any land or area, the preservation of which in its present use would: (1) conserve and enhance natural or scenic resources; or (2) protect streams or water supply; or (3) promote conservation of soils and wetlands; or (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or (5) enhance recreation opportunities.

(BL) *OPEN SPACE - PRIVATE*. Land designated for use on open channel conveying flow from a one-hundred year storm event. Ownership of the land remains with the deeded owner, but the use is restricted. The open space shall be left in its natural condition or graded to a section approved by the Jurisdiction, which will allow economical and efficient maintenance, protection of stream corridors, passive recreation, with permanent vegetation cover. The dedicated area can be included in the gross property area used for calculation of density.

(BM) *OPEN SPACE - PUBLIC (DEDICATED)*. Land designated for use on open channel conveying flow from a one-hundred year storm event and/or for public use and enjoyment. Ownership of the dedicated land remains with the deeded owner, but the use is restricted. Dedication does not transfer title. The open space shall be left in its natural condition or graded to a section approved by the Jurisdiction, which will allow economical and efficient maintenance, the protection of stream corridors, passive recreation and trails for non-motorized vehicles. The dedicated area shall be established with permanent vegetation cover. The dedicated area can be included in the gross property area used for calculation of density of development. Dedication of public open space can be used in major residential subdivisions adjoining Public Open Space. See Section 4-4.1(D) 1) and 2).

(BN) *OWNER*. A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

(BO) *PERSON*. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, or public or private institution, utility, cooperative, interstate body or other legal entity.

(BP) *PLANNED UNIT DEVELOPMENT*. An area of land under unified ownership or control to be developed and improved as a single entity under a Unified Development Plan in accordance with and subject to the requirements of this Ordinance.

(BQ) *PLANNING DEPARTMENT*. The Planning and Development Department of Guilford County.

(BR) *PLAT*. A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

(BS) *PLAT, FINAL*. The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, streets, easements and any other requirements of Appendix 2 (Map Standards), which is presented for local government approval and subsequent recordation in the Guilford County Register of Deeds Office.

(BT) *PLAT, PRELIMINARY*. A map indicating the proposed layout of the subdivision or site showing lots, streets, water, sewer, storm drainage, and any other requirements of Appendix 2 (Map Standards), which is presented for preliminary approval.

(BU) *PLAN, SKETCH*. A rough sketch map of a proposed subdivision or site, showing streets, lots, and any other information required in Appendix 2 (Map Standards) of sufficient accuracy to be used for discussion of the street system and the proposed development pattern.

(BV) *PRIVATE SEWER*. A system which provides for collection and/or treatment of wastewater from a development, or property, and which is not maintained with public funds.

(BW) *PRIVATE WATER*. A system which provides for the supply and/or distribution of potable water for use by a development, project, or owner, and which is not operated or maintained by a government organization or utility district.

(BX) *PUBLIC SEWER*. A system which provides for the collection and treatment of sanitary sewage from more than one (1) property and is owned and operated by a government organization or sanitary district.

(BY) *PUBLIC WATER*. A system which provides distribution of potable water for more than one (1) property and is owned and operated by a government organization or utility district.

(BZ) *RECREATIONAL VEHICLE*. A vehicle which is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

(CA) *RECREATIONAL VEHICLE PARK*. Any site or tract of land, of contiguous ownership, upon which fifteen (15) or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this Ordinance.

(CB) *RECREATIONAL VEHICLE SPACE*. A plot of land within a recreational vehicle park designed for the accommodation of one (1) recreational vehicle in accordance with the requirements set forth in this Ordinance.

(CC) *RECYCLING COLLECTION POINT*. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources.

(CD) *RECYCLING PROCESSING CENTER*. A facility used for collection and processing of recyclable materials. Processing means the preparation of materials for efficient shipments, or to an end-user's specification, by such means as baling, briquetting, compacting, flattening, grinding, crushing, sorting, shredding, and cleaning.

(CE) *RESERVATION*. An obligation shown on a plat or site plan to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication or conveyance.

(CF) *RESIDENTIALLY ZONED PROPERTY*. The following shall be considered residential zoning districts: AG Agricultural, any RS Single Family Residential District and any RM Multifamily Residential District.

(CG) *ROOF LINE*. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

(CH) *SALVAGE YARD, AUTO PARTS*. Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5015. Also, any land or area used, in whole or part, for the storage, keeping, accumulation, dismantling, demolition, or abandonment of inoperable vehicles or parts therefrom.

(CI) *SALVAGE YARD, SCRAP PROCESSING*. Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5093. Also, any land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

(CJ) *SEATING CAPACITY*. The actual seating capacity of an area based upon the number of seats, or one (1) seat per eighteen (18) inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.

(CK) *SITE SPECIFIC DEVELOPMENT PLAN*. A plan of land development submitted to the appropriate approval authority for the purpose of obtaining one (1) of the following zoning or land use permits or approvals pursuant to NCGS 154A-334.1:

- 1) A Special Use Permit;
- 2) A conditional use zoning sketch or site plan;
- 3) A Planned Development-Residential or Planned Development-Mixed unified development plan;
- 4) A preliminary plat for a major subdivision;
- 5) A major site plan prepared in accordance with Section 3-11 (Site Plan and Plot Plan Procedures), but not including a master or common sign plan, a watershed development plan, or a landscaping plan;
- 6) A preliminary plat for a minor subdivision;
- 7) A plot plan;
- 8) A minor site plan in accordance with Section 3-11 (Site Plan and Plot Plan Procedures);

- 9) A master or common sign plan prepared in accordance with Section 6-1.8 (Master or Common Site Plan);
- 10) A watershed development plan prepared in accordance with Section 7-1.5 (Watershed Development Plan); or
- 11) A landscaping plan prepared in accordance with Appendix 2 (Map Standards).

(CL) *SLOPE*. An inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance, commonly expressed as "two to one", (2:1), and "one and one-half to one", (1.5:1) etc. . . .

(CM) *SOIL SCIENTIST*. A Soil Scientist certified and licensed by the State of North Carolina under NCGS 89F.

(CN) *SOLID WASTE*. Garbage, refuse and other discarded solid materials.

(CO) *SUBDIVIDER*. Any person who subdivides land.

(CP) *SUBDIVISION*. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future), and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following are not included within this definition and are not subject to any subdivision approval regulations in this Ordinance:

- 1) The combination or recombination of a portion of previously subdivided and recorded lots if the total number of lots is not increased, and the resultant lots are equal to or exceed the standards of this Ordinance;
- 2) The division of land into parcels greater than ten (10) acres if no street right-of-way dedication is involved;
- 3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- 4) The division of a tract in single ownership, the entire area of which is not greater than two (2) acres into not more than three (3) lots, if no street right-of-way dedication is involved, and if the resultant lots are equal to or exceed the standards of this Ordinance.

(CQ) *SUBDIVISION, MAJOR*. A subdivision involving more than four (4) lots, or requiring new public street(s) for access to interior property, or requiring extension of public sewer or water line, or requiring a waiver or variance from any requirement of this Ordinance.

(CR) *SUBDIVISION, MINOR (PRIVATE)*. A subdivision involving not more than four (4) lots, all or some of which may have access on a private lane.

(CS) *SUBDIVISION, MINOR (PUBLIC)*. A subdivision involving not more than four (4) lots fronting on an existing approved public street(s), not requiring any new public street(s) for access to interior property, not requiring extension of public sewer or water line.

(CT) *SWIMMING POOL*. A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty (30) inches designed, used, and maintained for swimming and bathing.

(CU) *SWIMMING POOL, NONPERMANENT*. A swimming pool that is so constructed that it may be readily disassembled for storage and reassembled to its original integrity.

(CV) *TENANT*. Any person who alone, or jointly, or severally with others, or occupies a building under a lease or holds a legal tenancy.

(CW) *TOURIST HOME*. A private residence in which accommodations are provided for lodging and may include meals for overnight guests for a fee.

(CX) *TRACT*. All contiguous land and bodies of water in one (1) ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.

(CY) *UNDERSTORY TREE*. A species of tree which normally grows to a mature height of fifteen (15) to thirty-five (35) feet in height.

(CZ) *USE*. The purpose or activity for which land or structures is designed, arranged or intended, or for which land or structures are occupied or maintained.

(DA) *USE, MIXED*. Occupancy of building or land by more than one (1) use.

(DB) *USE, ACCESSORY(S)*. A structure or use that: 1) is clearly incidental to and customarily found in connection with a principal building or use; 2) is subordinate to and serves a principal building or a principal use; 3) is subordinate in area, extent, or purpose to the principal building or principal use served; 4) contributes to the comfort, convenience, or necessity of occupants, business, or industry, in the principal building or principal use served; and 5) is located on the same zone lot as the principal building or use served.

(DC) *USE(S), PRINCIPAL*. The primary purpose or function that a lot or structure serves or is proposed to serve.

(DD) *VARIANCE*. Official permission from the Board of Adjustment to depart from the requirements of this Ordinance.

(DE) *WAIVER*. Official permission from any designated body, other than the Board of Adjustment, to depart from the requirements of this Ordinance.

(DF) *WALL, RETAINING*. A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill or other similar material.

(DG) *ZONING DISTRICT*. An area defined by this Ordinance and delineated on the Official Zoning Map, in which the requirements for the use of land, and building, and development standards are prescribed.

(DH) *ZONING VESTED RIGHT*. A right pursuant to NCGS 153A-344.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan. (Amd. of 8-8-03; Case No. 5-08, 11-19-09)

2-1.8. Hazardous Waste.

(A) *DISPOSAL (OF HAZARDOUS OR TOXIC SUBSTANCE(S))*. The destruction, discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or toxic substance into or on any air, land, or water.

(B) *DISPOSAL FACILITY*. A facility or part of a facility at which hazardous waste or toxic substance is intentionally placed into or on any land or water, and at which hazardous waste or toxic substance will remain after closure.

(C) *HAZARDOUS WASTE GENERATOR*. Any person whose act or process produces hazardous waste or toxic substance identified or listed in Part 261 of the North Carolina Hazardous Waste Management Rules, or whose act first causes a hazardous waste or toxic substance to become subject to regulation, provided that "generator" does not include a facility which accepts hazardous waste or toxic substances for the purpose of treatment, storage, or disposal, and in that process creates a different hazardous waste or toxic substance.

(D) *HAZARDOUS OR TOXIC SUBSTANCE*. Any solid waste as defined in NCGS 130A-290(18), or any substance regulated under the Federal Toxic Substance Control Act of 1976, (PL 94-476), as amended from time to time, which because of its quantity, concentration, or physical chemical or infectious characteristic(s) may: 1) cause or significantly contribute to an increase in serious irreversible or incapacitating illness, or; 2) pose a substantial present or potential threat to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(E) *HAZARDOUS WASTE LONG-TERM STORAGE FACILITY*. Any facility or any portion of a facility constructed for storage of the residuals of the treatment of hazardous waste, on or in land.

(F) *HAZARDOUS WASTE MANAGEMENT*. The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

(G) *HAZARDOUS WASTE TREATMENT FACILITY*. A facility which is established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which facility includes several of the following equipments and processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities, including settling systems, aerobic digesters, anaerobic digesters, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilitate "reuse" or recycling, analytical capabilities, and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.

(H) *LONG-TERM RETRIEVABLE STORAGE OF HAZARDOUS WASTE.* The storage in closed containers in facilities (either above or below ground) with adequate lights; impervious cement floors; strong visible shelves or platforms; passageways to allow inspection at any time; adequate ventilation if underground or in closed buildings; protection from the weather; accessible to monitoring with signs on both individual containers and sections of storage facilities; and adequate safety and security precautions for facility personnel, inspectors and invited or permitted members of the community.

2-1.9. Lot.

(A) *BUILDABLE OR ZONE LOT.* One (1) or more lots of record in one (1) undivided ownership with sufficient total area, exclusive of easements, flood hazards, well and septic tank fields; sufficient total dimensions; and access to permit construction thereon of a principal building together with its required parking and planting yards.

(B) *CORNER LOT.* A lot abutting two (2) or more streets at their intersection.

(C) *FLAG LOT.* A lot, created by a subdivision, with less street frontage than is required by Article IV (Zoning), and composed of a narrow "flagpole" strip extending from the street and a much wider "flag" section lying immediately behind a lot or lots having the required street frontage for a conventional lot. In the case of a flag lot, the lot line at the end of the flag pole lying generally parallel to the street to which the flagpole connects shall be considered to be the front lot line for setback purposes.

(D) *LOT.* A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development or both. The word "lot" includes "plot", "parcel," or "tract."

(E) *LOT COVERAGE.* The portion of a lot covered by buildings(s) and/or structure(s).

(F) *LOT DEPTH.* The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot. See Figure 2-C.

GRAPHIC UNAVAILABLE: [Click here](#)

(G) *LOT OF RECORD.* A lot, plot, parcel, or tract recorded in the Office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.

(H) *LOT WIDTH.* The mean width measured at right angles to its depth at the building line. See Figure 2-C.

(I) *REVERSE FRONTAGE LOT.* A through lot which is not accessible from one (1) of the parallel or non-intersecting streets upon which it fronts.

(J) *THROUGH LOT.* A lot abutting two (2) streets that do not intersect at the corner of the lot.

(K) *TOWNHOUSE LOT.* A parcel of land intended as a unit for transfer of ownership, and lying underneath, or underneath and around, a townhouse, patio home, or unit in nonresidential group development.

2-1.10. Setback--See Figure 2-D.

- (A) *INTERIOR SETBACK*. A setback from any property line not alongside a street.
- (B) *STREET SETBACK*. Any setback from a street, road, or lane.
- (C) *REAR SETBACK*. A setback from an interior property line lying on the opposite side of the lot from the front street setback.

GRAPHIC UNAVAILABLE: [Click here](#)

(D) *SETBACK*. The minimum required horizontal distance between a structure or activity and the property line, street right-of-way line, or street centerline.

(E) *SIDE SETBACK*. Any interior property line setback other than a rear setback.

(F) *ZERO SIDE SETBACK*. An alternate form of dimensional requirements that allows a dwelling unit to have one (1) side setback of zero (0) from a side property line. This definition does not include townhouses.

2-1.11. Signs--See Figure 2-E.

(A) *ANIMATED SIGN*. Any sign which flashes, revolves, rotates or swings by mechanical means, or which uses a change of lighting to depict action, or to create a special effect or scene.

(B) *BANNER*. A temporary sign of lightweight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two (2) or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

(C) *BILLBOARD*. A freestanding sign designed for the display of information and/or advertising and erected as a principal use in accordance with the provisions of this Ordinance.

(D) *BUILDING MARKER*. A sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface, or made of bronze or other permanent material.

(E) *CANOPY SIGN*. Any sign which is a part of or attached to an awning, canopy or other fabric-like or plastic protective structure which is extended over a door, window, or entranceway. A marquee is not a canopy.

GRAPHIC UNAVAILABLE: [Click here](#)

(F) *COMMERCIAL MESSAGE*. Any sign wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity. This definition does not include company nameplates or logos on instructional signs.

- (G) *DIRECTIONAL SIGN*. Any sign with no commercial message that indicates the direction to churches, hospitals, colleges and similar institutional uses.
- (H) *ELECTRONIC CHANGEABLE COPY SIGN*. A sign on which the copy changes automatically on a lampbank, such that the message or display does not run continuously in the travel mode, and any message or display remains stationary for a minimum of one (1) second on streets where the speed limit is fifty-five (55) miles per hour or greater, or two (2) seconds on streets where the speed limit is less than fifty-five (55) miles per hour. Any sign on which the message or display runs continuously in the travel mode and/or on which any message or display does not remain stationary for a minimum of one (1) second on streets where the speed limit is fifty-five (55) miles per hour or greater, or two (2) seconds on streets where the speed limit is less than fifty-five (55) miles per hour, shall be considered a flashing sign.
- (I) *FLASHING SIGN*. A type of animated sign which contains an intermittent, blinking, scintillating, or flashing light source, or which includes the illusion of intermittent or flashing light, or an externally mounted intermittent light source. An electronic changeable copy sign is not a flashing sign.
- (J) *FREESTANDING SIGN*. Any sign which is supported by structures or supports which are placed on, or anchored in the ground, and which structures or supports are independent from any building or other structure.
- (K) *GOVERNMENTAL SIGN*. Any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.
- (L) *IDENTIFICATION SIGN*. Any sign used to display: the name, address, logo, or other identifying symbol of the individual, family, business, institution, service, or organization occupying the premises; the profession of the occupant; the name of the building on which the sign is attached; or directory information in group developments or buildings with multiple tenants.
- (M) *INFORMATION BOARD*. Signs which display messages in which the copy may be arranged or rearranged by hand.
- (N) *INSTRUCTIONAL SIGN*. Any sign with no commercial message that provides assistance with respect to the premises on which it is maintained, or for the instruction, safety, or convenience of the public such as "entrance", "exit", "one way", "telephone", "parking" and similar information.
- (O) *MARQUEE*. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- (P) *MARQUEE SIGN*. Any sign attached to, in any manner, or made a part of a marquee.
- (Q) *MULTI-TENANT BUILDING*. A building that is used for two (2) or more occupancies, provided each occupancy is separated by construction having fire-resistive ratings in compliance with the NC Building Code.

(R) *NONCONFORMING SIGN*. Any sign which does not conform to size, height, location, design, construction, or other requirements of this Ordinance. The nonconformity may result from adoption of the Ordinance or any subsequent amendment.

(S) *OFF-SITE DIRECTIONAL REAL ESTATE LEAD-IN SIGN*. A temporary sign displayed for the purpose of directing to property or development that is being offered for sale, lease or rent which is not erected, affixed or otherwise established on the same lot for the property or development being offered for sale, lease or rent.

(T) *PENNANT*. Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

(U) *PLAYBILL*. Any sign announcing entertainment offered, or to be offered, at a business location on the site where the sign is displayed.

(V) *PORTABLE SIGN*. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to signs: designed to be transported by means of wheels; converted to A- or T-Frames; menu and sandwich board signs; gas or hot-air filled balloons; umbrellas used for advertising; signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day to day operation of the business.

(W) *PROJECTING SIGN*. Any sign which is end mounted or otherwise attached to an exterior wall of a building which forms an angle with said wall.

(X) *ROOF SIGN*. Any sign erected and constructed wholly on and over the roof on a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

(Y) *SIGN*. Any object, device, display or structure, or part thereof, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including but not limited to words, letters, pennants, banners, emblems, trademarks, tradenames, insignias, numerals, figures, design, symbols, fixtures, colors, illumination or projected images, or any other attention directing device.

(Z) *SIGN OWNER*. Any person holding legal title or legal right to occupy or carry on business in a structure or any facility, and shall include each and every person who shall have title to or benefit of a sign, or for whose benefit any type sign is erected or maintained. Where there is more than one (1) owner, as defined, their duties and obligations under this chapter are joint and several, and shall include the responsibility for such sign.

(AA) *SPECIAL PROMOTION*. An advertising activity or circumstance of a business which is not part of its daily activities or normal routine, and in which the display or sale of merchandise, wares, or other tangible items is the sole purpose for the promotion. Special promotions include grand openings or closeout sales, but do not include reoccurring sales advertisements or other similar publicity.

(AB) *SUSPENDED SIGN*. A sign which is suspended from the underside of a horizontal plane surface and is supported by such surface.

(AC) *TEMPORARY SIGN*. Any sign that is displayed for a limited period of time and is not permanently mounted.

(AD) *TEMPORARY EVENT*. An activity sponsored by a governmental, charitable, civic, educational, religious, business, or trade organization which is infrequent in occurrence and limited in duration. Examples include arts and crafts shows, athletic events, community festivals, carnivals, fairs, circuses, concerts, conventions, exhibitions, trade shows, outdoor religious events and other similar activities.

(AE) *VEHICLE SIGN*. Any sign on a vehicle which is parked in a location which is visible to the public, and for a period of time which indicates that the principal use of the vehicle is for advertising rather than transport.

(AF) *WALL SIGN*. Any sign attached parallel to, painted on the wall surface of, or erected and confined within the limits of the outside wall, mansard roof structure, penthouse, or parapet of any building or structure, which is supported by such wall, building, or structure, but does not extend vertically above the highest portion of the roof, and which displays only one (1) sign surface.

(AG) *WARNING SIGN*. Any sign with no commercial message that displays information pertinent to the safety or legal responsibilities of the public such as signs warning of high voltage, "no trespassing," and similar directives.

(AH) *WINDOW SIGN*. Any sign, pictures, symbols, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, placed inside a window or upon the window panes or glass and which is visible from the exterior of the window.
(Case No. 2-10, 11-18-10)

2-1.12. Streets, Drives, and Lanes--See Figure 2-F.

(The numbers in parenthesis indicate the street classification, with "1" being the highest and "9" being the lowest.)

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- (A) *ALLEY*. A roadway which affords only a secondary means of access to abutting property.
- (B) *COLLECTOR STREET PLAN*. A plan, adopted by the Governing Body, for streets not shown on the Thoroughfare Plan, showing existing and proposed collector streets, and, if appropriate, lower classification streets in the planning area.
- (C) *COLLECTOR STREET (3)*. A street whose principal function is to carry traffic between cul-de-sac, local and other collector streets, and streets of higher classification, but which may also provide direct access to abutting properties.
- (D) *CUL-DE-SAC STREET (6)*. A short local street having one (1) end open to traffic and the other end permanently terminated by a vehicular turnaround.

- (E) *LOCAL STREET (5)*. A street whose primary function is to provide access to abutting properties.
- (F) *MAJOR THOROUGHFARE STREET (1)*. Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas.
- (G) *MINOR THOROUGHFARE STREET (2)*. Minor thoroughfares collect traffic from collector, subcollector, and local streets and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.
- (H) *PRIVATE DRIVE (9)*. A vehicular travelway not dedicated or offered for dedication as a public street, providing access to parking lot(s) for two (2) or more principal buildings in a group housing or group nonresidential development.
- (I) *PRIVATE LANE (8)*. A private cul-de-sac for vehicular traffic serving four (4) or fewer residential lots in a minor subdivision and maintained pursuant to NCGS 136-102.6.
- (J) *PRIVATE STREET (7)*. A vehicular travelway not dedicated or offered for dedication as a public street, but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system.
- (K) *PUBLIC STREET*. A dedicated public right-of-way for vehicular traffic which 1) has been accepted by NCDOT for maintenance; or 2) is not yet accepted, but in which the roadway design and construction have been approved under public standards for vehicular traffic. Alleys are specifically excluded.
- (L) *STREET RIGHT-OF-WAY*. A strip of land occupied or intended to be occupied by a travelway for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, street name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.
- (M) *RURAL AREA*. Those portions of unincorporated Guilford County not currently served by municipal water and/or sewer services, including any new development or redevelopment project that will not utilize municipal water and/or sewer service as a prerequisite for project approval.
- (N) *THOROUGHFARE PLAN*. A plan adopted by the Metropolitan Planning Organization (MPO) Board for the development of existing and proposed major streets that will adequately serve the future travel needs of an area in an efficient and cost effective manner.
- (O) *URBAN AREA*. Those portions of unincorporated Guilford County currently served by municipal water and/or sewer services, and any new development or redevelopment project that will receive municipal water and/or sewer services as a prerequisite for project approval.

(Case No. 4-06, 11-16-06)

2-1.13. Historic Districts.

(A) *CONTRIBUTING STRUCTURE*. A structure listed as historically and architecturally significant in the OAK RIDGE DESIGN GUIDELINES.

(B) *NONCONTRIBUTING STRUCTURE*. A structure listed as not historically and architecturally significant in the OAK RIDGE DESIGN GUIDELINES.

(C) *MINOR WORK*. Work activities which do not result in a substantial or irreversible alteration to the general exterior appearance of a structure, its grounds, or site when viewed from the street right of way; therefore not requiring design review by the Historic Preservation Commission, but requiring approval of a Certificate of Appropriateness by the Enforcement Officer.

(D) *MAJOR WORK*. Work activities which could result in a substantial or irreversible alteration to the general exterior appearance of a structure, its grounds or site when viewed from the street right of way; therefore, requiring design review and approval of a Certificate of Appropriateness by the Historic Preservation Commission.

(E) *ROUTINE MAINTENANCE*. Work activities not already listed under minor or major work and which include ordinary repair and replacement when there is no change in the design, materials, or general exterior appearance of a structure, its grounds or a site when viewed from the street right-of-way; therefore, not requiring design review or application for a Certificate of Appropriateness.

Article VII

ENVIRONMENTAL REGULATIONS

7-1. Stormwater Management/Watershed Protection Districts

- 7-1.1. District Descriptions.
- 7-1.2. Incorporation of Designated Water Supply Watershed/NPDES Phase II Stormwater Map of Guilford County North Carolina.
- 7-1.3. Applicability.
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- 7-5.11. Floodways and Non-Encroachment Areas.

7-1.

STORMWATER MANAGEMENT/WATERSHED PROTECTION DISTRICTS

7-1.1. District Descriptions.

~~Two~~ Three overlay districts cover the unincorporated areas of Guilford County. They are the National Pollutant Discharge Elimination System (NPDES), Jordan Lake Watershed and the Water Supply Watershed overlays. The Water Supply Watershed area is further divided into the Watershed Critical Area (WCA) and the General Watershed Area (GWA). The WCA covers the portion of the watershed adjacent to a water supply intake or reservoir. The GWA covers the rest of the watershed draining to the reservoir or intake. (Amd. of 4-21-05)

Sec. 7-1.2. Incorporation of Designated Water Supply Watershed/NPDES Phase II Stormwater Map of Guilford County, North Carolina.

The provisions of this Ordinance shall apply to all unincorporated areas of Guilford County, as shown on the map titled "Designated Water Supply Watershed/NPDES Phase II Stormwater Map of Guilford County, North Carolina" ("the Stormwater Map") and "Jordan Watershed Stormwater Map of Guilford County, North Carolina", which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies, and is hereby made a part of, this Ordinance.

The Stormwater Map shall be kept on file by the Enforcement Officer and shall be updated to take into account changes in the land area covered by this Ordinance and the geographic location of all structural BMPs permitted under this Ordinance. In the event of a dispute, the applicability of this Ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary maps and the Guilford County Development Ordinance.

(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

7-1.3. Applicability.

(A) *Coverage:*

- 1) Sections 7-1 and 7-2 apply to all sites in unincorporated Guilford County unless specifically exempted pursuant to item (B) of this section.

- 2) The construction of new streets by local government shall comply with best management practices developed in response to the City of Greensboro's or NCDOT's EPA-NPDES Stormwater Management Program which is incorporated herein by reference.
- 3) Widening of existing streets and the installation of sidewalks shall comply with the provisions of this Ordinance to the extent practicable. When determined by the Enforcement Officer that the provisions of these sections cannot be met, the widening of existing streets and the installation of sidewalks shall comply with best management practices developed in response to the City of Greensboro's or NCDOT's EPA-NPDES Stormwater Management Program which is incorporated herein by reference.

(B) *Exempt Activities:* The following activities are exempt from the Stormwater Management/Watershed Development requirements of this Section. However, any restrictions upon building location, drainageways, pavement or other built-upon area, or any other matter appearing on any previously approved Stormwater Management/Watershed Development plan covering the subject property shall be complied with unless and until replaced by an approved revised plan.

- 1) Construction of a single-family dwelling and its accessory structures on a legal lot of record established prior to the regulations for the watershed protection district. This exemption does not apply to the Randleman Lake or the Jordan Lake Watersheds with regard to riparian buffer protection.
- 2) ~~Redevelopment.~~ Replacement of existing built-upon area with a like or lesser amount of new built-upon area outside any required stream buffer on the same lot, provided that the Enforcement Officer has determined that equal or improved stormwater management will result and that within the Lake Jordan Watershed District the postdevelopment nutrient loading for built-upon area legally existing after December 1, 2001 relating to nitrogen and phosphorus does not increase. Requires submittal of a site plan documenting removal/relocation of built upon area.
- 3) Placement of small accessory buildings, structures, or small amounts of other built-upon area provided that the total additional built-upon area is no greater than four hundred (400) square feet. This exemption shall apply to an individual property for one time only after January 1, 1994. Requires submittal of site plan documenting location of four hundred (400) square feet built-upon area. This provision shall not allow any development to circumvent the standards as set forth by the State and shall not be construed to allow development in the Randleman and Jordan Lake Riparian Areas.
- 4) Existing development in non-water supply districts that was in place prior to July 1, 2007. Any water quality device required by new development shall be sized to treat runoff from all built-upon area (existing and proposed) that naturally flow to that device. Required water quality control for an area of new development can be substituted for an equal area of existing development, if the Enforcement Officer has determined that equal or improved water quality will result.

- 5) Existing development in water supply watershed districts until such time that additional new development is initiated on the site.
- (B) Enforcement Officer

(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09; Case No. 1-10, 11-4-10)

7-1.4. Participation in a Public Regional Water Quality Lake Program.

(A) *Where Permitted:* Where a regional water quality lake program has been established by one or more local governments, or by an authority operating on behalf of one or more local governments, and approved by the N.C. Environmental Management Commission, 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 a public regional water quality lake program;
- 2) Runoff from the development drains to an existing or funded public regional water quality lake which is part of said program;
- 3) Participation is in the form of contribution of funds, contribution of land, contribution of lake construction work, or a combination of these, the total value of which shall be in accordance with a fee schedule adopted by the Governing Body; and
- 4) The Enforcement Officer finds that the watershed development plan is in compliance with all other applicable requirements of this Article.

(B) *Use of Contributions:* Each contribution from a development participating in a public regional water quality lake program shall be used for acquisition, design, or construction of one or more such lakes in the same water supply watershed that the development lies in.

(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

7-1.5. Stormwater Management/Watershed Development Plan.

(A) *Plan Required.* A Stormwater Management/Watershed Development plan in accordance with the performance standards specified in Table 7-2-1 or the requirements of Sections 7-2.2, ~~and~~ 7-2.3, 7-2.4 and with other requirements of this Article shall be submitted to the Enforcement Officer and shall include all applicable information listed in Appendix 2 (Map Standards) of this Ordinance.

(B) *Plan Approval:* The Enforcement Officer is authorized to approve any Stormwater Management/Watershed Development plan which is in conformance with the performance standards specified in Table 7-2-1 or the requirements of Section 7-2.2, ~~and~~ 7-2.3, and 7-2.4 whichever is applicable, and with other requirements of this Article.

(C) *Approved Plan a Prerequisite:* The Enforcement Officer is not authorized to issue any permits, except as provided in Section 3-4.1(D) for development on any land unless and until a Stormwater Management/Watershed Development Plan in compliance with the requirements of this Section has been

approved.

(D) *Deed Restriction-Restrictive Covenant:* In accordance with applicable National Pollutant Discharge Elimination System (NPDES) Phase II regulations recorded deed restrictions and protective covenants shall be required to ensure that development activities maintain the development consistent with the approved project plans. Effective July 1, 2007, the following restriction shall be required for all developments in unincorporated Guilford County.

The Enforcement Officer shall review and approve plats and deeds prior to recording or prior to issuing a building permit. A copy of the recorded document shall be forwarded to the Enforcement Officer prior to issuing a certificate of occupancy.

The deed restriction and protective covenants note shall take the following form for plats and deeds:

<p>DEED RESTRICTION-RESTRICTIVE COVENANT:</p> <p>"Development of subject property is required to be in accordance with applicable state and federal regulations for the National Pollutant Discharge Elimination System (NPDES) Phase II stormwater management program. The recording of this document establishes an enforceable restriction on property usage that runs with the land to ensure that future development and/or redevelopment shall maintain the site in a manner consistent with applicable law and the approved project plans. Any alterations to the site shall not be permitted without review and approval by the local governmental office having jurisdiction for watershed/stormwater management protection."</p>
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(E) *Permanent Runoff Control Structures:* When a permanent runoff control structure 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 Statement of Runoff Control from Article 7-1.6(B) affixed, signed, sealed, and dated.

(F) *Stormwater Permit:* A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including engineered stormwater controls and elements of site design for stormwater management other than engineered stormwater controls. The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this ordinance, whether the approach consists of engineered stormwater controls or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this ordinance.

(GF) *Appeals:* Appeals of the Enforcement Officer's decision on a Stormwater Management/Watershed Development plan shall be made in writing to the Environmental Review Board. The Technical Review Committee shall review the appeal at its first regularly scheduled meeting after receipt of the written appeal and make a recommendation to the Environmental Review Board.
(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

(H) *Event of Conflict:* In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

(I) *Enforcement Officer:* An Enforcement Officer shall be designated by the Guilford County to

administer and enforce this ordinance.

- 1) Powers and Duties: In addition to the powers and duties that may be conferred by other provisions of the Article VII Environmental Regulations of the Guilford County ordinances and other laws, the Enforcement Officer shall have the following powers and duties under this ordinance:
 - a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
 - b. To make determinations and render interpretations of this ordinance.
 - c. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Environmental Review Board on applications for development or redevelopment approvals.
 - d. To enforce the provisions of this ordinance in accordance with its enforcement provisions.
 - e. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this ordinance.
 - f. To provide expertise and technical assistance to the Environmental Review Board, upon request.
 - g. To designate appropriate other person(s) who shall carry out the powers and duties of the Enforcement Officer.
 - h. To take any other action necessary to administer the provisions of this ordinance.
- 2) Authority for Interpretation: The Enforcement Officer has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to Enforcement Officer who shall respond in writing within 30 days. The Enforcement Officer shall keep on file a record of all written interpretations of this ordinance.

7-1.6. Improvements.

- (A) *Design of Improvements:*
 - 1) Design of improvements shall:
 - a) Be performed by a North Carolina registered professional engineer;
 - b) Be subject to approval of the Enforcement Officer; and

- c) Meet or exceed the guidelines in the latest edition of the Guilford County Water Quality Protection Manual, issued by Guilford County.
- 2) The Enforcement Officer may recommend, and the Technical Review Committee may require, that a given runoff control structure(s) be positioned on a site such that water quality protection is improved.
- 3) The construction plans for required runoff control structures shall be approved prior to issuance of any building permit on a site. For subdivisions, construction plans shall be submitted in accordance with Section 5-7.1 (Plans).

(B) *Engineer's Statement of Runoff Control:* The engineering certification required on Stormwater Management/Watershed Development Plans and construction plan drawings shall be of the following form:

ENGINEER'S STATEMENT OF RUNOFF CONTROL

I state that, to the best of my knowledge and belief, the runoff control measure(s) shown on this plan have been designed to control and treat stormwater runoff from the first one inch of rain from all built-upon areas over the total drainage area and the discharge of the storage volume is at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm and that the runoff control measures shown on this plan meet or exceed the guidelines in the latest edition of the Guilford County Water Quality Protection Manual issued by Guilford County.

SIGNATURE	_____	P.E. SEAL	_____
DATE	_____		

(C) *Construction of Improvements:*

- 1) The construction of all improvements designed for post construction runoff control and shown on an approved Stormwater Management/Watershed Development plan shall be substantially completed prior to any plat recordation or issuance of any building certificate of occupancy (compliance).
- 2) Final approval of installed post construction runoff control structures will be required at finalization of the grading permit or at issuance of the final building certificate of occupancy (compliance), whichever comes later. If neither a building permit nor a grading permit is required for a site, then any required runoff control structure shall be substantially completed prior to installation of any built-upon area on the site. Engineering statement of completion and record of construction Article 7-1.6(E) shall be required prior to final approval by the Enforcement Officer.

(D) *Recordation of Permanent Improvements:* All permanent runoff control structures and associated access/maintenance easement(s) (specific or general, at the owner's option) shall be recorded on a final plat; and a Best Management Practice Operation and Maintenance Agreement, as outlined in the latest edition of the Guilford County Water Quality Protection Manual shall be submitted to the Enforcement Officer for review and approval.

(E) *Engineer's Statement of Completion:* The owner or registered design professional in responsible charge acting as the owner's agent shall employ one or more professional engineers to provide inspections during construction. Upon the completion of final inspection, the professional engineer shall provide the engineer's statement of completion. The Record of Construction (as shown in the Water Quality Protection Manual) and the Engineer's Statement required upon completion of permanent runoff control structures shall be of the following form:

ENGINEER'S STATEMENT OF COMPLETION

I state that, to the best of my knowledge and belief, the permanent runoff control structure for (name of plat) is duly recorded in the Office of the Guilford County Register of Deeds and has been completed in conformance with the approved plans and specifications dated (approval date).

SIGNATURE	_____	P.E. SEAL	_____
DATE	_____		

(F) *Maintenance Responsibility:*

- 1) When runoff control structures serve more than one lot, an owner's association or binding contract for the purpose of maintenance shall be required. See Section 5-8.2 (Permanent Runoff Control Structures).
- 2) Maintenance of runoff control structures shall be performed at such time as the designated sediment storage volume of the structure has been lost to sediment or a part of the system is not functioning as originally designed. The Enforcement Officer shall have the responsibility to inspect runoff control structures annually, to record the results on forms approved or supplied by the N. C. Division of Water Quality, to keep the recorded results on file, and to notify the responsible property owner or owner's association when additional maintenance or repairs are required. All required repairs and maintenance shall be performed within ninety (90) days after such notice. In case of failure by the responsible party to perform the required maintenance or repairs within the stated period, in accordance with Section 8-5 of this Ordinance the Jurisdiction may impose an assessment of a civil penalty up to two hundred dollars (\$200.00) per day for each violation.
- 3) Prior to issuance of any permit for development requiring a runoff control structures pursuant to this ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site portions of the site, and lot or parcels served by the runoff control structures. Until the transference of all property, sites, or lots served by the runoff control structures, the original owners or applicant shall have the primary responsibility for carrying out the provisions of the maintenance agreement.

(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

7-1.7. Clustering.

(A) *Clustering Encouraged:* Clustering of residential development is encouraged. Clustering of single-family detached development is allowed under the provisions of Section 4-4.1(B) (Single-family Detached Cluster Development). Multifamily development may be clustered so long as the development complies with the standards of Section 4-4.2 (Multifamily Districts).

(B) *Performance Requirements:* Clustering is allowed if the overall density of the project meets the applicable density and stormwater runoff control requirements, the built-upon areas are designed and sited to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, the remainder of the tract remains in a vegetated or natural state, and the stream buffering requirements found in Section 7-1.9 are met.
(Amd. of 4-21-05)

7-1.8. Drainage.

The design of storm drainage systems and plans, including calculations, shall clearly indicate the easements or dedicated areas required for the construction and maintenance of the drainage system.

(A) *General Drainage Requirement:*

- 1) All watercourses which carry concentrated drainage from a public road or have a two acre or larger drainage basin, shall be treated in one or more of the four ways listed in Section 7-1.8(B), (C), (D) and (E) which follow. The Technical Review Committee when applicable or Enforcement Officer shall approve the treatments to be used when deemed compliant with the requirements of the subsections which follow. Open drainage channel requirements shall be based upon a minimum of one hundred-year storm, and enclosed systems shall be based upon a minimum of ten-year storm. If the channel is a perennial or intermittent stream, is identified on the adopted open space plan map or drains a one hundred twenty (120) acre or larger basin, the determination of drainage treatment shall be made by the Technical Review Committee when applicable or the Enforcement Officer. In making this determination the following factors shall be considered before selecting the appropriate method(s) listed in the subsections which follow:
 - a) The type of development;
 - b) The treatment employed by nearby developments;
 - c) The probability of creation of drainageway and open space;
 - d) The probability of the creation of future maintenance problems;
 - e) The probability of erosion or flooding problems; and
 - f) The adopted open space plan.

This is a voluntary option available in lieu of 7-1.8(D) which enables one to utilize cluster options and reduce lot sizes when abutting public open space. The ownership of the dedicated land remains with the deeded owner, but the use is restricted. Dedication does not transfer title. The dedicated area can also be deeded to any individual or group, such as a homeowners association or to Guilford County (with Board of Commissioner acceptance). A previously dedicated area may be considered for development through approval from TRC and re-platting.

- 2) The voluntarily dedicated drainageway and open space area along any stream that drains a 120 acre or larger drainage basin shall include the land between the natural one hundred (100) year flood contour lines as determined by FEMA or by calculations approved by the US Army Corps of Engineers. (Caution: Other Environmental Regulations or federal wetland regulations will prohibit or restrict fill placement in certain locations.) An area within the floodway fringe can be developed as permitted in Section 7-5.8 with a Floodplain Development Permit. The remainder shall be dedicated as indicated in subsection 1) above.
 - 3) In case of severe topography, additional width may be needed to assure reasonable ease of maintenance.
 - 4) Adequate access to the public open space shall be provided by means of the dedicated area abutting public right-of-way or by appropriately spaced access easements no less than twenty (20) feet in width. If existing access from adjacent areas is deemed sufficient, no new access shall be required.
 - 5) The centerline of the drainage channel that drains a one hundred twenty (120) acre or larger drainage basin shall be located no less than fifty (50) feet from any street or property line provided that the dimensions of the drainage way and open space area conform to all other requirements of this Section
 - 6) Public open space shall be left in its natural condition or graded to a section approved by the Jurisdiction which will allow economical and efficient maintenance and shall be stabilized with permanent vegetative cover.
- (D) *Open Channel Drainage and requirement for Drainageway and Open Space Easement (Private Open Space):*
- 1) This Section applies requirements to an open channel meeting one or more of the descriptions in 7.1.8(A). At the time of plat recordation an easement for the drainageway and open space shall be provided and shall be labeled "Drainageway and Open Space Easement". The drainageway and open space easement shall include the drainage channel and the one-hundred-year regulatory floodplain contour as shown on the effective Flood Insurance Rate Maps or by calculations approved by the US Army Corps of Engineers.
 - 2) Drainageway and open space shall be left in its natural condition or graded to a section approved by the Jurisdiction which will allow economical and efficient maintenance and

shall be stabilized with permanent vegetative cover.

(E) *Open Channel Drainage and requirement for a Drainage or Drainage Maintenance and Utility Easement:*

- 1) This Section applies to open channels on private property within a drainage or drainage maintenance and utility easement.
- 2) The drainage or drainage maintenance and utility easement shall be a minimum total width of no less than specified below.

Table 7-1-1 Drainage Maintenance and Utility Easement

Drainage Basin	Required Distance from Stream Centerline	Minimum Total Easement Width
2--6 acres	15 ft.	30 ft.
6.01--25 acres	30 ft.	60 ft.
25.01 or more acres	55 ft.	110 ft.

The easement width shall be centered on the drainage channel, unless the Technical Review Committee when applicable or the Enforcement Officer approves other easement alignments because of topographic conditions. Cases in which the drainage channel flows into an impoundment, the easement shall extend over and twenty (20) feet beyond the normal water level of the impoundment or meet the minimum width as specified above, whichever is greater. Concentrated drainage from less than a two (2) acre drainage basin, exiting a public right-of-way, shall be as conveyed into a drainage easement as specified below:

- a) Thirty (30) feet wide for the length of channel for concentrated flow exiting public right-of-way into a defined channel.
- b) Minimum thirty (30) feet wide by fifty (50) feet in length for concentrated flow exiting public right-of-way onto terrain with no pronounced drainage features
- 3) In case of severe topography, additional width may be required to assure reasonable ease of maintenance.
- 4) The easement topography may be modified if permitted under other applicable local and state regulations (stream buffer, NC Division of Water Quality 401/U.S. Army Corps of Engineers 404, etc.). In such cases, the approved typical required drainage channel section shall include the necessary channel to accommodate a one hundred (100) year flood event and be in accordance with the Guilford County Storm Sewer Design Manual. The area outside of the required drainage channel may be filled; but any resulting slope shall be no steeper than two (2) feet horizontal to one (1) foot vertical, unless the slope is protected by masonry paving, rip-rap, or other material which meets the Jurisdiction's specifications. If the channel has been altered such that the design flow cannot be contained within the recorded easement, a corrected easement shall be recorded to show

the altered location and width.

- 5) If the Technical Review Committee determines suitable access to the easement is not otherwise provided, access shall be guaranteed by a suitably located access easement which shall be no less than twenty (20) feet in width.
 - 6) It shall be the responsibility of the owner to maintain all drainageways located on the property. If the Governing Body determines that it is in the public interest to alter the typical required channel section and/or profile of the stream to improve flow, the Jurisdiction may enter the property within the indicated access or drainage maintenance and utility easement and carry out the necessary work without liability for any damage to the property, or improvements thereon, located within the easement.
 - 7) Drainage maintenance and utility easements may be utilized for any underground utility provided that:
 - a) Underground utility lines to be installed by any utility provider other than the Jurisdiction shall be subject to approval by the Enforcement Officer.
 - b) The government agency, public utility, or private company installing underground lines after development has been completed by the owner of the property shall be responsible for the replacement of all fencing, pavement and grassed areas disturbed by such installation.
 - c) The Jurisdiction shall not be responsible for damage caused by the installation of additional lines by any public or private utility company.
 - d) The Jurisdiction shall not be liable for damages to any improvements located within the drainage maintenance and utility easement area caused by maintenance of utilities located therein.
 - 8) No buildings or structures except for water-related improvements shall be placed or constructed within the access or drainage maintenance and utility easement. All drives, parking areas, or other improvements, shall be constructed no closer than two (2) feet horizontally from the top of any back slope along any open watercourse.
- (F) *Modifications to Drainage or Drainage Maintenance and Utility Easement:*
- 1) This section applies to all recorded drainage or drainage maintenance and utility easements. This shall include other recorded easements identified by an assortment of varying names in which one of the principal functions is to convey runoff from stormwater.
 - 2) Unless strictly prohibited under other applicable sections, easements may be modified, altered, or relocated with prior approval by the Enforcement Officer based upon review of certification with supporting technical data by a registered design professional.

Supporting data shall be in accordance with the Guilford County Storm Sewer Design Manual and must clearly demonstrate that such modifications will not result in any increase in flood levels or create any adverse impacts during the occurrence of the design flow discharge. Approval criteria shall include but not be limited to: system capacity to adequately convey design flow discharge, location of outlet/discharge, resistance to erosive forces, potential to adversely impact neighboring properties, system maintenance requirements, existing utilities, other applicable local, state, and federal regulations.

- 3) Any alteration of a drainage or drainage maintenance and utility easement without prior approval may be deemed a violation and subject to enforcement actions. Nothing in this section shall prohibit the installation of utilities as allowed by other sections.

(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

7-1.9. Stream Buffer Required.

(A) *Riparian Buffer Protection for Lands within the Jordan Lake Watershed.*

- 1) *Authority:* Section 7-1.9(A) is adopted pursuant to the authority vested in Guilford County by the Session Laws and the General Statutes of North Carolina, particularly Session Law 2009-216 (House Bill 239), Session Law 2009-484 (Senate Bill 838), N.C. Gen. Stat §§ 153A-121, 153A-140, Chapter 153A, Article 18, N.C. Gen. Stat §§ 160A-174, 160A-193, Chapter 160A, Article 19, and any special legislation enacted by the General Assembly for Guilford County.
- 2) *Purpose and Intent:* The purposes of the County in adopting Section 7-1.9(A) is to protect and preserve existing riparian buffers throughout the Jordan Watershed as generally described in Rule 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope), in order to maintain their nutrient removal and stream protection functions. Additionally this Ordinance will help protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan Watershed. The requirements of Section 7-1.9(A) shall supersede all other locally implemented buffer requirements as outlined in Section 7-1.9(B).

Buffers adjacent to streams provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. They also help to minimize flood damage in flood prone areas. Well-vegetated streamside riparian areas help to remove nitrogen and prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.

- 3) *Jurisdiction:* Section 7-1.9(A) shall be applied to all land in the planning jurisdiction of the County that is located within the Jordan Reservoir Watershed. The Jordan Reservoir Watershed includes the Greensboro, Lake Mackintosh, Reidsville, and the non-water supply watersheds as designated on the Stormwater Map of Guilford County.
- 4) *Applicability:* Section 7-1.9(A) applies to all landowners and other persons conducting activities in the area described in Section 7-1.9(A)3), with the exception of activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government, and

forest harvesting and agricultural activities. The NC Division of Water Quality shall administer the requirements of Rule 15A NCAC 02B .0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for these activities.

5) *Riparian Area Protection within the Jordan Reservoir Watershed:*

- a. *Buffers Protected.* The following minimum criteria shall be used for identifying regulated buffers:
 - i. Section 7-1.9(A) shall apply to activities conducted within, or outside of with hydrologic impacts in violation of the diffuse flow requirements set out in Section 7-1.9(A)5e upon, 50-foot wide riparian buffers directly adjacent to surface waters in the Jordan Watershed (intermittent streams, perennial streams, lakes, reservoirs and ponds), excluding wetlands.
 - ii. Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.
 - iii. For the purpose of this Ordinance, only one of the following types of maps shall be used for purposes of identifying a water body subject to the requirements of this Ordinance:
 - (1) The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.
 - (2) The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).
 - (3) A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this Item, the Commission shall provide a 30-day public notice and opportunity for comment. Alternative maps approved by the Commission shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of Section 7-1.9(A)5c of this Ordinance.
 - iv. Where the specific origination point of a stream regulated under this Item is in question, upon request of the NC Division of Water Quality or another party, the County shall make an on-site determination. A County representative who has successfully completed the Division's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the

Division publication, Identification Methods for the Origins of Intermittent and Perennial Streams, available at http://h2o.enr.state.nc.us/ncwetlands/documents/NC_Stream_ID_Manual.pdf or from the NC Division of Water Quality - 401 Oversight Express Permitting Unit, or its successor. The County may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations made according to this Item shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of G.S. 150B.

- v. Riparian buffers protected by this Ordinance shall be measured pursuant to Section 7-1.9(A)5d of this Ordinance.
 - vi. Parties subject to this Ordinance shall abide by all State rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.
 - vii. No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this Ordinance.
- b. *Exemption Based on On-site Determination.* When a landowner or other affected party including the Division believes that the maps have inaccurately depicted surface waters, he or she shall consult the County. Upon request, a County representative who has successfully completed the Division of Water Quality's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The County may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:
- i. Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)
 - ii. Ephemeral streams.
 - iii. The absence on the ground of a corresponding intermittent or perennial stream,

lake, reservoir, or pond.

- iv. Ditches or other man-made water conveyances, other than modified natural streams.

c. *Exemption when Existing Uses are Present and Ongoing.* This Ordinance shall not apply to uses that are existing and ongoing; however, this Ordinance shall apply at the time an existing, ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

- i. It was present within the riparian buffer as of the effective date of this Ordinance and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this Ordinance. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the effective date of this Ordinance, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized and existing diffuse flow is maintained.
- ii. Projects or proposed development that are determined by the County to meet at least one of the following criteria:
 - (1) Project requires a 401 Certification/404 Permit and these were issued prior to the effective date this Ordinance, and prior to the effective date of this Ordinance.
 - (2) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the effective date of this Ordinance;
 - (3) Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with DENR on avoidance and minimization by the effective date of the Ordinance, or

- (4) Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has written approval of the County prior to the effective date of this Ordinance.
- d. *Zones of the Riparian Buffer.* The protected riparian buffer shall have two zones as follows:
- i. Zone One shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 7-1.9(A)6)b of this Ordinance. The location of Zone One shall be as follows:
 - (1) For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.
 - (2) For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.
 - ii. Zone Two shall consist of a stable, vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 7-1.9(A)6)b of this Ordinance. Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.
- e. *Diffuse Flow Requirements.* Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:
- i. Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;
 - ii. Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and
 - iii. As set out in Sections 7-1.9(A)5)d and 7-1.9(A)6)b of this Ordinance, The Zones of the Riparian Buffer and Table of Uses respectively, no new stormwater

conveyances are allowed through the buffers except for those specified in the Table of Uses, Section 7-1.9(A)6)b of this Ordinance, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

6) *Potential Uses and Associated Requirements.*

- a. *Approval for New Development.* Guilford County shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in Section 7-1.9(A)5)a of this Ordinance, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:
 - i. Determined the activity is exempt from requirements of this Ordinance;
 - ii. Received an Authorization Certificate from the County pursuant to Section 7-1.9(A)7)a of this Ordinance;
 - iii. For uses designated as Allowable with Mitigation in the Table of Uses in Section 7-1.9(A)6)b, received approval of mitigation plan pursuant to Section 7-1.9(A)7)c of this Ordinance; and
 - iv. Received a variance pursuant to Section 7-1.9(A)7)b..
- b. *Table of Uses.* The following chart sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to Section 7-1.9(A)7)b of this Ordinance, Variances. The requirements for each category are given in Section 7-1.9(A)6)c of this Ordinance following the Table of Uses.

Table 7-1-2 Table of Uses

Use	Exempt*	Allowable*	Allowable with Mitigation*
Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:			

• Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer	X		
• Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Ordinance or impervious surface is added to the riparian buffer		X	
Airport facilities:			
• Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X
• Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips) ¹		X	
Archaeological activities	X		
Bridges		X	
Canoe Access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer.	X		
Dam maintenance activities:			
• Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3	X		

<ul style="list-style-type: none"> • Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3 		X	
Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers:			
<ul style="list-style-type: none"> • New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies. 	X		
<ul style="list-style-type: none"> • Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations. 		X	
<ul style="list-style-type: none"> • New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer 		X	
<ul style="list-style-type: none"> • New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed. 			X
<u>Draining a pond in a natural drainageway where a riparian protection area is established adjacent to the new channel.</u>	X		

Driveway crossings of streams and other surface waters subject to this Ordinance:			
• Driveway crossings on single-family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer	X		
• Driveway crossings on single-family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer		X	
• In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer			X
Driveway impacts other than crossing of a stream or other surface waters subject to this Ordinance			X
Fences:			
• Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance	X		
• Fences provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance		X	
Fertilizer application: One-time application to establish vegetation	X		
Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated.	X		

Greenway/hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical.		X	
Historic preservation	X		
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		X	
Mining activities:			
• Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Sections 7-1.9(A)6d and 7-1.9(A)6e of this Ordinance are established adjacent to the relocated channels		X	
• Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of Sections 7-1.9(A)6d and 7-1.9(A)6e of this Ordinance are not established adjacent to the relocated channels			X
• Wastewater or mining dewatering wells with approved NPDES permit	X		
Playground equipment:			
• Playground equipment on single-family lots provided that installation and use does not result in removal of vegetation	X		
• Playground equipment installed on lands other than single-family lots or that requires removal of vegetation		X	

Ponds created by impounding streams and not used as stormwater BMPs:			
• New ponds provided that a riparian buffer that meets the requirements of Sections 7-1.9(A)6d and 7-1.9(A)6e of this Ordinance is established adjacent to the pond		X	
• New ponds where a riparian buffer that meets the requirements of Sections 7-1.9(A)6d and 7-1.9(A)6e of this Ordinance is NOT established adjacent to the pond			X
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel		X	
Railroad impacts other than crossings of streams and other surface waters subject to this Ordinance.			X
Railroad crossings of streams and other surface waters subject to this Ordinance:			
• Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer	X		
• Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X
Recreational and accessory structures in Zone Two:			
• Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance:			
◊ Total footprint less than or equal to 150 square feet per lot.		X	
◊ Total footprint greater than 150 square feet per lot.			X

• Wooden slatted decks and associated steps, provided the use meets the requirements of Sections 7-1.9(A)6d and 7-1.9(A)6e of this Ordinance:			
◊ Deck at least eight feet in height and no vegetation removed from Zone One.		X	
◊ Deck less than eight feet in height or vegetation removed from Zone One.			X
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored	X		
Road impacts other than crossings of streams and other surface waters subject to this Ordinance			X
Road crossings of streams and other surface waters subject to this Ordinance:			
• Road crossings that impact equal to or less than 40 linear feet of riparian buffer	X		
• Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X
Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety:			
• Less than or equal to 2,500 square feet of buffer impact		X	
• Greater than 2,500 square feet of buffer impact			X
Stormwater BMPs:			
• Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One		X	
• Wet detention, bioretention, and constructed wetlands in Zone One			X

Scientific studies and stream gauging	X		
Streambank or shoreline stabilization		X	
Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in Section 7-1.9(A)7)c.vii of this Ordinance:			
• Less than or equal to 2,500 square feet of buffer disturbance	X		
• Greater than 2,500 square feet of buffer disturbance		X	
• Associated with culvert installation or bridge construction or replacement		X	
Temporary sediment and erosion control devices, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation. At the end of five years the restored buffer shall comply with the restoration criteria in Section 7-1.9(A)7)c.vii of this Ordinance:			

• In Zone Two provided ground cover is established within timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone One is not compromised, and runoff is released as diffuse flow in accordance with Section 7-1.9(A)6)e of this Ordinance.	X		
• In Zones One and Two to control impacts associated with uses approved by Guilford County or that have received a variance, provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer.		X	
• In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act.	X		
• In-stream temporary erosion and sediment control measures for work within a stream channel.		X	
Utility, electric, aerial, perpendicular crossings of stream and other surface waters subject to this Ordinance ^{2,3,5} .			
• Disturb equal to or less than 150 linear feet of riparian buffer	X		
• Disturb greater than 150 linear feet of riparian buffer		X	
Utility, electric, aerial, other than perpendicular crossings ⁵ .			
• Impacts in Zone Two		X	
• Impacts in Zone One ^{2,3}			X
Utility, electric, underground, perpendicular crossings ^{3,4,5} .			
• Disturb less than or equal to 40 linear feet of riparian buffer	X		
• Disturb greater than 40 linear feet of riparian buffer		X	
Utility, electric, underground, other than perpendicular crossings ⁴ .			

• Impacts in Zone Two	X		
• Impacts in Zone One ¹	X		
Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance ^{3, 5} :			
• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width	X		
• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width		X	
• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width		X	
• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width			X
• Disturb greater than 150 linear feet of riparian buffer			X
Utility, non-electric, other than perpendicular crossings ^{4, 5} :			
• Impacts in Zone Two		X	
• Impacts in Zone One			X
Vegetation management:			
• Emergency fire control measures provided that topography is restored	X		
• Mowing or harvesting of plant products in Zone Two	X		
• Planting vegetation to enhance the riparian buffer	X		
• Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised	X		

• Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank.	X		
• Removal of individual trees which are dead, diseased or damaged.	X		
• Removal of poison ivy	X		
• Removal of invasive exotic vegetation as defined in: <i>Smith, Cheri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30</i>	X		
• Vehicular access roads leading to water-dependent structures as defined in 15A NCAC 02B .0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet.		X	
• Water dependent structures as defined in 15A NCAC 02B .0202 where installation and use result in disturbance to riparian buffers.		X	
Water supply reservoirs:			
• New reservoirs where a riparian buffer that meets the requirements of Sections 7-1.9(A)6)d and 7-1.9(A)6)e of this Ordinance is established adjacent to the reservoir		X	
• New reservoirs where a riparian buffer that meets the requirements of Sections 7-1.9(A)6)d and 7-1.9(A)6)e of this Ordinance is not established adjacent to the reservoir			X
Water wells			
• Single-family residential water wells	X		
• All other water wells		X	
Wetland, stream and buffer restoration that results in impacts to the riparian buffers:			

• Wetland, stream and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification	X		
• Wetland, stream and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification		X	
Wildlife passage structures		X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 7-1.9(A)6c of this Ordinance.

¹Provided that:

- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones One and Two meet the requirements of Sections 7-1.9(A)6d and 7-1.9(a)6e.

²Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the County, as defined in Section 7-1.9(A)7a.

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.

- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

³Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless Guilford County completes a no practical alternative evaluation as defined in Section 7-1.9(A)7a.

⁴Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by Guilford County, as defined in Section 7-1.9(A)7a.

- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

⁵Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

- c. *Requirements for Categories of Uses.* Uses designated in Section 7-1.9(A)6b of this Ordinance as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

- i. *Exempt.* Uses designated as exempt are permissible without authorization by Guilford County provided that they adhere to the limitations of the activity as defined in Section 7-1.9(A)6b of this Ordinance, the Table of Uses. In addition, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.
- ii. *Allowable.* Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to Section 7-1.9(A)7a of this Ordinance. This includes construction, monitoring, and maintenance activities. These uses require written authorization from the County.
- iii. *Allowable with Mitigation.* Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to Section 7-1.9(A)7a of this Ordinance and an appropriate mitigation strategy has been approved pursuant to Section 7-1.9(A)7a. These uses require written authorization from the County.

7) *Permits Procedures, Requirements, and Approvals.*

a. *Determination of No Practical Alternatives / Request for Authorization Certificate.*

- i. Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to the County. The applicant shall certify that the project meets all the following criteria for finding "no practical alternatives":
 - (1) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;
 - (2) The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and
 - (3) Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- ii. The applicant shall also submit at least the following information in support of their assertion of "no practical alternatives":
 - (1) The name, address and phone number of the applicant;
 - (2) The nature of the activity to be conducted by the applicant;

- (3) The location of the activity, including the jurisdiction;
 - (4) A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
 - (5) An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and
 - (6) Plans for any best management practices proposed to be used to control the impacts associated with the activity.
- iii. Within 60 days of a submission that addresses Section 7-1.9(A)7)a.ii., the County shall review the entire project and make a finding of fact as to whether the criteria in Section 7-1.9(A)7)a.i. of this Ordinance have been met. A finding of "no practical alternatives" shall result in issuance of an Authorization Certificate. Failure to act within 60 days shall be construed as a finding of "no practical alternatives" and an Authorization Certificate shall be issued to the applicant unless one of the following occurs:
- (1) The applicant agrees, in writing, to a longer period;
 - (2) The County determines that the applicant has failed to furnish requested information necessary to the County decision;
 - (3) The final decision is to be made pursuant to a public hearing; or
 - (4) The applicant refuses access to its records or premises for the purpose of gathering information necessary to the County's decision.
- iv. The County may attach conditions to the Authorization Certificate that support the purpose, spirit and intent of this Ordinance.
- v. Any appeals of determinations regarding Authorization Certificates shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.
- b. *Variances.*
- i. *Requirements for Variances.* Persons who wish to undertake prohibited uses may pursue a variance. The County may grant minor variances. For major variances, the County shall prepare preliminary findings and submit them to the Division of

Water Quality, 401 Oversight Express Permitting Unit, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:

- (1) For any variance request, the County shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:
 - (I) If the applicant complies with the provisions of this Ordinance, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the County shall consider whether the variance is the minimum possible deviation from the terms of this Ordinance that shall make reasonable use of the property possible;
 - (II) The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
 - (III) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this Ordinance would not allow reasonable use of the property;
 - (IV) The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
 - (V) The applicant did not purchase the property after the effective date of this Ordinance, and then request a variance; and
 - (VI) The hardship is rare or unique to the applicant's property.
 - (2) The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance and preserves its spirit; and
 - (3) In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.
- ii. *Minor Variances.* A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in Section 7-1.9(A)7)a.i. through Section

7-1.9(A)7)a.iii. by the County pursuant to G.S. 153A-Article 18, or G.S. 160A-Article 19. The County may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Request for appeals to decisions made by the County shall be made in writing to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

- iii. *Major Variances.* A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If Guilford County has determined that a major variance request meets the requirements in Section 7-1.9(A)7)b.i. then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission c/o the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor, for approval. Within 90 days after receipt by Guilford County, the Commission shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

c. *Mitigation.*

- i. This item shall apply to persons who wish to impact a riparian buffer in the Jordan Watershed when one of the following applies:
 - (1) A person has received an Authorization Certificate pursuant to Section 7-1.9(A)7)a of this Ordinance for a proposed use that is designated as "allowable with mitigation;" or
 - (2) A person has received a variance pursuant to Section 7-1.9(A)7)b of this Ordinance and is required to perform mitigation as a condition of a variance approval.
- ii. Issuance of the Mitigation Approval. Guilford County shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Ordinance. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.
- iii. Options for Meeting the Mitigation Requirement. The mitigation requirement may be met through one of the following options:
 - (1) Payment of a compensatory mitigation fee to the Riparian Buffer

Restoration Fund pursuant to 15A NCAC 02B .0269 (Jordan Water Supply Nutrient Strategy: Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at <http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html> or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in Rule 15A NCAC 02B .0273;

- (2) Donation of real property or of an interest in real property pursuant to Section 7-1.9(A)7)c.vi. of this Ordinance; or
 - (3) Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Section 7-1.9(A)7)c.vii of this Ordinance.
- iv. The Area of Mitigation. Guilford County shall determine the required area of mitigation, which shall apply to all mitigation options identified in Section 7-1.9(A)7)c.iii. of this Ordinance and as further specified in the requirements for each option set out in this Section, according to the following:
- (1) The impacts in square feet to each zone of the riparian buffer shall be determined by Guilford County by adding the following:
 - (I) The area of the footprint of the use causing the impact to the riparian buffer;
 - (II) The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and
 - (III) The area of any ongoing maintenance corridors within the riparian buffer associated with the use.
 - (2) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Section 7-1.9(A)7)c.iv.(1) of this Ordinance to each zone of the riparian buffer:
 - (I) Impacts to Zone One of the riparian buffer shall be multiplied by three;
 - (II) Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and
 - (III) Impacts to wetlands within Zones One and Two of the riparian

buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

- v. The Location of Mitigation. For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan Watershed, as defined in 15A NCAC 02B.0262, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan Watershed, as defined in 15A NCAC 02B.0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in Section 7-1.9.(A)(7)c.vi.(3)(I) of this Ordinance.
- vi. Donation of Property. Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:
 - (1) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269. The value of the property interest shall be determined by an appraisal performed in accordance with Section 7-1.9(A)(7)c.vi.(4)(IV) of this Ordinance. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0269, the applicant shall pay the remaining balance due.
 - (2) The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.
 - (3) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:
 - (I) In addition to the location requirements of Section 7-1.9(A)(7)c.v. of this Ordinance, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the *Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin* developed by NC Division of Water Quality pursuant to G.S. 143-214.10;
 - (II) The property shall contain riparian buffers not currently protected

by the State's riparian buffer protection program that are in need of restoration as defined in Section 7-1.9(A)7)c.vii.(4) of this Ordinance;

- (III) The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;
 - (IV) The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to Section 7-1.9(A)7)c.iv of this Ordinance;
 - (V) Restoration shall not require removal of man-made structures or infrastructure;
 - (VI) The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;
 - (VII) The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;
 - (VIII) The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;
 - (IX) The property shall not contain any hazardous substance or solid waste;
 - (X) The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;
 - (XI) The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and
 - (XII) The property shall not have any encumbrances or conditions on the transfer of the property interests.
- (4) At the expense of the applicant or donor, the following information shall be submitted to the County with any proposal for donations or dedications

of interest in real property:

- (I) Documentation that the property meets the requirements laid out in Section 7-1.9(A)7)c.vi.(3) of this Ordinance;
 - (II) US Geological Survey 1:24,000 (7.5 minute) scale topographic map, County tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;
 - (III) A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;
 - (IV) A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and
 - (V) A title certificate.
- vii. Riparian Buffer Restoration or Enhancement. Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:
- (1) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:
 - (I) The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Section 7-1.9(A)7)c.iv. of this Ordinance; or
 - (II) The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Section 7-1.9(A)7)c.iv. of this Ordinance;

- (2) The location of the riparian buffer restoration or enhancement shall comply with the requirements in Section 7-1.9(A)7)c.v. of this Ordinance;
- (3) The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;
- (4) Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this Item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;
- (5) The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of Section 7-1.9(A)7)a of this Ordinance. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the Guilford County. The restoration or enhancement plan shall contain the following:
 - (I) A map of the proposed restoration or enhancement site;
 - (II) A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;
 - (III) A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;
 - (IV) A fertilization plan; and
 - (V) A schedule for implementation;
- (6) Within one year after the County has approved the restoration or enhancement plan, the applicant shall present proof to Guilford County that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and the County's riparian buffer protection program;
- (7) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions, and
- (8) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have

survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

8) *Site Inspections and Enforcement.*

a. *Site Inspections.*

- i. Agents, officials, or other qualified persons authorized by the County may periodically inspect riparian buffers to ensure compliance with this Ordinance.
- ii. Notice of the right to inspect shall be included in the letter of approval of each variance and buffer authorization.
- iii. Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Guilford County, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties. The County shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.
- iv. Any person engaged in new activities as defined by this Ordinance who fails to meet the requirements of this Ordinance shall be deemed in violation of this Ordinance and subject to enforcement actions under Article 8.

9) *Definitions.* For the purpose of the Jordan Watershed, these terms shall be defined as follows:

- a. "*Access Trails*" means pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.
- b. "*Airport Facilities*" means all properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases "air navigation facility", "airport", or "airport protection privileges" under G.S. 63-1; the definition of "aeronautical facilities" in G.S. 63-79(1); the phrase "airport facilities" as used in G.S. 159-48(b)(1); the phrase "aeronautical facilities" as defined in G.S. 159-81 and G.S. 159-97; and the phrase "airport facilities and improvements" as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant

areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of "airport facilities":

- i. Satellite parking facilities;
 - ii. Retail and commercial development outside of the terminal area, such as rental car facilities; and
 - iii. Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of 'airport facilities'.
- c. "*Channel*" means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.
- d. "*DBH*" means diameter at breast height of a tree measured at 4.5 feet above ground surface level.
- e. "*Development*" means the same as defined in Rule 15A NCAC 2B .0202(23).
- f. "*Ditch or canal*" means a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.
- g. "*Ephemeral stream*" means a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

- ~~h. "Existing development" means development, other than that associated with agricultural or forest management activities, that meets one of the following criteria:~~
- ~~i. It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or~~
 - ~~ii. It occurs after the compliance date set out in Sub-Item (4)(d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.~~
- hi. "Greenway/Hiking Trails" means pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.
- ij. "High Value Tree" means a tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.
- jk. "Intermittent stream" means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.
- kl. "Jordan nutrient strategy" or 'Jordan water supply nutrient strategy' means the set of Rules 15A NCAC 2B .0262 through .0273 and .0311(p).
- lm. "Jordan Reservoir" means the surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in Rule 15A NCAC 2B .0262(4).
- mn. "Jordan Watershed" means all lands and waters draining to B. Everett Jordan Reservoir.
- ~~o. "New Development" means any development project that does not meet the definition of existing development set out in this Ordinance.~~
- np. "Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological,

hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

- oq. *"Perennial waterbody"* means a natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the State's riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).
- pf. *"Shoreline stabilization"* is the in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.
- qs. *"Stream restoration"* is defined as the process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. 'Referenced' or 'referenced reach' means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.
- rf. *"Stream"* means a body of concentrated flowing water in a natural low area or natural channel on the land surface.
- sh. *"Stump diameter"* means the diameter of a tree measured at six inches above the ground surface level.
- tv. *"Surface waters"* means all waters of the state as defined in G.S. 143-212 except underground waters
- uw. *"Tree"* means a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
- vx. *"Temporary road"* means a road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

(B) *Riparian Buffer Protection for Lands within the Polecat Creek, Sandy Creek, and Randleman Lake Watersheds.* A stream buffer with a minimum width as specified in Table 7-1-3 measured landward from the normal pool elevation of impoundments and from the top of bank of each side of streams or rivers, shall be maintained along all perennial and intermittent streams. This requirement is not applicable to enclosed

subsurface drainage segments of intermittent streams, or to perennial streams outside of water supply watersheds, in which the North Carolina Division of Water Quality has issued a 401 Water Quality Certification to allow the stream segment to be altered by routing it through an enclosure such as a culvert. [See Section 7-2.3 (Watershed Critical Area Requirements) for additional requirements concerning stream buffers in the WCA.] No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities shall minimize built-upon surface area, direct run-off away from the surface waters and maximize the utilization of stormwater Best Management Practices.

Table 7-1-3

Stream Buffer Width Requirements

WATERSHED	LOW DENSITY DEVELOPMENT		HIGH DENSITY DEVELOPMENT	
	Perennial Streams, Lakes and Ponds	Intermittent Streams	Perennial Streams, Lakes and Ponds	Intermittent Streams
Water Supply Districts WS-III Polecat Creek ^a Sandy Creek ^a	30 ft.	30 ft.	100 ft.	30 ft.
Randleman Lake Jamestown (Deep River) ^b High Point (East & West Fork, Deep River) ^b Lower Randleman Lake (Deep River) ^b	50 ft.	50 ft.	100 ft.	50 ft.

^a The stream buffer for the NPDES (non water supply district) and water supply districts other than Jamestown, High Point, and Lower Randleman Lake shall have the first twenty (20) feet from the top of bank, landward, designated as a Water Quality Conservation Easement (WQCE) and the remainder of the stream buffer shall be a vegetated area. Refer to Article 2, for Water Quality Conservation Easement requirements.

^b Under the Low Density Option the stream buffer shall be comprised of Zone 1, which shall be an undisturbed area of vegetation extending a distance of thirty (30) feet landward from the water line or top of stream bank along both sides of the stream, and Zone 2, which begins at the outer edge of Zone 1 and extends a minimum of twenty (20) feet and shall be a vegetated area. Under the High Density Option, the first fifty (50) feet of stream buffers shall conform to the requirements of Zones 1 and 2, the remainder shall be vegetated. Refer to the "Water Quality Protection Manual" as amended, for additional stream buffer requirements. Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation. Concentrated runoff from new ditches or man made conveyances shall be converted to diffuse flow before the runoff enters Zone 2 of the riparian buffer. Periodic corrective action to restore diffuse flow shall be taken if necessary by the property owner to impede the formation of erosion gullies.

NOTE: All stream buffers shall be identified on a recorded plat as "Drainage and Stream Buffer Easement" or contained within a Drainageway and Open Space Easement.
(Amd. of 4-21-05; Case No. 1a-08, 3-6-08; Case No. 5-08, 11-19-08; Case No. 1-10, 11-4-10)

7-1.10. Stream Channelization.

Perennial Streams in water supply district shall not be channelized without prior approval by the Environmental Review Board.
(Amd. of 4-21-05)

7-1.11. Activities Regulated by Other Governmental Agencies.

(A) *Designated Agencies:* The following are the designated agencies responsible for implementing the requirements of the Water Supply Watershed Protection Rules as adopted by the N.C. Environmental Management Commission for the specified activity:

- 1) Agriculture-Guilford Soil and Water Conservation District;
- 2) Silviculture-N.C. Division of Forest Resources.

(B) *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.

(C) *Hazardous Materials:*

- 1) The Guilford County Fire Marshal and the Guilford County Emergency Management Assistance Agency are the designated management agencies responsible for implementing the provisions of this Subsection pertaining to hazardous materials.
- 2) 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.
- 3) Properties in the WCA or GWA 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, as amended (CWA) (33 USC 1251 et seq.; oil and hazardous substances) are stored or used on the site.

(Amd. of 4-21-05)

7-1.12. Variances.

(A) General:

- 1) Requests for stormwater management/watershed protection variances shall be submitted in writing on forms supplied by the governing jurisdiction and with a completed stormwater management/watershed development plan showing all pertinent information relative to the site in question. Information shown on the stormwater management/watershed development plan or presented in writing shall be the primary evidence considered pertinent to the variance request.

- 2) For each request for a minor or major stormwater management/watershed variance , the Enforcement Officer shall notify all other local governments having jurisdiction within the same water supply watershed or using the affected water supply for consumption. A comment period of at least fourteen (14) days shall be allowed before the Environmental Review Board hearing.
- 3) In granting variances the jurisdiction may require such conditions as will secure, insofar as practicable, the objectives of the requirements being modified.
- 4) The applicant must demonstrate hardship that the regulations impose on the property, not just apply for a waiver of the rules.
- 5) The applicant must submit a plan that demonstrates equal or better performance than the current regulations or conditions.
- 6) Before the Environmental Review Board or Governing Body may grant a minor watershed variance or recommend approval to the North Carolina Environmental Management Commission (EMC) for a major variance , it shall make the following three findings, and shall include the factual reasons on which they are based.
 - a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the watershed requirements, and all of the following conditions exist:
 - i) If the applicant complies with the provisions of this rule, the applicant can secure no reasonable return from, nor make reasonable use of the subject property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the EMC or Environmental Review Board shall consider whether the variance is the minimum possible deviation from the terms of the rule that shall make reasonable use of property possible.
 - ii) The hardship results from the application of the rule to the property rather than from other factors such as deed restrictions or other hardships.
 - iii) The hardship is due to the physical nature of the applicant's property, such as size, shape, or topography, which is different from that of neighboring properties.
 - iv) The applicant did not cause the hardship by knowingly or unknowingly violating the Rule.
 - v) The applicant did not purchase the property after the effective date of the Rule, and then request an appeal to maximize the use of the property. The applicant is entitled to a variance if a valid hardship is demonstrated.
 - vi) The hardship is unique to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the

hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

- b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- c) In the granting of the variance the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

(B) **Minor Stormwater/Watershed Variances** : The Environmental Review Board is designated to approve minor stormwater management and watershed variances . The Technical Review Committee (TRC) shall review the submitted request for consistency with the Map Standards in the Guilford County Development Ordinance prior to forwarding to the Environmental Review Board for approval or denial. Any minor variance approved by the Environmental Review Board may be appealed to the governing body within fifteen (15) days.

(C) **Major Stormwater/Watershed Variances** : The North Carolina Environmental Management Commission (EMC) is designated to approve major stormwater management and watershed variances . The review process shall be the same as in subsection (B) above, except that the Governing Body shall make recommendations to the EMC. The variance application, hearing notices, and minutes from each committee and board review shall be forwarded to the EMC, which shall approve or deny the variance .
(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 1b-08, 3-6-08; Case 5-08, 11-19-09)

7-1.13. Watershed Reporting.

(A) *10/70 Provision-Watershed Reporting*: The Enforcement Officer shall keep records on the County's use of the provisions that a maximum of ten (10) percent of the non-critical area of WS-III watersheds may be developed with new development at a maximum of seventy (70) percent built-upon surface area. Records for each watershed shall include the total area of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan (if applicable).

(B) *Stormwater Management/Watershed Variances*: The Enforcement Officer shall keep a record of all stormwater management/watershed variances. This record shall be submitted for each calendar year to the Division of Water Quality Management on or before January 1st of the following year and shall provide a description of each project receiving a minor or major variance and the reasons for granting the variance.
(Amd. of 4-21-05; Case No. 5-08, 11-19-09)

7-2.

WATERSHED PROTECTION DISTRICTS AND PERFORMANCE STANDARDS

7-2.1. National Pollutant Discharge Elimination System (NPDES).

(A) *District Boundaries*: The NPDES district covers all the territory encompassed in Guilford County, North Carolina except for those areas within incorporated municipalities and their extraterritorial

jurisdiction, and property owned by the Piedmont Triad International Airport.

(B) *Maximum Development Density and Minimum Lot Size:*

- 1) All developments located in the NPDES non-water supply district shall be limited to the maximum density and minimum lot size based upon the development's current zoning.
- 2) All developments located in the NPDES water supply district shall follow the density and development requirements of the GWA and WCA performance tables.

(C) *Performance Standards:* The Stormwater Management/Watershed Development Plan for any development covered by this Section shall be prepared and submitted in accordance with the performance standards found in Table 7-2-1. The owner, developer, or person submitting the Stormwater Management/Watershed Development Plan shall indicate which performance standard they have chosen for review and approval. Development that cumulatively disturbs less than one acre is exempt from the requirements of this section.

Table 7-2-1

NPDES Performance Standards

DISTRICT	LOW DENSITY OPTION	HIGH DENSITY OPTION ^a
NPDES, non-water supply areas	2 DU/1 AC; 0--24% BUA	greater than 2 DU/1 AC; greater than 24% BUA

^a Development under the High Density Option shall require Engineering Statement by a registered professional engineer, with seal (Article 7-1.6(B)) certifying the control and treatment of the run-off from a one (1) inch rain and the discharge of the storage volume shall be equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.

NOTES:

- 1) DU = Dwelling Unit(s); AC=Acre; Percentage (%) refers to built-upon area of the zone lot, parcel, or tract.
- 2) Single-family detached residential developments will be evaluated on the basis of dwelling units per acre.
- 3) All other residential and all non-residential developments will be evaluated on the basis of built-upon area percentage.

(D) *Runoff Control:* When runoff control is required for development using the high density option [see definition in Section 2-1.2 (Drainage and Watershed Protection)] the runoff control shall be by use of a best management practice meeting the performance standards of the following:

- 1) Control and treat the runoff from the first one inch of rain.
- 2) Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.
- 3) Remove an eighty-five (85%) percent average annual amount of Total Suspended Solids and meeting the guidelines in the latest edition of the Guilford County Water Quality Protection Manual.
- 4) Drawdown of treatment volume shall be no faster than forty-eight (48) hours but no slower than one hundred twenty (120) hours.

(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

7-2.2. General Watershed Areas (GWA).

(A) *GWA District Boundaries:* The GWA district extends from the outer boundary of the WCA to the outer boundary of the watershed of a designated water supply reservoir or intake.

(B) *Maximum Development Density and Minimum Lot Size:* All developments in the GWA, not utilizing Public Sewer, shall be limited to the maximum density of 1 DU/1 Acre and minimum lot size based upon the development's current zoning. The minimum required lot size shall not include the area in a Special Purpose Lot used for Off-site Sewage Treatment Systems. Developments utilizing Public Sewer shall be limited to the maximum density shown in Table 7-2-2 and minimum lot size based upon the Development's current zoning.

(C) *Performance Standards:* The Watershed Development Plan for any development covered by this Section shall be prepared and submitted in accordance with the performance standards found in Table 7-2-2. The owner, developer, or person submitting the Watershed Development Plan shall indicate which performance standard they have chosen for review and approval. Development in the Lake Mackintosh watershed that cumulatively disturbs less than one acre is exempt from the requirements of this section.

Table 7-2-2

GWA Performance Standards

WATERSHED	LOW DENSITY OPTION	HIGH DENSITY OPTION ^a
<u>WS--III</u> Reidsville (Troublesome Creek) Greensboro (Reedy Fork) Polecat Creek Sandy Creek	2 DU/1 AC; 0--24% BUA	greater than 2 DU/1 AC; 24.01%-50% BUA ^b
<u>WS--IV</u> High Point (East and West Fork Deep River) Lake Mackintosh (Big Alamance Creek) Jamestown (Deep River)	2 DU/1 AC; 0--24% BUA	greater than 2 DU/1 AC; 24.01%-70% BUA
Lower Randleman Lake (Deep River)	1 DU/1 AC; 0--12% BUA	greater than 1 DU/1 AC; 12.01%-50% BUA

^a Development under the High Density Option shall require Engineering Statement by a registered professional

engineer, with seal (Article 7-1.6(B)) certifying the control and treatment of the run-off from a one (1) inch rain and the discharge of the storage volume shall be equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.

^b Development cannot exceed fifty (50) percent built-upon unless it is non-residential development and has received an additional allocation option in compliance with Section 7-2.2 (F)2).

NOTES:

1. DU = Dwelling Unit(s); AC=Acre; Percentage (%) refers to built-upon area of the zone lot, parcel, or tract.
2. Single-family detached residential developments will be evaluated on the basis of dwelling units per acre
3. All other residential and all non-residential developments will be evaluated on the basis of built-upon area percentage

(D) *Runoff Control*: When runoff control is required for development using the high density option [see definition in Section 2-1.2 (Drainage and Watershed Protection)] the runoff control shall be by use of a best management practice meeting the performance standards of the following:

- 1) Control and treat the runoff from the first one inch of rain.
- 2) Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.
- 3) Remove an eighty-five (85%) percent average annual amount of Total Suspended Solids and meeting the guidelines in the latest edition of the Guilford County Water Quality Protection Manual.
- 4) Drawdown of treatment volume shall be no faster than forty-eight (48) hours but no slower than one hundred twenty (120) hours.

(E) *GWA-Watershed Classification WS-IV*: Development in all WS-IV watersheds, except the Lower Randleman Lake, shall not exceed seventy 70% percent maximum built-upon area. Development in the Lower Randleman Lake Watershed shall not exceed fifty (50%) percent maximum built-upon area.

(F) *GWA-Watershed Classification WS-III*:

- 1) *Built-Upon Area Limit*: Development shall not exceed fifty (50) percent built-upon area.
- 2) *Ten/Seventy (10/70) Option for Non-Residential*:
 - a) Ten (10) percent of the local jurisdiction's portion of a WS-III GWA, as delineated on July 1, 1993 may be developed with new non-residential development at up to seventy

(70) percent built-upon area.

- b) Allocation shall be made on a first come-first served basis. When a building permit for the site is issued or the subdivision plat for a development is recorded, an allocation shall be assigned. Expiration of a building permit shall terminate the allocation under this Section. Developments using this option shall provide an engineer's statement of runoff control for control and treatment of the runoff from the first one inch of rain and the discharge is at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.

3) *Prohibited Uses:* No new discharging landfills.

(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

7-2.3. Watershed Critical Areas (WCA).

(A) *General.* The Watershed Critical Area is a district covering the portion of the watershed adjacent to a designated existing or proposed water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed.

(B) *District Description.*

- (1) **WCA Boundary:** The Guilford County Stormwater Map shows the defined Watershed Critical Area boundaries. The WCA boundary shall not be less than one-half (1/2) mile from the normal pool elevation and draining to existing or proposed designated reservoirs.
- (2) **Divisions within the Watershed Critical Area:** The WCA consists of four divisions as follows:
 - 1) **Tier 1**
 - a) Tier 1 consists of those lands within two hundred (200) feet of the existing or proposed normal pool elevation and those lands within one-half (1/2) mile (High Point Lake, Oak Hollow Lake, Lake Brandt) or one mile (Lake Townsend) upstream of water intake structure(s).
 - b) Tier 1 areas are intended for public purpose and should remain undisturbed.
 - 2) **Tier 2**
 - a) Tier 2 consists of those lands lying within an area bounded by Tier 1 and a line parallel to and seven hundred and fifty (750) feet in distance from the normal pool elevation.
 - b) Tier 2 areas are intended primarily for public purpose with the following exception. Tier 2 areas surrounding Randleman Lake and Lake Mackintosh are not intended for public purpose unless and until more than twenty-five (25) percent of the WCA for the reservoir becomes urban in character, by meeting any

of the tests defined in NCGS Section 160A-48(c).

- 3) Tier 3
 - a) Tier 3 consists of those lands lying within an area bounded by Tier 2 and a line parallel to and three thousand (3,000) feet from the normal pool elevation.
 - b) Tier 3 areas shall not exceed the WCA Boundary.
- 4) Tier 4: Tier 4 consists of those lands lying in the area between the outer boundary of Tier 3 and the WCA Boundary.

(C) *Runoff Minimization*: The density and built-upon area coverage limits defined in Table 7-3-1 shall apply within the WCA.

Table 7-3-1
WCA Density and Built-Upon Area Coverage Limits
(expressed as dwelling units/gross acre or % maximum)

		LOW DENSITY OPTION		
WATERSHED	Tier 1	Tier 2	Tier 3	Tier 4
Greensboro (Reedy Fork)	N/A	1 DU/5 AC; 0-2.5%	1 DU/3 AC; 0-4.0%	1 DU/1 AC; 0-12.0%
High Point (East and West Fork Deep River)	N/A	1 DU/5 AC; 0-2.5%	1 DU/3 AC; 0-4.0%	1 DU/1 AC; 0-12.0%
Lake Mackintosh (Big Alamance Creek)	N/A	1 DU/5 AC; 0-2.5%	1 DU/3 AC; 0-4.0%	1 DU/1 AC; 0-12.0%
Jamestown (Deep River)	N/A	1 DU/5 AC; 0-2.5%	1 DU/3 AC; 0-4.0%	1 DU/1 AC; 0-12.0%
Lower Randleman Lake (Deep River)	N/A	1 DU/5 AC; 0-2.5%	1 DU/3 AC; 0-4.0%	1 DU/1 AC; 0-12.0%
WATERSHED	HIGH DENSITY OPTION (REQUIRES PUBLIC SEWER)			
Greensboro (Reedy Fork)	N/A	1 DU /5 AC; 0-2.5%	2 DU/1 AC; 4.01- 30%	2 DU/1 AC; 12.01- 40%
High Point (East and West Fork Deep River)	N/A	1 DU/5 AC; 0-2.5%	2 DU/1 AC; 4.01-34%	2 DU/1 AC; 12.01-40%
Lake Mackintosh (Big Alamance Creek)	N/A	1 DU/5 AC; 0-2.5%	2 DU/1 AC; 4.01-34%	2 DU/1 AC; 12.01-40%
Jamestown (Deep River)	N/A	1 DU/5 AC; 0-2.5%	2 DU/1 AC; 4.01-34%	2 DU/1 AC; 12.01-40%
Lower Randleman Lake (Deep River)	N/A	1 DU/5 AC; 0-2.5%	2 DU/1 AC; 4.01-30%	2 DU/1 AC; 12.01-40%

NOTES:

- 1) DU= Dwelling Unit(s); AC = Acre; Percentage (%) refers to built-upon area of the zone lot, parcel, or tract.
- 2) There is no WCA area in Guilford County's jurisdiction for the following watersheds: Reidsville, Polecat Creek, and Sandy Creek. Therefore they are not listed in the table above.
- 3) Single-family detached residential developments will be evaluated on the basis of dwelling units per acre

4) All other residential and all non-residential developments will be evaluated on the basis of built-upon area percentage

(D) *Land Disturbance Minimization:*

1) *Erosion Control Plan:* See Section 7-4.1 (General Requirements) to determine when an erosion control plan is required.

2) *Street Standards:* Refer to Article V (Subdivision: Procedures and Standards) for the minimum street standards. To the extent practicable, the construction of new roads in the WCA should be avoided.

3) *Land Disturbance:*

a) No land disturbing activity is allowed within stream buffers, open channel drainageways carrying runoff from a 6.01 acre or more drainage basin, greater than fifteen (15) percent slopes adjacent to drainageways, or Water Quality Conservation Easements, except for utilities, watershed devices, and road crossings.

b) The transfer of stormwater from a drainage area of five (5) acres or greater by piping or channeling between sub-basins within the Watershed Critical Area (WCA) is not permitted, unless approved by the Technical Review Committee. The piping or channeling of stormwater from the watershed critical area to a General Watershed Area (GWA) or to a non-watershed basin is allowed.

c) *Land Disturbance Limits:*

	Tier 1	Tier 2	Tier 3	Tier 4
Maximum Land Disturbance	NA	10% of usable property	60% of usable property	75% of usable property

Usable Property = (Total Site Area) - (Area in stream buffers, open channel drainageways carrying runoff from a 6.01 acre basin or greater, 15 percent slopes adjacent to drainageways, Water Quality Conservation Easements, floodplains, or natural wetlands)

(E) *Protection of Fragile Areas:*

1) Slopes greater than fifteen (15) percent and wetlands.

a) Slopes greater than fifteen (15) percent lying adjacent and parallel to natural drainageways or streams, and wetlands shall remain in a natural and undisturbed condition except for road crossings, utilities, erosion control devices and runoff control devices.

b) Recordation of these areas as Drainageway and Open Space Easements may be required

wherever authorized by Article 7-1.8 or any other provision in local ordinances.

- c) If not included in a Drainageway and Open Space Easement, a water quality conservation easement shall be recorded over such wetlands and slopes.
 - d) Where a water quality conservation easement serves to bring two (2) or more properties into compliance with WCA requirements, the Technical Review Committee may require that the wetlands and slopes covered by such easements be held as common area by an owners' association.
- 2) Drainage.
- a) Drainage shall be provided by means of open channels. Piping of drainage to cross roadways is allowed.
 - b) All open channel drainageways carrying runoff from a 6.01 acre or greater drainage basin shall have protected channels or remain in a natural and undisturbed state, except for road crossings, utilities, erosion control devices and runoff control devices.
 - c) The undisturbed area width shall be the width as specified in Article 7-1.8 (Drainage).
- 3) Development on the best soils and terrain of any site is encouraged.
- 4) Clustering of residential development may be required by the Technical Review Committee in accordance with Section 4-4.1(B) (Cluster Development).

(F) *Spill Risk Reduction:*

(1) *Prohibited Uses:* The following uses shall be prohibited in a WCA district:

	DESCRIPTION	SIC INDUSTRY GROUP MAJOR GROUP NUMBERS
a)	<u>Agricultural Uses</u>	
	Animal Feeder/Breeder	0210
b)	<u>Agricultural Services</u>	
	Chemical Treatment and Fertilizer Application for Crops, Weed Control for Crop Operations, including Aerial Crop Dusting	0710, 0721
c)	<u>Mining Uses</u>	
	Mining and Quarrying	1000
d)	<u>Business, Professional and Personal Services</u>	
	Automobile Rental or leasing	7510
	Automobile Repair Services, Major	0000

	Automobile Repair Services, Minor	0000
	Automobile Towing and Storage Services	7549
	Boat Repairs	3730
	Car Wash	7542
	Commercial Chemical and Biological Research	8731
	Furniture Stripping or Refinishing (including secondary or accessory operations)	7641
	Equipment Repair, Heavy	7690
	Agricultural Equipment Repair, Boiler Cleaning and Repair, Cesspool Cleaning, Engine Repair, except automotive, Farm Machinery Repair, Industrial Truck Repair, Machinery Cleaning, Motorcycle Repair Service, Rebabbitting, Repair of Service Station Equipment, Sewer Cleaning and Rodding, Tank and Boiler Cleaning Service, Tank Truck Cleaning Service, Tractor repair, and Welding Repair Shops	
	Heavy Construction Equipment Rental and Leasing	7350
	Lawn Care, Lawn Fertilizing Services, Lawn Spraying Services, Ornamental Shrub and Tree Services with Spraying	0780
	Laundry or Drycleaning Plant	7211, 7216, 7217, 7218
	Laundromats, Coin-operated	7215
	Pest or Termite Control Services	7342
	Septic Tank Services	7699
	Truck Driving Schools	8249
	Truck and Utility Trailer Rental and Leasing, Light	0000
	Truck Tractor and Semi Rental and Leasing, Heavy	0000
	Truck Washing	7542
e)	<u>Retail Trade</u>	
	Fuel Oil Sales	5980
	Convenience Stores with fuel pumps	5411
	Motor Vehicle Sales (new and used)	5511

	Motorcycle Sales	5571
	Recreational Vehicle Sales	5561
	Service Stations, gasoline	5541
	Truck Stops	5541
f)	<u>Wholesale Trade</u>	
	Agricultural Chemicals, Pesticides, Fertilizers	5191
	Chemical and Allied Products	5169
	Motor Vehicles	5012
	Nursery Stock, Plants Potted	5193
	Paints and Varnishes	5198
	Petroleum and Petroleum Products	5170
	Scrap and Waste Materials	5093
g)	<u>Transportation, Warehousing, and Utilities</u>	
	Air Transportation Facilities	4789
	Bus Terminal and Service Facilities	4100, 4170
	Hazardous and Radioactive Waste (transportation, Storage, Disposal.)	4953
	Inert Debris Landfills, Major	0000
	Landfills of any character, minor or major in Lower Randleman Lake Watershed--WCA	0000
	Petroleum Contaminated Soil Remediation Disposal Sites	0000
	Pipelines, except Natural Gas	4600
	Railroad Terminal or Yard	4010
	Recycling Processing Centers	0000
	Refuse and Raw Material Hauling	4212
	Sanitary Sewer and Water Treatment Plant Sludge Application Sites	0000
	Sewage Treatment Plants	4952
	Solid Waste Disposal (nonhazardous)	4953
	Trucking or Freight Terminals	4230, 4213
h)	<u>Manufacturing and Industrial Uses</u>	
	Animal Slaughter or Rendering	0000 (2010)
	Arms and Weapons	3480
	Asbestos, Abrasive, and Related Products	3290
	Asphalt Plant	2951

	Batteries	3690
	Chemicals, Paints and Allied Products	2800
	Concrete, Cut Stone and Clay Products	3240, 3270
	Cement, Hydraulic	3241
	Contractors, Heavy construction	1600
	Contractors, Special Trade	1700
	Dairy Products	2020
	Fats and Oils, Animal	2077
	Fats and Oils, Plant	2070
	Fish, Canned, Cured or Frozen	2091
	Leather and Leather Products (tanning)	3110
	Magnetic and Optical Recording Media	3695
	Meat and Poultry, Packing and Processing (no rendering)	2010
	Metal Coating and Engraving	3470
	Paper Products (no coating or laminating)	2670
	Paper Products (coating or laminating)	2670
	Petroleum and Related Products	2900
	Primary Metal Products and Foundries	3300
	Pulp and Paper Mills	2610
	Rubber and Plastics, Misc.	3000
	Rubber and Plastics, Raw	3000
	Salvage Yards, Auto Parts	5015
	Salvage Yard, Scrap Processing	5903
	Solvent Recovery	7389
	Surface Active Agents	2843
	Textile Products, (no Dying and Finishing)	2200
	Textile Products, (with Dying and Finishing)	2260

- i) No new or expansion of existing landfills of any description are permitted in the Lower Randleman Lake watershed.
- 2) *Containment Structures:*
- a) Storage tanks for fuels and chemicals and associated pumping and piping shall be provided a spill containment system.

- b) Such containment systems shall be of sufficient volume to contain one hundred (100) percent 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 Marshal.
 - d) Such tanks and containment structures shall not be placed closer than one thousand (1,000) feet to the normal pool elevation of the existing or proposed reservoir.
- 3) *Underground Storage Tanks:* Underground storage tanks for fuels and chemicals shall not be permitted except as approved by the Environmental Review Board.
- 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. On-site individual residential septic systems approved by the Guilford County Health Department are permitted. Off-site individual residential septic systems are permitted in Tier 4 only, with a) reduction in overall density to 1 DU/1.25 Acre or b) in a Rural Preservation District (or equivalent clustered) zoning.
 - b) Industrial pre-treatment facilities which prepare wastewater for discharge into a public sewer system shall be permitted in WCA districts.
- (G) *Storm Water Management:*
- 1) *Control of Run-off:* Run-off from built-upon areas, shall be controlled as follows:
- If the built-upon area is greater than six (6) percent in Tier 3 of the Lower Randleman Lake watershed or twelve (12) percent for all other watershed critical areas the runoff control shall be by use of a best management practice meeting the performance standards of the following:
- 1) Control and treat the runoff from the first one inch of rain.
 - 2) Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.
 - 3) Remove an eighty-five (85) percent average annual amount of Total Suspended Solids, and meeting the guidelines in the latest edition of the Guilford County Water Quality Protection Manual.
 - 4) Drawdown of treatment volume shall be no faster than forty-eight (48) hours, but no slower than one hundred twenty (120) hours.
- 2) *Design Approval:* All designs for runoff control structures, shall meet the requirements of

Section 7-1.6 (Improvements) and shall be subject to the approval of the Enforcement Officer. (Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 1a-08, 3-6-08; Case No. 5-08, 11-19-09)

7-2.4. Jordan Lake Watershed Area

(A) General. Beginning with and subsequent to its effective date, this ordinance shall be applicable to all development and redevelopment in the Jordan Lake Watershed, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to this ordinance.

(B) Exemptions

- 1) Development in Jordan Lake Watershed that cumulatively disturbs less than one acre for single family, duplex residential property and recreational facilities and less than one-half acre for commercial, industrial, institutional, multifamily residential, or local government property and is not part of a Larger Common Plan of Development, Redevelopment or Sale is exempt from the nutrient loading requirements of the water quality control provisions of this section.
- 2) Development that cumulatively disturbs less than the thresholds mentioned above is not exempt if such activities are part of a Larger Common Plan of Development, Redevelopment or Sale, even though multiple, separate or distinct activities take place at different times on different schedules.
- 3) Development that is exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt.

(C) New development and redevelopment within the Jordan Lake Watershed Districts is subject to nutrient loading requirements. The Load Accounting Tool approved by the Division of Water Quality shall be used to determine the predevelopment and postdevelopment nutrient loading rates of the new development and the required engineered stormwater controls to achieve the loading requirements set within this Section.

- 1) Nutrient loading contributed by new development shall not exceed 3.8 pounds per acre per year for nitrogen and 1.43 pounds per acre per year for phosphorus, except as provided below. In cases where the postdevelopment loading targets estimated by the tool exceed the rate targets above, both of the following measures shall be taken:
 - a) On-site Engineering Stormwater Controls
Onsite stormwater controls shall achieve a loading rate for nitrogen that does not exceed 6 pounds per acre per year for single-family detached and duplex residential development and 10 pounds per acre per year for other development including multifamily residential, commercial and industrial.
 - b) Off-site management measures
Off-site measures include utilizing a private mitigation bank or other method approved by the Division of Water Quality. Off-site management measures shall be used to offset the difference between the postdevelopment nitrogen and phosphorus loading rates, as determined by the tool, and the target rates of 3.8 pounds per acre per year for nitrogen

and 1.43 pounds per acre per year for phosphorus.

2) Proposed new development that replaces or expands structures or improvements that legally existed after December 1, 2001, and results in a net increase in built-upon area shall meet one of the following requirements:

a) The postdevelopment nutrient loading rates for nitrogen and phosphorous, as determined by the tool for the entire site, are 8% less for nitrogen and 5% less for phosphorus than the predevelopment nutrient loading rates.

b) The entire site meets the loading targets set in Subsection 1) above.

7-3.

ILLICIT AND ILLEGAL DISCHARGES

7-3.1. Objectives.

(A) To provide for the enforcement of Guilford County's storm water quality management program;

(B) To reduce the discharge of pollutants to receiving streams to the maximum extent practicable by requiring, where appropriate, the use of best management practices, structural and/or nonstructural storm water quantity and quality control measures and other provisions;

(C) To provide for the inspection and proper maintenance of structural and nonstructural storm water controls;

(D) To prohibit non-storm water discharges to the receiving streams and require the removal of illicit connections to drainageways;

(E) To prevent improper disposal of materials that degrade water quality;

(F) To permit sampling and monitoring for pollutants such as those associated with illicit discharges, improper disposal, industrial and construction activities, and the application of pesticides, herbicides, and fertilizers.

(Amd. of 4-21-05)

7-3.2. Jurisdiction.

The provisions of this chapter shall apply to all the territory encompassed in the unincorporated areas of Guilford County and shall govern the development and use of land and structures therein.

(Amd. of 4-21-05)

7-3.3. Authority.

This chapter is adopted pursuant to the following authorities in NCGS: Chapter 15 (Criminal Procedure), Chapter 113A (Pollution Control and Environment), Chapter 130A (Public Health), Chapter 153A (Counties).

(Amd. of 4-21-05)

7-3.4. Abrogation.

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued. Nothing herein shall repeal, modify or amend any Federal or State law regulating water quality, watershed protection, stormwater management or environmental protection.

(Amd. of 4-21-05)

7-3.5. Definitions.

CONNECTION. Any ditch, pipe, or other device for the diversion or transmission of storm drainage, which will in any way affect the operation, or maintenance of the drainageways.

CONVEYANCE. Any feature of the landscape or earth, manmade or natural that carries water in a concentrated flow.

DISCHARGE. Additions of pollutants into waters of the United States or North Carolina from: Surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyance owned by a stated municipality, or other person which does not lead to a treatment works; and discharges through pipes, sewers, or other conveyance, leading into privately owned treatment works.

DITCH/SWALE. Open channel that infiltrates and/or transports runoff waters.

DRAINAGE. The flow of runoff into a conveyance.

DRAINAGE EASEMENT. An easement, which grants the right of storm runoff to pass over a downstream property.

EASEMENT. A grant of one (1) or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entity.

GARBAGE. Animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto.

HAVING CONTROL OVER. Shall mean but not be limited to any person using, transferring, storing, or transporting a hazardous material immediately prior to release of such hazardous material on the land or into the air or receiving waters.

HAZARDOUS MATERIAL. Any substance which, when discharged in any quantity, may present an eminent and substantial danger to the public health or welfare or to the environment.

HAZARDOUS MATERIAL RESPONSE. The sending of Guilford County Environmental Health--Emergency Spill Response Team or emergency management equipment to abate hazardous materials, which endanger the health or safety of persons or the environment.

ILLICIT DISCHARGE. Any discharge to a stream that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from firefighting activities.

MUNICIPAL SEPARATE STORM SEWER. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES). A permitting system established by Section 402 of the Clean Water Act. Permits are issued by the State of North Carolina for discharges directly to the surface waters of the state.

NEW DEVELOPMENT. Any activity for which a building permit or a grading permit is required, or any of the following without regard to a permit requirement: clearing, stripping, dredging, grading, excavating, transporting, and filling of land.

OUTFALL. A point source at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two (2) municipal separate storm sewers; or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or their legal representative agents or assigns.

REFUSE. Solid waste, including but not limited to garbage, rubbish and ashes.

RIPARIAN BUFFER OR STREAM BUFFER. An area of native or non-native woody vegetation adjacent to a stream or other natural conveyance of water or storm water.

WATERCOURSE. A natural or man-made channel that carries surface runoff from precipitation.
(Amd. of 4-21-05)

7-3.6. Acronyms.

BOA--Board of Adjustment.

CFR--Code of Federal Regulations.

DENR--Department of Environmental and Natural Resources.

DEM--Division of Environmental Management.

ERB--Environmental Review Board.

GWA--General Watershed Area.

NCGS--North Carolina General Statutes.

NPDES--National Pollutant Discharge Elimination System.

SWPPP--Storm Water Pollution Prevention Plans.

SWQMP--Storm Water Quality Management Program.

WCA--Watershed Critical Area.

(Amd. of 4-21-05)

7-3.7. Right of entry.

(A) The county manager or his designee shall have right-of-entry on or upon the property of any person subject to this chapter and any permit/document issued hereunder. The county manager or his designee shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this chapter.

(B) Where a person has security measures in force, which require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the county manager or his designee will be permitted to enter without delay for the purposes of performing specific responsibilities.

(C) The county manager or his designee shall have the right to set up on the person's property such devices as are necessary to conduct sampling and/or metering of the person's operations.

(D) Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the person at the written or verbal request of the county manager or his designee. The costs of clearing such access shall be borne by the person.

(E) The county manager or his designee may inspect the facilities of any user in order to ensure compliance with this chapter. Such inspection shall be made with the consent of the owner, manager, or signatory official. If such consent is refused, the county manager or his designee may seek issuance of an administrative search warrant.

(Amd. of 4-21-05)

7-3.8. Prohibited discharges.

(A) *Illicit Connections.* It shall be unlawful to use any unapproved conveyance or any stream or watercourse to carry off water from any kitchen sink, bathtub or privy, or to carry off any fluid of an offensive or dangerous nature. No water or refuse from any industrial, commercial or institutional process, including

uncontaminated water used for heating or cooling, shall be discharged in any stream or watercourse by any person until such person has obtained the appropriate local, state and federal permits.

(B) *Improper Disposal.* It shall be unlawful for any person to discharge non-storm water to any storm water conveyance with the exception of the following:

- Water line flushing;
- Diverted stream flows;
- Rising ground waters;
- Uncontaminated ground water infiltration to separate storm sewers;
- Uncontaminated pumped ground water discharges from potable water sources;
- Foundation drains;
- Air conditioning condensation;
- Irrigation water;
- Springs;
- Water from crawl space pumps;
- Footing drains;
- Lawn watering;
- Car washing at one's residence, not for hire;
- Flows from riparian habitats and wetlands;
- Dechlorinated swimming pool discharges;
- Street wash waters; and
- Discharges from firefighting.

(C) *Litter and Refuse Control.* It shall be unlawful to throw, place or deposit any refuse in any street, public place, on any private property, or in any conveyance within the unincorporated Guilford County, except in garbage cans or garbage receptacles.

It shall be unlawful for any person to throw any garbage, peelings or miscellaneous litter upon any of the sidewalks in the county or upon the floors of any churches, public halls, theaters, buses or other public places.

It shall be unlawful for any person to place, drop or throw any litter, garbage, refuse, grass, shrubbery, tree clippings, bottles, cans, or containers or any kind upon any median strip, alleyway, street or street right-of-way, park or grass strip, or in any conveyance, or upon the private premises of another without permission of the owner or person in control of such premises, or upon any public property; provided, however, that the provisions of this section do not apply to those materials required to be placed for collection on the grass or park strip.

(D) *Organic Waste:* No privy, pigpen, stable or structure of any kind shall be permitted to stand so near any stream, ditch, drain, or storm water conveyance of any kind that animal waste or the droppings therefrom will run into such stream, ditch, drain, or storm water conveyance or in any way poison or contaminate the water therein; nor shall the urine from any privy be allowed to fall or be emptied into any stream, ditch, drain, or storm water conveyance.

(Amd. of 4-21-05)

7-3.9. Spill response.

(A) *Purpose and authority.* The Coordinator for the Guilford County Environmental Health-Emergency Spill Response Team or his designee shall have the authority to summarily abate, control and contain hazardous materials which are emitted into the environment in such a manner as to endanger the health or safety of the general public or the environment. The Coordinator or his designee shall have the authority to enter public or private property with or without the owner's consent, to respond to such hazardous materials emergencies. The Coordinator or his designee shall determine the type, amount and quantity of equipment and personnel required to adequately abate, control and contain all hazardous materials which are emitted into the environment.

(B) *Responsibility.* The property owner and/or the person exercising control over the hazardous materials that create the hazardous material emergency shall be held liable for any response, control, containment, equipment, and materials costs incurred by the Guilford County Environmental Health--Emergency Spill Response Team during the emergency. The property owner and/or person exercising control over such hazardous material, may provide personnel to assist abatement, removal and remedial measures, provided such personnel have been adequately equipped and trained pursuant to the requirements of state and federal laws. Guilford County shall not be liable for the use of outside personnel. Assistance shall consist of any or all of the following:

- 1) Informing Emergency Spill Response Team personnel of all matters pertaining to the incident;
- 2) Supplying emergency response plan information for the site;
- 3) Supplying emergency response equipment, personnel and materials.

(Amd. of 4-21-05)

7-3.10. Review of Stormwater Pollution Prevention Plans.

The County may review the storm water pollution prevention plans required under a facility's NPDES storm water discharge permit when outfall monitoring or the illicit discharge/improper disposal program locates

a suspected violator.
(Amd. of 4-21-05)

7-3.11. Violations.

Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this article and by state law:

- (A) *Development without permit.* To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this chapter without all required permits, certificates, or other forms of authorization as set forth in this article.
- (B) *Development inconsistent with permit.* To engage in any development, use, construction remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other for of authorization granted for such activity.
- (C) *Violation by act or omission.* To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the governing body or its agent boards upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.
- (D) *Use in violation.* To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this article or any other regulation made under the authority conferred thereby.
- (E) *Continuing a violation.* To continue any of the above violations is a separate and distinct offense each day.

(Amd. of 4-21-05)

7-3.12. Civil Penalties.

- (A) *Illicit Connections.*
 - 1) Any person who is found responsible for an illicit connection shall receive a notice of violation when the connection is discovered. The person shall have thirty (30) days to remove the connection. At the end of that time if the connection has not been removed, the Enforcement Officer may assess civil penalties in the amount of two hundred dollars (\$200.00) for violation of the ordinance. For purposes of this section, each day that a violation remains unabated shall be considered a new, separate and distinct violation for purposes of assessing a civil penalty. In addition to the assessment of civil penalties, the Enforcement Officer may enter the property and take measures necessary to remove the connection and perform whatever cleanup or abatement is necessary. If the person fails to remove the connection in the time prescribed, the county may petition the superior court of justice, for the issuance of an injunction to compel removal and payment; however, removal of the illicit connection shall be immediate upon the determination of the Enforcement Officer that the connection poses an imminent threat to public health.

- 2) If any person who previously has been found to have an illicit connection reconnects to the conveyance, he shall be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00). The penalty shall increase by twenty-five (25) percent of the previous penalty amount for every subsequent illicit connection made by the same person. The penalty shall be additional to the cost of cleanup and abatement. If the person has or is required to have a storm water discharge permit from the state division of environmental management, the Enforcement Officer shall alert the appropriate state authorities of the violation. In determining the amount of the penalty the county manager or his designee shall consider the following:
 - a) The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
 - b) The duration and gravity of the violation;
 - c) The effect on ground or surface water quality or on air quality;
 - d) The cost of rectifying the damage;
 - e) The amount of money saved by noncompliance;
 - f) Whether the violation was committed willfully or intentionally;
 - g) The prior record of the violator in complying or failing to comply with the storm water quality management;
 - h) The costs of enforcement to Guilford County.
- (B) *Improper disposal.*
 - 1) *Process wastewater.* Any person who is found to have improperly disposed of process wastewater to the receiving streams shall be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00) In determining the amount of the penalty the county manager or his designee shall consider the following:
 - a) The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
 - b) The duration and gravity of the violation;
 - c) The effect on ground or surface water quality or on air quality;
 - d) The cost of rectifying the damage;
 - e) The amount of money saved by noncompliance;

- f) Whether the violation was committed willfully or intentionally;
- g) The prior record of the violator in complying or failing to comply with the storm water quality management program and,
- h) The costs of enforcement to Guilford County.

(C) *Bulk sales.* Any person who is found to have improperly disposed of any substance that was purchased at a bulk sales location which, upon discharge to the receiving streams or drainage network, would have an adverse impact on water quality or cause the county to be in noncompliance with any applicable environmental permit shall be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00). In determining the amount of the penalty the county manager or his designee shall consider the following:

- 1) The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
- 2) The duration and gravity of the violation;
- 3) The effect on ground or surface water quality or on air quality;
- 4) The cost of rectifying the damage;
- 5) The amount of money saved by noncompliance;
- 6) Whether the violation was committed willfully or intentionally;
- 7) The prior record of the violator in complying or failing to comply with the storm water quality management program; and
- 8) The cost of enforcement to Guilford County.

(D) *Household products.* Any person who is found to have improperly disposed of any substance that was purchased over-the-counter for household, in quantities considered normal for household purposes, which, upon discharge to the receiving streams or drainage network, would have an adverse impact on water quality or cause the county to be in noncompliance with any applicable environmental permit shall be assessed a civil penalty not to exceed five hundred dollars (\$500.00). In determining the amount of the civil penalty the county manager or his designee shall consider the following:

- 1) The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
- 2) The duration and gravity of the violation;
- 3) The effect on ground or surface water quality or on air quality;
- 4) The cost of rectifying the damage;

- 5) The amount of money saved by noncompliance;
- 6) Whether the violation was committed willfully or intentionally;
- 7) The prior record of the violator in complying or failing to comply with the storm water quality management program; and
- 8) The costs of enforcement to Guilford County.

(E) *Yard waste.* Any person who is found to have improperly disposed of leaves, grass clippings, or other yard wastes shall be assessed a civil penalty not to exceed five hundred dollars (\$500.00). In determining the amount of the penalty the county manager or his designee shall consider the following:

- 1) The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
- 2) The duration and gravity of the violation;
- 3) The effect on ground or surface water quality or on air quality;
- 4) The cost of rectifying the damage;
- 5) The amount of money saved by noncompliance;
- 6) Whether the violation was committed willfully or intentionally;
- 7) The prior record of the violator in complying or failing to comply with the storm water quality management program; and
- 8) The costs of enforcement to Guilford County.

(F) *Repeat violation.* If a person is found to be responsible for more than one (1) instance of improper disposal, the penalty shall increase by twenty-five (25) percent of the previous penalty amount for each subsequent improper disposal. The penalties shall be additional to the cost of clean-up and abatement.

(G) *Watershed areas.* The penalty assessed for any of the above violations shall be increased by twenty-five (25) percent of the amount assessed if it occurs in any designated water-supply watershed area.

(H) *Failure to report.* The penalty assessed for any of the above violations shall be increased by twenty-five (25) percent of the amount assessed for any spill not properly reported by the violator once he has knowledge of the violation.

(I) *[Penalties.]* In the event there are subsequent penalties assessed by the state against the county for improper disposal or illegal dumping, or illicit connection into receiving streams, caused by any person, such person shall be assessed the equivalent amount of civil penalty.

(Amd. of 4-21-05; Case No. 5-06, 1-18-07; Case No. 5-08, 11-19-09)

7-3.13. Remedies.

Any or all of the following procedures may be used to enforce the provisions of this chapter:

- (A) *Injunction.* Any violation of this article or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.
- (B) *Civil penalties.* Any person who violates any provision of this article shall be subject to the assessment of a civil penalty under the procedures provided in Article 7-3.12 (Civil Penalties).
- (C) *Denial of permit.* The county manager or his designee shall withhold or deny any permit, certificate, or other authorization on any land, building, structure, or use in which there is an uncorrected violation of a provision of this article, or of a condition or qualification of a permit, certificate, or other authorization previously granted.
- (D) *Conditional permit or temporary certificate.* The county manager or his designee may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate government authority.
- (E) *Revocation of permit.* The county manager or his designee may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans, or specifications; refusal or failure to comply with the requirements of state or local law; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.
- (F) *Criminal penalties.* Any violation of this chapter shall be a misdemeanor or infraction as provided by NCGS 14-4. Each violation shall be subject to a fine not to exceed five hundred dollars (\$500.00).
- (G) *Notification of the State Enforcement Officials.*
 - 1) *Industrial and related facilities.* When a county manager or his designee discovers an apparent violation of an industrial or related facility's NPDES storm water discharge permit or that the facility is not operating pursuant to its storm water pollution prevention plan, the county shall notify the appropriate state officials immediately.
 - 2) *Construction sites.* If the county manager or his designee discovers an apparent violation of the NPDES storm water discharge permit required by the state for sites with land-disturbing activity greater than one (1) acre, or less if part of a larger project, he shall report the violation immediately to the appropriate state officials.

- 3) *Abatement.* When the discharge from the facility interferes significantly with the receiving streams, and the facility fails to take appropriate actions upon notification by the county, the county may take immediate and appropriate measures to control the problem whether or not the facility is violating its NPDES permit and recover the cost from the facility.
- 4) *Judicial Enforcement.* When any person is in violation of the provisions of this chapter, the county manager or his designee, through the county attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction, which restrains or compels the activities in question.

(Amd. of 4-21-05)

7-3.14. Appeal Hearing.

(A) Any person assessed a civil penalty under this chapter shall have the right to a hearing before the Environmental Review Board upon making a written demand to ERB specifying the issues to be contested, within thirty (30) days following receipt of the assessment.

(B) Unless such written demand is made within the time specified herein, the action shall be final and binding.

(C) The ERB shall make a final decision on the contested penalty within thirty (30) days of the receipt of the written demand for a hearing.

(D) The ERB shall transmit a copy of the decision by registered or certified mail.

(E) The decision of the ERB shall be considered the final administrative action for the purposes of judicial review. Any person may seek judicial review of a final administrative decision by the ERB by filing a petition for writ of certiorari within thirty (30) days after receipt of notice by registered or certified mail, but not thereafter, with the Superior Court of Guilford County and with a copy to Guilford County.

(Amd. of 4-21-05)

7-4.

SOIL EROSION AND SEDIMENTATION CONTROL

7-4.1. General Requirements.

(A) *Plan Required:* No person shall initiate any land-disturbing activity without an erosion control plan approved by the Jurisdiction, if the land-disturbing activity:

- 1) Exceeds one (1) acre;
- 2) Will take place on highly erodible soils with a "k" factor greater than .36 in a watershed critical area;

- 3) Includes a permanent runoff control structure in a watershed critical area; or
- 4) Will take place in Tier 1 or Tier 2 of a watershed critical area.

(B) *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.

(C) *More Restrictive Rules Shall Apply:* Whenever conflicts exist between federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.

7-4.2. Basic Control Objectives.

A soil erosion and sedimentation control plan may be disapproved pursuant to Section 7-4.12(M) Grounds for Plan Disapproval of this Ordinance if the plan fails to address the following control objectives:

(A) *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;

(B) *Limit Time of Exposure:* All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time;

(C) *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;

(D) *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;

(E) *Control Sedimentation:* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage; and

(F) *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.

7-4.3. 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:

- (A) *Buffer Zone:* No land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five (25%) percent of the buffer zone nearer the land-disturbing activity, provided, that this subsection (A) 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 (25%) percent of the strip nearer the land disturbing activity containing natural or artificial means of confining visible siltation;

- (B) *Graded Slopes and Fills:* The angle for graded slopes and fills shall be no steeper than two (2) to one (1) 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 thirty (30) days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion;
- (C) *Ground Cover:* Whenever land-disturbing activity is undertaken on a tract comprising more than one (1) acre, if more than one (1) acre is uncovered, 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 Section 7-4.4(B)(5) of this Ordinance, provisions for a ground cover sufficient to restrain erosion must be accomplished within thirty (30) working days or one hundred twenty (120) calendar days following completion, whichever period is shorter; and
- (D) *Prior Plan Approval:* No person shall initiate any land-disturbing activity on a tract if more than one (1) acre is to be uncovered unless, thirty (30) or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the Jurisdiction.

7-4.4. Design and Performance Standards.

(A) *Design for Ten-year Storm:* Except as provided in Section 7-4.4(B)(2) 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.

(B) *High Quality Water Zones:* In High Quality Water (HQW) zones the following design standards shall apply:

- 1) Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract to 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).
- 2) 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 Agricultural 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.

- 3) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least seventy (70) percent for the forty (40) micron 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 Agricultural 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 reorganized organization or association.
- 4) 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.
- 5) 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.

7-4.5. Storm Water Outlet Protection.

(A) *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.

(B) *Performance Standard:* Persons shall conduct land-disturbing activity so that the post-construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

- 1) The velocity established by Table 7-4-1; or
- 2) The velocity of the ten (10) year storm runoff in the receiving watercourse prior to development.

If conditions 1) or 2) 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 (10%) percent.

(C) *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 Jurisdiction recognizes 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:

- 1) Avoid increases to surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
- 2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;
- 3) Provide energy dissipators 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; or
- 4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

(D) *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.

TABLE 7-4-1

Maximum Permissible Velocity for Stormwater Discharges

Material F.P.S.	Maximum Permissible Velocities M.P.S.	
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.		

7-4.6. 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, any 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.

7-4.7. Access and Haul Roads.

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

7-4.8. 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.

7-4.9. Responsibility for Maintenance.

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

7-4.10. Additional Measures.

Whenever the Jurisdiction 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-disturbing activity will be required to and shall take additional protective action.

7-4.11. Existing Uncovered Areas.

(A) *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.

(B) *Notice of Violation:* The Jurisdiction will serve upon the landowner a written notice of violation by registered or certified mail, return receipt requested. 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 authority serving notice shall take into consideration the economic

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

(C) *Requiring Erosion Control Plan:* The Jurisdiction reserves the right to require preparation and approval of an erosion control plan in any instance where extensive control measures are required.

(D) *Exemption:* This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

7-4.12. Erosion and Sedimentation Control Plans.

(A) *Applicability:* An erosion control plan shall be prepared for all land-disturbing activities subject to this Ordinance whenever the proposed activity is to be undertaken on a tract comprising more than one (1) acre, if more than one (1) acre is to be uncovered.

(B) *Preparation of Plan:* The erosion control plan shall be prepared by, and shall bear the seal and signature of a registered professional engineer, architect, landscape architect, 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 Jurisdiction, and the Guilford Soil and Water Conservation District, thirty (30) days prior to the commencement of the proposed activity.

(C) *Submission of Plan:* Persons conducting land-disturbing activity on a tract which covers one (1) or more acres shall file five (5) copies of the erosion control plan with the Jurisdiction, at least thirty (30) days prior to beginning of such activity, and shall keep another copy of the plan on file at the job site. If the Jurisdiction, 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 Jurisdiction 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.

(D) *Financial Responsibility Statement:* Erosion 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 this compliance or non-compliance with the plan, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance.

(E) *Conservation District Review:* The Guilford 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 Jurisdiction. 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.

(F) *Local Jurisdiction Review:* The Jurisdiction will review each 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. Failure to approve or disapprove a

complete erosion and sedimentation control plan within thirty (30) days of receipt shall be deemed approval. Denial of a plan must specifically state in writing the reasons for denial. The jurisdiction 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 Jurisdiction determines that the plan is inadequate to meet the requirements of this Ordinance, the Jurisdiction may require such revisions as are necessary to comply with this Ordinance.

(G) *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 2 (Map Standards) of this Ordinance.

(H) *Application Amendments:* Applications for amendment of an erosion 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 Jurisdiction, the land-disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.

(I) *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.

(J) *Plan Approval Required for Permit:* No building or location permits, approvals or other documents relating to land or building development or improvement shall be issued or granted under applicable zoning, building, subdivision and other laws and ordinances of the Jurisdiction, unless and until an erosion control plan, as required by this Ordinance, has been submitted to the Jurisdiction, a grading permit has been issued, and a Certificate of Erosion Control Performance has been issued by jurisdiction, indicating that initial erosion control devices have been installed and are functioning properly.

(K) *Work Completed Before Final Subdivision Approval:* No final subdivision plat approval nor any Certificate of Occupancy shall be issued or granted where required under applicable zoning, building, subdivision and other laws and ordinances unless and until work at the site has been completed in accordance with a valid grading permit, or an improvement security or performance bond has been approved and accepted as required by this Ordinance.

(L) *Surety:* The applicant for a grading permit to grade one (1) acre or more may be required to file with the Jurisdiction an improvement security or bond in the form of an escrow account or other instruments satisfactory to the Jurisdiction's attorney in the amount deemed sufficient by the Jurisdiction to cover all costs of protection of the site against erosion and off-site sedimentation according to requirements of this Ordinance. The amount of such surety requirement shall be determined by the Jurisdiction in consultations with the Soil and Water Conservation District and with disinterested private contractors. Such surety shall be valid until the work is completed in accordance with the grading permit and until same is released by the Jurisdiction. Applicable surety shall be forfeited upon violation of this Ordinance and 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 applicant. Surety shall be released when the Jurisdiction has certified that the requirements of this Ordinance have been met.

(M) *Grounds for Plan Disapproval:* A soil erosion and sedimentation control plan may be disapproved upon a finding that an applicant, or any parent or subsidiary corporation if the applicant is a corporation:

- 1) 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 Commission or the Jurisdiction and has not complied with the notice within the time specified in the notice;
- 2) 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;
- 3) Has been convicted of a misdemeanor pursuant to NCGS 113A-64(b) or any criminal provision of this Ordinance; and
- 4) 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.

(N) *North Carolina Environmental Policy Act:* Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (NCGS 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. Guilford County shall promptly notify the person submitting the plan that the thirty (30) day time limit for review of the plan pursuant to Section 7-4.12(F) of this Ordinance shall not begin until a complete environmental document is available for review.

7-5.

FLOOD DAMAGE PREVENTION*

* **Editors Note:** An amendment adopted May 17, 2007, amended 7-5 in its entirety to read as herein set out. Former 7-5, §§ 7-5.1--7-5.7, pertained to similar subject matter, and derived from development ordinance adopted January 1, 1992; Amd. of 4-21-05; Case No. 5-06, 1-8-07.

7-5.1. Statutory Authorization and Legal Status Provisions.

(A) *Statutory Authorization:* The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(B) *Legal Status Provisions:*

(1) *Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance:* This

Ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted on November 19, 1990, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the unincorporated areas of Guilford County enacted on November 19, 1990, as amended, which are not reenacted herein are repealed.

- (2) *Effect upon Outstanding Floodplain Development Permits:* Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.

- (3) *Effective Date:* This Ordinance shall become effective upon adoption.
(Amd. of 5-17-07)

7-5.2. Findings of Fact.

(A) The flood prone areas within the jurisdiction of unincorporated Guilford County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.
(Amd. of 5-17-07)

7-5.3. General Provisions.

GRAPHIC UNAVAILABLE: [Click here](#)

(A) *Lands to Which this Ordinance Applies:* This Ordinance shall apply to all Special Flood Hazard Areas within unincorporated Guilford County. Bona fide farms are not exempt from the provisions of this Ordinance regulating development in floodways and floodplains as required for participation in the National Flood Insurance Program.

(B) *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 which are adopted by reference and declared to be a part of this Ordinance.

(Amd. of 5-17-07)

7-5.4. Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required in conformance with the provisions of this Ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 7-5.3(B) of this Ordinance.

(Amd. of 5-17-07)

7-5.5. 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 Ordinance and other applicable regulations.

(Amd. of 5-17-07)

7-5.6. Warning and Disclaimer of Liability.

The degree of flood protection required by this Ordinance 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 Ordinance 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 Ordinance shall not create liability on the part of Guilford County or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

(Amd. of 5-17-07)

7-5.7. Floodplain Development Application, Permit and Certification Requirements.

(A) *Application for Permit:* On a property containing an area of Special Flood Hazard, application for a Flood Plain Development Permit shall be made in accordance with Section 3-3.5 (Flood Plain Development Permit).

(B) *Certificate of Floor Elevation/Floodproofing:* When a property is located in a Flood Hazard Area or when a structure is floodproofed, a certificate shall be provided in accordance with Section 3-8.4 (Certificate of Floor Elevation/Floodproofing).

(Amd. of 5-17-07)

7-5.8. Provisions for Flood Hazard Reduction.

(A) *General Standards:* In all Special Flood Hazard Areas the following provisions are required:

- 1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- 2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- 3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- 4) 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. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
- 5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- 6) 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 flood waters.
- 7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- 8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance.
- 9) Nothing in this Ordinance 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 Ordinance.
- 10) 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 Section 9-5.9 (J). 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 according to Section 3-8.4 of this Ordinance.
- 11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- 12) 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.

- 13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- 14) 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.
- 15) Permitted Uses. The following uses shall be permitted below flood protection elevation within the floodway fringe zone to the extent that they are otherwise permitted by this Ordinance:
 - a) Any use as permitted and regulated in the floodway zone.
 - b) Fill material graded to drain, provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at grade ten (10) feet beyond the limits of the structure foundation, and shall have a side slope no steeper than two (2) feet horizontal to one (1) foot vertical.

(B) *Specific Standards:* In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 7-5.3(B), or Section 9-7.3 (11 & 12), the following provisions, in addition to Section 7-5.8(A), are required:

- 1) *Residential Construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 2-1.6 of this Ordinance.
- 2) *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 Section 2-1.6 of this Ordinance. Structures located in A, AE 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 3-8.4, along with the operational and maintenance plans.
- 3) *Manufactured Homes.*
 - a) New or 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 Section 2-1.6 of this Ordinance.

- b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, 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.
 - c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 7-5.8 (B)(4)(a), (b), and (c).
 - d) 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 Floodplain Administrator and the local Emergency Management coordinator.
- 4) *Elevated Buildings*. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- a) 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;
 - b) Shall be constructed entirely of flood resistant materials to the top of any enclosure below the lowest floor;
 - c) Shall include, in Zones A, 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 (2) 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 (1) 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.

5) *Additions/Improvements.*

- a) 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.
- b) 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.
- c) 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.
- d) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

6) *Recreational Vehicles.* Recreational vehicles shall either:

- a) Be on site for fewer than one hundred eighty (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

- b) Meet all the requirements for new construction.
- 7) *Temporary Non-Residential Structures.* Prior to the issuance of a Floodplain Development Permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;
- a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
 - b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - c) 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);
 - d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- 8) *Accessory Structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - b) Accessory structures shall not be temperature-controlled;
 - c) Accessory structures shall be designed to have low flood damage potential;
 - d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e) Accessory structures shall be firmly anchored in accordance with Section 7-5.8(A)(1);
 - f) All service facilities such as electrical shall be installed in accordance with Section 7-5.8(A)(4); and
 - g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with Section

7-5.8(B)(4)(c).

An accessory structure with a footprint less than one hundred fifty (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 Section 3-8.4.

(Amd. of 5-17-07)

7-5.9. Standards for Floodplains without Established Base Flood Elevations.

(A) Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 7-5.3(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 7-5.8(A) and (B), shall apply:

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 (5) 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 one of the following criteria set in priority order:

- 1) If 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 Section 9-7.3 (11 & 12).
- 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 per Section 7-5.3(B) to be utilized in implementing this Ordinance.
- 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, as defined in Section 2-1.6.

(Amd. of 5-17-07)

7-5.10. Standards for Riverine Floodplains with BFE but Without Established Floodways or Non-Encroachment Areas.

Along rivers and streams where BFE data is provided 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 outlined in Sections 7-5.8(A) and (B); 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.

(Amd. of 5-17-07)

7-5.11. Floodways and Non-Encroachment Areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 7-5.3(B). 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 Sections 7-5.8(A) and (B), shall apply to all development within such areas:

- (A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:
- 1) 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 Floodplain Administrator 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 Section 7-5.11(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.
- (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 Section 7-5.8(B)(3); and
 - 2) The no encroachment standard of Section 7-5.11(A).
- (D) *Permitted Uses:* The following uses shall be permitted within the floodway zone to the extent that they are otherwise permitted by this Ordinance and provided that they do not employ structures or fill except as specified herein:
- 1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, quarrying, wildlife and related uses;

- 2) Ground level loading areas, ground level automobile parking areas, rotary aircraft ports and other similar industrial and commercial uses;
- 3) Tractor-trailer parking, provided that no trailers shall be detached from tractors;
- 4) Lawns, gardens, play areas, and other similar uses;
- 5) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space and other similar private and public recreational uses;
- 6) Streets, bridges, utility lines, storm drainage facilities, sewage or waste treatment facilities, water supply facilities, and other similar public or private utility uses, but only if the proposed activity combined with the allowable encroachment of the floodway fringe and with any previously placed or previously approved encroachment in the complies with the provisions of Section 7-5.11(A);
- 7) Temporary facilities such as displays, circuses, carnivals, or similar transient amusement enterprises;
- 8) Boat docks, ramps, piers, or similar structures;
- 9) Grading, as it complies with the provisions of Section 7-5.11(A); and
- 10) Cantilevered portions of structures, provided that foundation and supports are located outside the floodway zone and the underside of the cantilevered portion is at least two (2) feet above Base Flood Elevation.

(E) *Prohibited Uses:* Storage or processing of materials that are flammable, corrosive, toxic, or explosive, or which could otherwise be injurious to human, animal or plant life in time of flood is prohibited in the floodway zone.

(Amd. of 5-17-07)

ARTICLE 1
PURPOSE AND AUTHORITY

1-1 SHORT TITLE

This Ordinance shall be known and may be cited as the “Guilford County Development Ordinance,” except as referred to herein, where it shall be known as “this Ordinance.”

1-2 REPEALS AND ENACTMENT

1-2.1 Repeal of Inconsistency

All ordinances, or portions thereof, of Guilford County, which relate to zoning, subdivision, and land use which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

1-2.2 Enactment

This Ordinance is hereby enacted and shall be the Development Ordinance for Guilford County.

1-2.3 Effective Date

This Ordinance shall become effective on January 1, 1992.

1-3 PURPOSE

1-3.1 General Purpose

It is the purpose of this Ordinance to promote the health, safety, morals, and general welfare of the residents of Guilford County through the regulations of this Ordinance.

1-3.2 Zoning Regulation Purpose

The zoning regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Lessen congestion in the streets;
- (B) Secure safety from fire, panic and other dangers;
- (C) Provide adequate light and air;
- (D) Prevent the overcrowding of land;
- (E) Avoid undue concentration of population;
- (F) Facilitate the adequate and economic provision of transportation, water, sewage, schools, park, and other public services;

- (G) Protect water quality within watershed critical areas and/or designated municipal watersheds;
- (H) Preserve and enhance visual attractiveness and economic vitality; and
- (I) Require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and ensure adequate distance from dust, noise and fumes created by vehicular traffic.
- (J) Establish a zoning vested right upon the approval of a site specific development plan pursuant to NCGS 153A-344.1

1-3.3 Cluster and Zero Setback Regulation Purpose

The single family dwelling cluster and zero side setback regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Encourage innovation in residential development by providing efficient, attractive, flexible and environmentally sensitive design;
- (B) Lower the costs of housing by reducing the lot size and the per dwelling unit linear footage of streets, water lines, storm sewers and sanitary sewers;
- (C) Reduce the future cost of infrastructure maintenance and, therefore, the burden upon taxpayers and ratepayers;
- (D) Encourage development in areas which have major streets and utility lines in place, but are experiencing little or no development;
- (E) Protect water quality, preserve wildlife habitats, and protect natural features such as streams, lakes, wetlands, and trees; and
- (F) Reduce the amount of grading necessary for site preparation.

1-3.4 Planned Unit Development Purpose

The planned unit development regulations, adopted and prescribed in this ordinance, are found by the Governing Body to be necessary and appropriate to:

- (G) Promote all of the purposes listed in Section 1-3.3 (Cluster and Zero Side Setback Regulation Purpose);
- (H) Allow diversification of uses in developments intended as cohesive, unified projects;
- (I) Allow variation in the relationship of residential and nonresidential uses and structures in such cohesive, unified projects;
- (J) Reduce travel time by providing opportunities for employment and services closer to residences; and
- (K) Encourage innovation by offering flexibility to design and layout requirements to achieve a greater choice of living and working environments.

1-3.5 Historic District Overlay Purpose

The historic district overlay regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Protect, safeguard and conserve the heritage of the community;
- (B) Promote the sound and orderly preservation of historic areas as a whole, and of the individual properties therein, which embody important elements of social, economic, political or architectural history for the education, pleasure and enrichment of all citizens; and
- (C) Enhance property values within historic areas.

1-3.6 Scenic Corridor Overlay Purpose

The scenic corridor overlay regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Preserve and enhance the appearance and operational characteristics of certain designated roadways; and
- (B) Address development issues of special concern with specific requirements which relate to land use, traffic movement, access, environment, signage, landscaping, visual quality and aesthetics.

1-3.7 Manufactured Housing Overlay Purpose

The manufactured housing overlay regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Provide alternative, affordable housing opportunities for low and moderate income residents in residential areas by allowing for the use of manufactured dwellings;
- (B) Establish requirements designed to assure acceptable similarity in exterior appearance between manufactured dwellings and single family dwellings that have been or might be constructed on adjacent or nearby lots; and
- (C) Protect property values and preserve the character and integrity of the community or individual neighborhoods within the community.

1-3.8 Subdivision Regulation Purpose

The subdivision (including group development) regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Promote orderly growth and development;
- (B) Provide for suitable residential and nonresidential developments with adequate streets and utilities and appropriate building sites;
- (C) Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
- (D) Provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities;

- (E) Provide for the dedication or reservation of rights-of-way or easements for street and utility purposes;
- (F) Provide for the dedication or reservation of adequate spaces for public lands and buildings;
- (G) Encourage design that is protective of environmental quality;
- (H) Provide for the dedication or reservation of recreation, park and greenway areas; and
- (I) Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

1-3.9 Sign Regulation Purpose

The sign regulations, adopted and prescribed in the Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Encourage the effective use of signs as a means of visual communication;
- (B) Promote a positive community appearance for the enjoyment of all citizens;
- (C) Maintain and enhance the aesthetic environment and the community's ability to attract sources of economic development and growth;
- (D) Protect the public from damage or injury attributable to distractions and/or obstructions caused by improperly designed or located signs; and
- (E) Protect existing property values in both residential and nonresidential areas.

1-3.10 Off-Street Parking, Stacking, and Loading Regulation Purpose

The off-street parking, stacking, and loading regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Ensure a sufficient amount of off-street parking, stacking, and loading areas for various land uses;
- (B) Ensure easy, convenient circulation of vehicles within parking and loading areas;
- (C) Minimize the potential for conflict with traffic on public streets; and
- (D) Permit the shared use of parking areas by establishments and/or activities which have different hours of operation.

1-3.11 Planting Yard Purpose

The planting yard regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Create a better quality of life for the community by encouraging preservation of existing trees and vegetation;
- (B) Provide visual buffering and enhance beautification;
- (C) Establish appropriate separation between land uses;

- (D) Provide the separation necessary to permit certain land uses to coexist harmoniously which might not do so otherwise;
- (E) Safeguard and enhance property values and protect public and private investment;
- (F) Enhance the community's competitive position in economic development and tourism by improving views, particularly along streets;
- (G) Reduce the negative impact of glare, noise, trash, odors, overcrowding, traffic, lack of privacy, and visual disorder when incompatible land uses adjoin one another; and

1-3.12 Watershed Protection Purpose

The watershed protection regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Protect those portions of designated water supply watersheds which lie closest to existing and proposed water supply reservoirs from activities which could degrade water quality in the reservoirs;
- (B) Reduce the volume of nutrients and other chemicals which could enter the water supply by reducing the amount of runoff which any given development will generate;
- (C) Minimize land disturbance to reduce the amount of sediment washing into streams and lakes and to enhance the infiltration of runoff into soil, thus alleviating the sedimentation of water supply lakes which reduces their storage capacity, shortens their useful life, and makes them less able to withstand drought;
- (D) Reduce the probability of the release of harmful chemicals into water supply reservoirs, either through natural catastrophe or human error; and
- (E) Provide for natural and engineered methods for managing the storm water which flushes contaminants off of built-upon areas in the designated water supply watersheds and which may reach water supply reservoirs unless controlled.

1-3.13 Soil Erosion and Sedimentation Control Purpose

The soil erosion and sedimentation control regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate to:

- (A) Regulate certain land-disturbing activity to control accelerated erosion and sedimentation to prevent the pollution of water and other damage to lakes, watercourses and other public and private property by sedimentation; and
- (B) Establish procedures through which the purposes of soil erosion and sedimentation control can be fulfilled.

1-3.14 Flood Damage Prevention Purpose

The flood damage prevention regulations, adopted and prescribed in this Ordinance, are found by the Governing Body to be necessary and appropriate in order to:

- (A) Permit only that development within the floodplain which is appropriate in light of the probability of flood damage and which represents a reasonable social and economic use of land in relation to the hazards involved; and

- (B) Minimize public and private losses due to flood conditions in specific areas by enactment of provisions designed to:
- 1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
 - 4) Control filling, grading, dredging and other development which may increase erosion or flood damage;
 - 5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
 - 6) Protect human life and health;
 - 7) Minimize expenditure of public money for costly flood control projects;
 - 8) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - 9) Minimize prolonged business interruptions;
 - 10) Minimize damage to public facilities and utilities such as water, sewer, gas, electric, and telephone lines and streets and bridges located in flood plains;
 - 11) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
 - 12) Permit and encourage the retention of open land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the community and which will not impede the flow of flood waters; and
 - 13) Ensure that potential buyers are notified whenever property is in a flood hazard area.

1-3.15 Rural Preservation Purpose

The rural preservation district regulations, adopted and prescribed in this ordinance are found by the Governing Body to be necessary and appropriate to:

- (A) Preserve area with productive soils for continued agricultural and forestry use by preserving blocks of land large enough to allow for efficient operations;
- (B) Preserve areas containing unique and sensitive natural features such as wildlife habitats, migration corridors, steep slopes, streams, wetlands, ground water recharge areas, and floodplains;
- (C) Minimize land disturbance and erosion through retention of existing vegetation and reduction of infrastructure needs;

- (D) Preserve scenic views and elements of the county's rural character including historic and archaeological sites and structures;
- (E) Provide for the active and passive recreational needs of residents;
- (F) Provide for greater efficiency in the siting of services and infrastructure by reducing street length and utility extensions, thus lowering the cost of housing and future cost of infrastructure maintenance; and
- (G) Create compact neighborhoods accessible to open space amenities and with a strong identity.

1-4 JURISDICTION

1-4.1 Coverage

The provisions of this Ordinance shall apply to all the territory encompassed in Guilford County, North Carolina herein referred to as "the Jurisdiction," except for those areas within incorporated municipalities and their extraterritorial jurisdiction, and property owned by the Greensboro-High Point-Winston-Salem Airport Authority. This Ordinance shall govern the development and use of land and structures therein, except for farm land and structures as provided for by NCGS 153A (Counties).

1-4.2 Establishment of Zoning

If for any reason property not previously zoned by the Jurisdiction is found to be unzoned or de-annexed, the County shall initiate an original zoning map amendment for the property. Such zoning shall be established within sixty (60) days of the property becoming unzoned. Zoning must be established before any development of the property can occur. The property owner may initiate a zoning map amendment at any time after the County has established original zoning.

1-5 AUTHORITY

This Ordinance is adopted pursuant to portions of one or more of the following authorities in NCGS: Chapter 63 (Aeronautics), Chapter 69 (Fire Protection), Chapter 74 (Environmental Controls), Chapter 95 (Department of Labor and Labor Regulations), Chapter 106 (Agricultural Regulations), Chapter 113A (Pollution Control and Environment), Chapter 119 (Gasoline and Oil Inspection and Regulations), Chapter 121 (Environmental Controls), Chapter 130A (Public Health), Chapter 133 (Public Works), Chapter 136 (Roads and Highways), Chapter 143 (State Departments, Institutions, and Commissions), Chapter 153A (Counties), Chapter 157 (Housing Authorities), Chapter 168 (Handicapped Persons). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

1-6 ABROGATION

This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law.

1-7 INTERPRETATION OF ORDINANCE

1-7.1 Minimum Requirements

In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

1-7.2 Greater Restrictions Govern

These regulations shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this Ordinance. If any federal or state law or any other existing ordinance or regulation allows lesser regulation this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority through regulation, rule or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of this Ordinance, no land shall be developed or used, and no structure shall be erected or maintained in violation of any state or federal regulation.

1-7.3 Rounding of Numbers

All calculations that result in a part or fraction of a whole number shall be rounded up to the next highest whole number, unless otherwise provided in this Ordinance.

1-7.4 Density

(A) Rounding: In calculating density, all calculations that result in a part or fraction of a whole number shall be rounded down to the next lowest whole number.

(B) Dwelling Unit Equivalence:

- 1) Congregate Care Facilities and Private Dormitories: For the purpose of calculating density for congregate care facilities and private dormitories, two (2) bedrooms shall be equivalent to one (1) dwelling unit.
- 2) Single Room Occupancy (SRO) Residences: For the purpose of calculating density for single room occupancy (SRO) residences, a rooming unit of less than one hundred and fifty (150) square feet shall be equivalent to one-half (1/2) a dwelling unit and a rooming unit of one hundred and fifty (150) square feet or more shall be equivalent to one (1) dwelling unit.

1-7.5 Figures

The figures provided in this Ordinance are designed to provide a visual explanation to selected Sections of the Ordinance. If any illustration appears to be in conflict with the text of the Ordinance, the text shall govern.

1-8 RULES OF CONSTRUCTION

1-8.1 Word Interpretation

Words not defined in this Ordinance shall be given their ordinary and common meaning.

1-8.2 Rules of Construction

For the purposes of this Ordinance, the following rules of construction shall apply:

(A) Tense: Words used in the present tense include the future tense;

(B) Singular and Plural: Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise;

(C) Mandatory Meaning: The words “shall,” “will,” and “must” are mandatory in nature implying an obligation or duty to comply with the particular provision;

(D) Gender: Words used in the male gender include the female gender; and

(E) References: Any reference to an Article or Section shall mean an Article or Section of this Ordinance, unless otherwise specified.

1-9 COMPLIANCE

1-9.1 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified, except as authorized by this Ordinance.

1-9.2 Voluntary Compliance

Nothing in this Section shall be deemed to preclude voluntary compliance with the provisions of this Ordinance for development approved prior to the effective date of this Ordinance.

1-9.3 Conformance with Requirements

Except as herein provided, no applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments which have received Technical Review Committee or staff approval, Enforcement Officer approval, or a building permit prior to the effective date of this Ordinance, may proceed in accordance with such approval or permit while such approval or permit remains in effect.

1-10 RELATION TO THE COMPREHENSIVE PLAN

The administration, enforcement and amendment of this Ordinance shall be accomplished with consideration of recommendations presented in the documents comprising the Comprehensive Plan. These documents include, but are not limited to the following: land use plan, thoroughfare plan, collector street plan, small area plans, community facilities plan, capital improvement plan, economic development strategies, housing assistance plan, recreation plan, greenways plan, drainage and open space plan and watershed management plan.

1-11 ESTABLISHMENT OF OFFICIAL ZONING MAP

1-11.1 Official Zoning Map

The Jurisdiction is hereby divided into zones, or districts, as established in Article IV (Zoning).

1-11.2 Map Certification

The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, attested by the Clerk, and bear the seal of the Jurisdiction, together with the effective date of this Ordinance.

1-11.3 Map Changes

If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

1-11.4 Unauthorized Changes

No changes in zoning district boundaries shall be made on the Official Zoning Map, except in conformance with the procedures set forth in this Ordinance. Any unauthorized change shall be considered a violation of this Ordinance.

1-11.5 Map Location

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the Planning Department, shall be the final authority as to the current zoning of property within the Jurisdiction.

1-11.6 Map Damage and Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Governing Body may by resolution adopt a replacement Official Zoning Map which shall supersede the prior Official Zoning Map. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.

1-11.7 Replacement of Official Zoning Map

The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map; or any subsequent amendment thereof. The replacement Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, be attested by the Clerk, and bear the seal of the Jurisdiction.

1-12 INTERPRETATION OF DISTRICT BOUNDARIES

1-12.1 Boundary Interpretation

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:

- (A) Centerline: Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility easement.
- (B) Edge Line: Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated road bed or utility easement.
- (C) Lot Line: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each

part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

- (D) City Limits: Boundaries indicated as approximately following city limits or extraterritorial boundary lines shall be construed as following the city limits or extraterritorial boundary lines.
- (E) County Line: Boundaries indicated as approximately following county lines shall be construed as following the county line.
- (F) Watercourses: Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (G) Extensions: Boundaries indicated as parallel to, or as extensions of street or alley rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, city limits, county lines, or extraterritorial boundaries, shall be so construed.
- (H) Scaling: Where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance, the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Zones, Corps of Engineers work maps, if available, shall be used for scaling.
- (I) Watersheds: Outer boundaries of General Watershed Area districts indicated as approximately following ridge lines or streets shall be construed to follow ridge lines (the actual drainage basin boundaries). Watershed Critical Area district outer boundaries not forming the inner boundaries of General Watershed Area districts shall be construed in the same manner. Boundaries between General Watershed Area districts and Watershed Critical Area districts indicated as approximately following major landmarks (identifiable major features) such as streets shall be construed to follow the centerlines of such features or, where applicable, the projections of the centerlines of such features.

1-12.2 Interpretation by Board of Adjustment

Where existing natural or man-made features on the ground are at variance with those shown on the Official Zoning Map, or are not covered by Section 1-12.1 (Boundary Interpretation), the Board of Adjustment shall interpret the district boundary.

1-12.3 Annexation

If any portion of the territory subject to county jurisdiction under this Ordinance shall be annexed by a municipality, or taken into a municipality's extraterritorial jurisdiction by act of the General Assembly, or in accordance with NCGS 160A, Article 4A or NCGS 160A-360, county regulations and powers or enforcement shall remain in effect until:

- (A) The municipality has adopted regulations for said annexed or extraterritorial area; or
- (B) A period of sixty (60) days has elapsed following the effective date of annexation or extension of extraterritorial jurisdiction.

1-13 SEVERABILITY

1-13.1 Invalidation

Should any Section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a Court of competent jurisdiction of either the State of North Carolina or the

United States, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

1-13.2 Prejudicial Application

If any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

1-13.3 Lawful Presumption

There shall be a conclusive presumption when an Enforcement Officer or board authorizes regulatory action, that such officer or board would not have authorized such action except in the belief that such action was lawful.

ARTICLE V
SUBDIVISION: PROCEDURES AND STANDARDS

5-1. – EXCLUSION DETERMINATION.

If a proposed division of land meets one (1) or more of the exclusions under the definition of "Subdivision" in Article II (Definitions), the owner may submit to the Planning Department maps, deeds, or other materials in sufficient detail to permit a conclusive determination by the Enforcement Officer.

5-2. - COORDINATION WITH OTHER PROCEDURES

To lessen the time required to attain all necessary approvals and to facilitate the processing of applications, an applicant may start the subdivision approval process simultaneously with applications for grading permits or other applications for approvals required for the particular project.

5-3. - SUBMISSION OF PLANS

Applications for subdivision approval, including Group Development approval, shall be submitted to the Planning Department. Subdivision requiring Technical Review Committee approval shall be presented to the Planning Department at least seven (7) days prior to the next scheduled meeting of the Technical Review Committee. All fees shall be due and payable when the Preliminary Plat is submitted according to the Schedule of Fees.

5-4. - APPROVAL REQUIRED

5-4.1. - Date of Compliance.

After the effective date of this Ordinance, no plat for the subdivision of land within Guilford County shall be filed, accepted for recording, or recorded, nor shall the Clerk of the Superior Court order the recording of a plat until it has been submitted to and approved by the Jurisdiction. (See definition of "Subdivision" in Article II for exclusions.)

5-4.2. - No Subdivision Without Approval.

No real property, including property declared under the N.C. Condominium Act NCGS 47C-1 et seq., lying within the Jurisdiction as now or hereafter fixed shall be subdivided except in conformance with all applicable provisions of this Article. Violation of this Section shall be a misdemeanor.

5-4.3. - Dedication and Acceptance.

- (A) **Rights-of Way and Easements:** The approval and recordation of a plat constitutes dedication to and acceptance by the Jurisdiction and the public of the right-of-way of each public street, alley, or utility or drainage easement shown on such plat. The approval and recordation of a plat does not constitute acceptance for maintenance responsibility within such right-of-way or easement. Improvements within such right-of-ways or easements, such as utility lines, street paving, drainage facilities or sidewalks may be accepted for maintenance by the Governing Body or by the administrative officer authorized to inspect and, where appropriate, accept the dedication of such improvements.

(B) Open Space: Land designated as public open space on a plat shall be considered to be offered for dedication until such offer is accepted by the Jurisdiction. The offer may be accepted by the Jurisdiction through:

- 1) Express action by the Governing Body;
- 2) Express action by an administrative officer designated by the Governing Body; or
- 3) Conveyance of fee simple marketable title (unencumbered financially and environmentally) of the property to the Jurisdiction at the time of Final Plat recordation.

Until such dedication has been accepted, land so offered may be used for open space purposes by the owner or by the owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

5-4.4. - Re-Platting.

Lots that have been labeled as "Non-buildable," "No Improvement Permit has been issued," "No certification for Sewage Treatment has been given for this lot" or otherwise identified as unsuitable for building purposes at the time of plat recordation must be re-platted before any building permit on the lot can be issued. Re-platted lots described above or re-platting of lots to remove or relocate easements created through the subdivision process shall follow the approval procedures defined in this Article, but shall not be subject to Section 5-13 concerning the dedication of property for street right-of-way or open space. The approval process may be abbreviated for the re-platting of lots.

5-5. - PRE-APPLICATION PROCEDURES

5-5.1. - Conference.

In the interest of efficiency and economy, every subdivision applicant is strongly encouraged to schedule a preverification conference with the Planning Staff prior to the submission of a Preliminary Plat.

5-5.2. - Sketch Plan.

- (A) Required for Staff Review: A Sketch Plan is required for staff review whenever adjoining land is owned by the subdivider seeking approval of a Major Subdivision.
- (B) Required for Technical Review Committee Approval: A Sketch Plan is required for Technical Review Committee approval for any subdivision of property that involves more than fifty (50) lots, or utilizes Off-site Sewage Treatment, or a Community Sewage Treatment System. Procedures for approval shall correspond to the procedures found in Section 5-6 (Preliminary Plat).
- (C) Preparation: The Sketch Plan shall be prepared in accordance with Appendix 2 (Map Standards) and submitted to the Planning Department.

5-6. - PRELIMINARY PLAT

5-6.1. - Required.

A Preliminary Plat shall be required for all subdivisions, including Group Developments. Except that, when existing developments are converted from multifamily residential or group developments to condominium unit ownership, the developer shall submit a declaration of unit ownership, owners association declaration, and a Final Plat for approval in accordance with Section 5-10 (Final Plat).

5-6.2. - Preparation.

The Preliminary Plat shall be prepared by a registered land surveyor, registered landscape architect, registered architect, or licensed engineer, and shall be prepared in accordance with Appendix 2 (Map Standards).

5-6.3. - Preliminary Plat Approvals.

All subdivision plats shall meet the following requirements before being approved. Approval may be granted to Minor Subdivisions by the Planning Department or on appeal the Technical Review Committee. Major Subdivisions must be reviewed and may be granted approval by the Technical Review Committee as provided for in Sections 5-6.4 and 5-6.5.

- (A) Plat Compliance: The plat shall meet all requirements of Section 5-13 and Appendix 2.
- (B) Sewage Treatment:
 - 1) If the subdivision is to be served or required to be served by Public Sewer under Section 5-13.6(A), the subdivider shall submit a letter from the jurisdiction providing the sewer service indicating that service is available to the site.
 - 2) If the subdivision proposes or has existing On-site or Off-site Sewage Treatment, such treatment system shall be indicated for each lot on the Sketch plan or Preliminary plat. Off-site Sewage Treatment areas must be shown on the Sketch Plan or Preliminary Plat and conform to Section 4-9 Special Purpose Lots. Community sewage treatment systems are not permitted in Minor Subdivisions located in the AG or RS zoning districts, unless the system serves a Group Development or non-residential development. Community Sewage Treatment areas must be shown on the plan as a Special Purpose Lot in conformance with Section 4-9 or as common area controlled by an Owner's Association under the provisions found in Section 5-9
 - 3) Subsequent approvals are required for lots served by public sewer under Section 5-7 and for lots served by On-site, Off-site, or Community Sewage Treatment under Section 5-6.8
- (C) Zoning District Compliance: The development must be zoned correctly prior to preliminary plat approval.

5-6.4. - Submission To TRC.

The Planning Department shall present Major Subdivisions and appealed Minor Subdivision cases to the Technical Review Committee at its next meeting. The Technical Review Committee shall review the Preliminary Plat for compliance with existing regulations. This review shall be made by the members of the Technical Review Committee and by any other agencies or officials by referral or as required by NCGS 153-332.

5-6.5. - Action By Technical Review Committee.

- (A) Timing: The Technical Review Committee shall take action within thirty (30) days of reviewing the Preliminary Plat.
- (B) Approval: If the Preliminary Plat is approved, the applicant may proceed toward Final Plat approval.

- (C) Conditional Approval: If the Preliminary Plat is granted conditional approval, the applicant shall cause the plat to be revised, based upon the conditions of the approval and resubmitted. The Planning Department shall review the revised plat and, if it meets all the approval conditions and is otherwise substantially unaltered, shall signify on the plat the change from conditional approval to approval. If the plat is not revised within sixty (60) days to meet the approval conditions or the applicant notifies the Planning Department that he is unwilling to revise the plat, it shall be deemed denied.
- (D) Denials: If the Preliminary Plat is denied the reasons shall be stated in writing. The applicant may revise and resubmit a plat which has been denied. Decisions of the Technical Review Committee may be appealed to the Planning Board within thirty (30) days of the Technical Review Committee decision.

5-6.6. - Action By Planning Board.

If a Preliminary Plat is appealed to the Planning Board it shall be reviewed at the next regularly scheduled meeting. The Planning Board may approve, grant conditional approval, or deny the plat in accordance with the procedures found in Section 5-6.5 (Action by Technical Review Committee).

5-6.7. - Appeals

If the plat is granted conditional approval, or denied, or if no action is taken within thirty (30) days by the Technical Review Committee the applicant may appeal the plat to the Planning Board within fifteen (15) days after denial, conditional approval, or lack of action by the Technical Review Committee. If the plat is denied, or granted conditional approval, or if no action is taken by the Planning Board the applicant may appeal the plat to the Governing Body within fifteen (15) days after the Planning Board decision. The Governing Body shall approve, grant conditional approval, or deny the plat.

5-6.8. - Evaluation of Sewage Treatment Systems.

- (A) Required Approval:
 - 1) On-site and Off-site Sewage Treatment Systems: Prior to approval of a Final Plat, subdivisions shall be approved by the Guilford County Environmental Health Division following subsection (B) below; or certified by a licensed Soil Scientist following subsection (C) below.
 - 2) Community Sewage Treatment: The Guilford County Environmental Health Division shall approve a Community Sewage Treatment system for any subdivision or use the following procedures in Subsection (D) below.
 - 3) Existing Sewage Systems: All lots with an existing sewage treatment system(s) must be checked by the Environmental Health Division for presence of malfunction. Application for the system check shall be made with the Environmental Health Division after preliminary plat approval. The plat must then be released by the Environmental Health Division prior to recordation.

- (B) Environmental Health Division: Once a subdivision plat utilizing On-site or Off-site Sewage Treatment receives preliminary approval from the Enforcement Officer or Technical Review Committee approval must be obtained from the Environmental Health Division of the Guilford County Health Department before Final Plat approval. [Refer to Section 5-13.6 Subdivision Improvements-Utilities-Water and Sewer Connections]. The following approval procedures by the Environmental Health Division shall be utilized:
- 1) After preliminary plat approval, a plot plan for each lot shall be submitted. Each plot plan must contain the information required by Appendix 2 (Map Standards) and be accompanied by fee payment and a signed Improvement Permit Application.
 - 2) If the lot is determined to be suitable for an On-site or Off-site Sewage Treatment System, a certificate pursuant to Appendix A-3 (H) will be entered on a copy of the approved preliminary plat.
 - 3) If any lot is evaluated and rated unsuitable or the property owner does not choose to have the lot(s) evaluated for sewage treatment, the lot shall be crosshatched and labeled "NO IMPROVEMENT PERMIT HAS BEEN ISSUED FOR THIS LOT." Information on denied lots, or lots not evaluated will be the only information shown on the Preliminary Plat.
 - 4) The Environmental Health Manager will sign and date each Preliminary Plat prior to its return to the land surveyor, landscape architect, or licensed engineer for Final Plat preparation.
- (C) Soil Scientist: Once a subdivision that is being certified by a Soil Scientist for On-site or Off-site Sewage Treatment receives preliminary approval from the Enforcement Officer or the Technical Review Committee, a Soil Suitability Report sealed the by Soil Scientist containing the following information shall be provided to the Planning Department prior to approval of the Final Plat:
- 1) Two copies of the approved preliminary plat indicating:
 - a) The soil units delineated and coded with accompanying legend to describe suitability for on-site sewage disposal systems and
 - b) A listing of square footage of each soil unit contained on each lot.
 - 2) When the evaluation was conducted, status of site improvements (i.e. street construction, utility installation, etc.) and under what soil moisture conditions.
 - 3) What methods were used to evaluate the site (i.e. auger, pits, etc.).
 - 4) General description of soil parent material(s).
 - 5) Soil description of each soil map unit.

If any lot is evaluated and rated unsuitable or the property owner does not choose to have the lot(s) evaluated for sewage treatment, the lot shall be crosshatched and labeled "NO CERTIFICATION FOR SEWAGE TREATMENT HAS BEEN ISSUED FOR THIS LOT."

- (D) Community Sewage Treatment: The Guilford County Environmental Health Division or the North Carolina Department of Environmental and Natural Resources (NCDENR) shall approve a Community Sewage Treatment System for any subdivision or use using such system. Such approval shall be based upon a soil suitability report prepared in accordance with NCDENRDEH, On-site Wastewater Section, Laws and Rules for Sewage Treatment and Disposal Systems, Sections .1940—.1948.

5-7. - STREET AND UTILITY CONSTRUCTION**5-7.1. - Plans.**

Street and utility construction plans for all street, water, sanitary sewer, and storm sewer facilities shall be submitted to the Jurisdiction following Preliminary Plat approval. For each subdivision section, the street and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section.

5-7.2. - No Construction Without Plan Approval

None of the improvements listed above shall be constructed until the street and utility construction plans for such improvements have been reviewed and approved by the Jurisdiction.

5-7.3. - Inspection.

Work performed pursuant to approved street and utility construction plans shall be inspected and approved by the Jurisdiction.

5-8.- PERMANENT RUNOFF CONTROL STRUCTURES AND SOIL EROSION AND SEDIMENTATION CONTROL DEVICES INSTALLATION**5-8.1. - Soil Erosion and Sedimentation Control Devices.**

Any approved soil erosion and sedimentation control device(s) may be installed prior to approval of street and utility construction plans.

5-8.2. - Permanent Runoff Control Structures.

- (A) **Coordination with Streets and Utilities:** Any approved permanent runoff control structure may be installed prior to approval of street and utility construction plans. Such plans shall show the location of existing or proposed runoff control structures relative to the proposed improvements to avoid conflicts during street and utility construction.
- (B) **Design and Construction:** Runoff control structures shall be designed and installed in accordance with the requirements of Section 7-1 (Stormwater Management/Watershed Protection Districts).
- (C) **Owners' Association Required:** When a permanent runoff control structure serves more than one (1) lot within a subdivision, an owners' association shall be required for the purposes of ownership and maintenance responsibility.
- (D) **Maintenance Responsibility:** The owners' association shall be responsible for maintaining the completed permanent runoff control structure as directed by the governmental office having jurisdiction for watershed protection and, if the owners' association should be dissolved or cease to exist, then in that event all the owners of record at the time of required maintenance shall be jointly and severally liable for any and all costs attendant thereto.
- (E) **Maintenance Note Required on Final Plat:** When a subdivision contains a permanent runoff control structure to which Subsection (C) above is applicable, each final plat in the subdivision shall contain a prominent note with the full text of Subsection (D) above.

- (F) Plat Recordation: The permanent runoff control structure(s) shall be substantially completed and have full design volume available prior to any plat recordation for the site. This may require the cleanout and disposal of sediment from the pond.

5-9. – OWNERS’S ASSOCIATIONS

5-9.1. - Establishment of Owner's Association.

- (A) Creation: An Owner's Association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all common areas and facilities within a development containing common areas.
- (B) Conveyance: Where developments have common areas or facilities serving more than one (1) dwelling unit, these areas shall be conveyed to the Owner's Association in which all owners of lots in the development shall be members. All areas other than public street rights-of-way, other areas dedicated to the Jurisdiction, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the Owner's Association.
- (C) Subdivision or Conveyance of Common Area: Common areas shall not be subsequently subdivided or conveyed by the Owner's Association, unless a revised Preliminary Plat and a revised Final Plat showing such subdivision or conveyance have been submitted and approved.
- (D) Owner's Association Not Required: Developments involving only two (2) units attached by a party wall shall not be required to have common areas or an Owner's Association. Developments with only two (2) units attached and not having an Owner's Association shall have an agreement between owners concerning maintenance of party walls.

5-9.2. - Submission of Owner's Association Declaration.

Prior to or concurrently with the submission of the Final Plat for review and approval, the subdivider shall submit a copy of the proposed Bylaws of the Owner's Association containing covenants and restraints governing the Association, plats, and common areas. The restrictions shall include, (but not be limited to), provisions for the following:

- (A) Existence Before Any Conveyance: The Owner's Association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.
- (B) Membership: Membership in the Owner's Association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions shall be made for the assimilation of owners in subsequent sections of the development.
- (C) Owner's Association Declaration: The Owner's Association declaration shall contain the following items:
 - 1) Responsibilities of Owner' Association: The Owner's Association declaration shall state that association is responsible for:
 - a) The payment of premiums for liability insurance and local taxes;
 - b) Maintenance of recreational and/or other facilities located on the common areas; and
 - c) Payment of assessments for public and private improvements made to or for the benefit of the common areas.

- 2) **Default of Owner's Association:** Upon default by the Owner's Association in the payment to the Jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six (6) months, each owner of a lot in the development shall become personally obligated to pay to the Jurisdiction a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the Jurisdiction by the total number of lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due; the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The taxing or assessing Jurisdiction may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner.
 - 3) **Powers of the Association:** The Owner's Association is empowered to levy assessments against the owners of lots or units within the development. Such assessments shall be for the payment of expenditures made by the Owner's Association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.
 - 4) **Easements:** Easements over the common areas for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of the common areas, and for parking, shall be granted to each lot owner.
 - 5) **Maintenance and Restoration:** Provisions for common area maintenance of and restoration in the event of destruction or damage shall be established.
- (D) **Nonresidential Condominiums:** If the condominium is a nonresidential condominium, the declaration shall contain the following provision:
- "Parking spaces shall be allocated among the individual lots or units in such a manner that each unit is entitled to a sufficient number of parking spaces to comply with this Ordinance for the use intended to be located therein. The Owner's Association shall maintain a register listing the total number of parking spaces in the development and the number of parking spaces allocated to each lot or unit. A copy of this register shall be available to the Enforcement Officer at his request. The Owner's Association shall not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the owner thereof, and in no case shall the number of parking spaces allocated to an individual unit be reduced to a number below that required by this Ordinance."

Article VIII ENFORCEMENT

8-1. - VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by state law.

8-1.1. - Development Without Permit. To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates or other forms of authorization as set forth in this Ordinance.

8-1.2. - Development Inconsistent With Permit.

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

8-1.3. - Violation by Act or Omission.

To violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the governing body or its agent boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

8-1.4. - Use in Violation.

To erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

8-1.5. - Subdivide in Violation.

To subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance.

8-1.6. - Continue a Violation.

Each day's violation of any provision of this Ordinance is a separate and distinct offense.

8-2. - ENFORCEMENT INTENT**8-2.1. - Questions.**

It is the intention of this Ordinance, unless otherwise provided, that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Enforcement Officer and that such questions shall be presented to the Board of Adjustment only on appeal from the Enforcement Officer's decision. An appeal from the decision of the Board of Adjustment shall be by proceedings in the nature of certiorari to the Superior Court as provided by law.

8-2.2. - Governing Body.

It is further the intention of this Ordinance that the duties of the Governing Body in connection with this Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.

8-3. - ENFORCEMENT PROCEDURE

When the Enforcement Officer or his agent finds a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

8-3.1. - Notice of Violation.

If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Enforcement Officer shall give the owner or occupant written notice, by certified or registered mail to his last known address, or by personal service or by posting notice of the violation conspicuously on the property:

- (A) That the land, building, sign, structure, or use is in violation of this Ordinance;
- (B) The nature of the violation, and citation of the section of this ordinance violated; and
- (C) The measures necessary to remedy the violation.

8-3.2. - Appeal

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Enforcement Officer to the Board of Adjustment (unless this Ordinance has specified that another board shall hear the appeal of the violation) within fifteen (15) days following the date of the Notice of Violation. The Board of Adjustment, or other designated board, shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Enforcement Officer in the Notice of Violation shall be final.

8-3.3. - Order of Corrective Action.

If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall make an order in writing to the owner or occupant affirming the violation and ordering compliance.

8-3.4. - Failure to Comply with an Order.

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and Section 8-4 (Remedies). If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

8-4. - REMEDIES

8-4.1. - Injunction.

Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

8-4.2. - Civil Penalties.

Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 8-5 (Civil Penalties—Assessments and Procedures).

8-4.3. - Denial of Permit or Certificate.

The Enforcement Officer may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

8-4.4. - Conditional Permit or Temporary Certificate.

The Enforcement Officer may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

8-4.5. - Stop Work Orders.

Whenever a building, sign, or structure, or part thereof is being constructed, reconstructed, altered or repaired in violation of this Ordinance, the Enforcement Officer may order the work to be immediately stopped. The stop order shall be in writing and directed to the owner, occupant, or person doing the work. The stop order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with NCGS 160A-421 or 153A-361, as applicable, or the NC Building Code.

8-4.6. - Revocation of Permits.

The Enforcement Officer may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

8-4.7. - Criminal Penalties.

Any violation of this Ordinance shall be a misdemeanor or infraction as provided by NCGS 14-4, subject to a maximum fine of five hundred dollars (\$500.00).

8-5. - CIVIL PENALTIES—ASSESSMENT AND PROCEDURES

8-5.1. - Penalties.

Any person who violates any provisions of this Ordinance shall be subject to assessment of a civil penalty in the amount of twenty-five dollars (\$25.00) for the first violation; fifty dollars (\$50.00) for the second violation; one hundred dollars (\$100.00) for the third violation; and two hundred dollars (\$200.00) for the fourth and succeeding violations thereafter. Except that any penalties assessed under subsection 3-14 (C) shall be stayed until all appeals are resolved.

8-5.2. - Notice.

No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 8-3.1 (Notice of Violation). If after receiving a notice of violation under Section 8-3.1, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen (15) days of the date of the notice.

8-5.3. - Responsible Parties.

The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

8-5.4. - Continuing Violation.

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

8-5.5. - Demand for Payment.

The Enforcement Officer shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

8-5.6. - Nonpayment.

If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided, however, if the civil penalty is not paid within the time prescribed, the Enforcement Officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.