

Appendix F

– Ordinances

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1. Riparian Buffers (UDO Section 7.06D)

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D. Buffer Areas.

1. *Buffer Areas* Required.

- a. *Buffer areas* shall be required of any *project* or *subdivision* which abuts the *right-of-way* of I-540, US 1, NC 55 Bypass or any *major thoroughfare* within the Town of Holly Springs and its extra-territorial jurisdiction.
- b. *Buffer areas* shall be required within any *project* or *subdivision* which includes any drainage ways, waterbodies and watercourses, recreational facilities, *open space*, undisturbed buffers, or *riparian buffers* which are required by the regulations of this UDO or other applicable regulations. [Amended Ordinance #13-09]*

Buffer areas shall be required whenever landscape *yard* areas, *greenbelts*, or other areas which are required to be set aside as separate from *lot area*, as in the case of the residential *development options* of Section 2.09 – Development Options, or any other provision of this UDO. [Amended Ordinance #10-11]

2. Types of *Buffer Areas* – *Buffer areas* may include common areas, *greenbelts*, drainage ways, waterbodies and watercourses, recreational facilities, *open space*, undisturbed buffers, or *riparian buffers* which are required by the regulations of this UDO or other applicable regulations. [Amended Ordinance #13-09]*
3. Identification of *Buffer Areas* - *Buffer areas* shall be clearly identified, delineated and labeled on all *construction drawings*, *final plats*, *development plans*, or any site plans or plot plans submitted for a *UDO Permit* or any other form of *development petition* required pursuant to this UDO.
4. Regulation – When *buffer areas* are required, the *buffer areas* shall be subject to the following regulations:
 - a. All *buffer areas* shall be either:
 - (1) deeded to the property owners' association for maintenance as provided for in the covenants and restrictions for the *project* or *subdivision*; or,
 - (2) covered by appropriate documentary assurances acceptable to the *Town Council* to provide for continual maintenance and which includes a clear description of the ownership and maintenance responsibilities for such buffer areas. [Amended Ordinance #04-06]
 - b. Whenever a landscape yard area or *greenbelt* is required to be set aside as a *buffer area*, the *final plat* or other legally binding restriction shall include a statement that plant materials within such *buffer areas* shall not

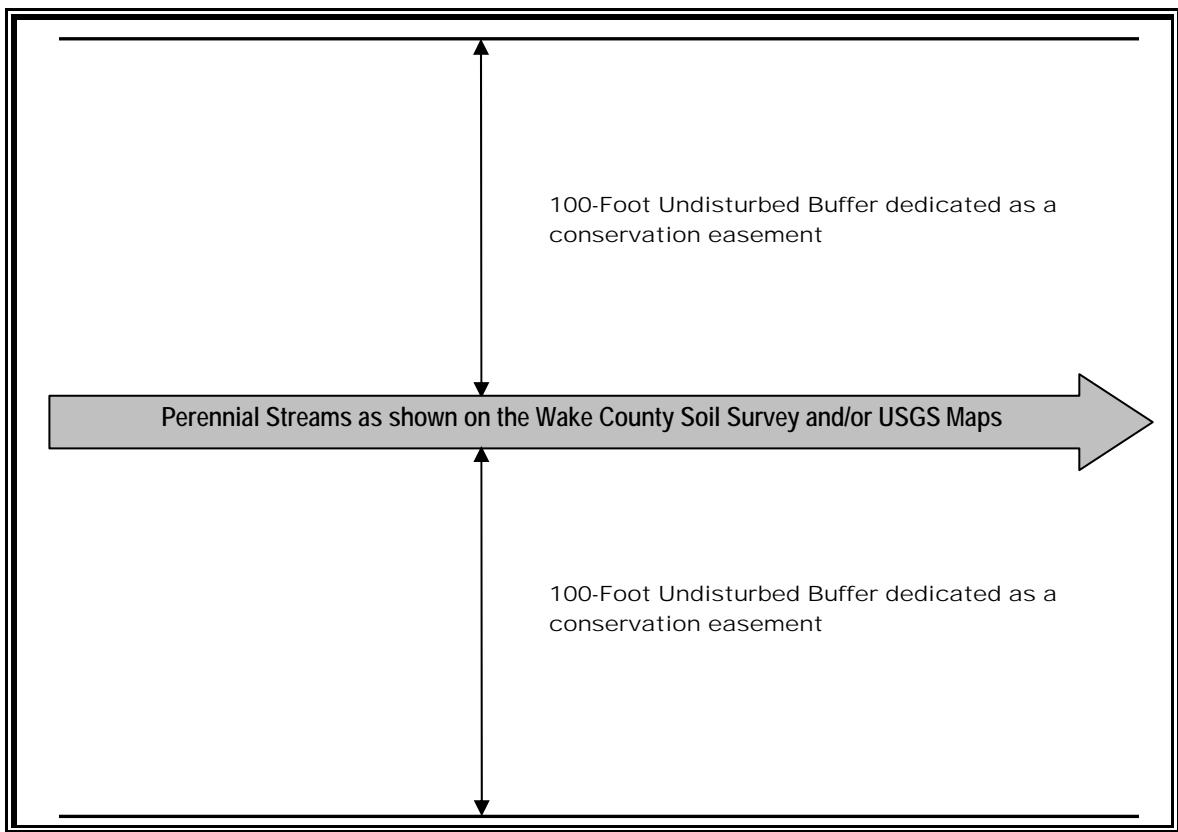
be removed unless dead, diseased or threatens to become a danger to human life or property.

- c. *Buffer areas*, when abutting the *right-of-way* of I-540, US 1, NC 55 Bypass or a *major thoroughfare* shall not be less than the *minimum front yard* and *minimum building setback* for the applicable district, measured from and parallel to such *right-of-way*, and shall be landscaped in accordance with the requirements of Section 7.01 – Landscape Regulations of this UDO.
- d. *Buffer areas*:
 - (1) if zoned to a R-30, R-20, R-15, R-10 or R-8 *district*, shall either:
 - (a) not be allowed to be part of an individual *lot*, or
 - (b) if part of an individual *lot*, shall not be allowed to count toward the minimum *lot area* requirement of the applicable *district*; or,
 - (2) if zoned R-MF-8 *District*, R-MF-15 *District*, any Commercial / Mixed Use *District* or any Industrial *District*, may either:
 - (a) be part of a *lot*, or
 - (b) part of a common area separate from a *lot*.
- e. *Riparian Buffer* – Certain areas within the Town of Holly Springs and its extra-territorial jurisdiction may be subject to the following *Riparian Buffers* regulations: [Amended Ordinance #13-09]*
 - (1) Bass Lake Watershed *Riparian Buffer* Protection– Any proposed *project* or *subdivision* which is located within the Bass Lake Watershed and which includes lands lying within one-hundred (100) feet of any perennial stream within the Bass Lake Watershed shall establish a restricted, undisturbed buffer and conservation easement extending a minimum distance of one-hundred (100) feet from the top of the natural bank on either side of such perennial stream. [Amended Ordinance #13-09]*
 - (a) *Access* to the undisturbed buffer and conservation easement area, via abutting *right-of-way* or other form of access easement deemed acceptable by the *Town Council*, shall be provided on: [Amended Ordinance #04-06]
 - (i) the *final plat*; or,

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(ii) by separate grant of access easement subject to the approval, by resolution, of the *Town Council*.
[Amended Ordinance #04-06]

(b) Delineation of the *Riparian Buffer Zone* - All perennial features indicated on the most recent version of the 1:24,000 scale (7.5 minutes) quadrangle topographic maps prepared by the United States Geological Survey (USGS) and/or on the most recent version of the Soil Survey of Wake County, North Carolina, prepared by the United States Department of Agriculture (USDA) shall provide the 100-foot-wide *riparian buffers* directly adjacent to such surface waters (or features), excluding wetlands. In the event of a discrepancy between these two maps that would affect a required buffer the most restrictive map shall apply. Other perennial surface waters (or Features) shall provide the 100 foot wide undisturbed *riparian buffers* directly adjacent to such surface waters (or features). [Added Ordinance #13-09]*



Riparian Buffer Zone for Perennial Features tributary to Bass Lake.

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(c) Activity within the *Riparian Buffer Zone* [Added Ordinance #13-09]* – The Town of Holly Springs regulates all activity in the entire *riparian buffer* which shall be maintained as an undisturbed buffer, dedicated as a conservation easement, except for the approved uses described below.

(i) All activity in the *Riparian Buffer Zone* shall comply with the following approved and prohibited uses listed below and comply with all Town, State and Federal Regulations. All approved uses must demonstrate that impacts to the undisturbed buffer are designed in a manner to minimize impacts to the maximum extent practicable.

1. Sanitary Sewer Main Outfalls contained in a Utility Easement with access to upland areas outside of the Conservation Easement. Residential Sewer Services must be located outside of the *Riparian Buffer Zone*.
2. Greenway trails contained in a Greenway Easement. Asphalt and other trail materials shall be designed in accordance with the Town of Holly Springs' Engineering Design and Construction Standards.
3. Perpendicular road crossings that have obtained all other Town, State and Federal approvals.
4. Post-Construction Stormwater *Best Management Practices* as required by Chapter 8 Article V of the Town of Holly Springs' Code of Ordinances.

(ii) All other proposed activity in the buffer must obtain a modification or waiver as described in subsection 7.06 e.1.d. of this UDO.

(iii) Timbering is prohibited in the *Riparian Buffer Zone*.

(d) Modifications and *Waivers* of Bass Lake Watershed *Riparian Buffer Areas* [Added Ordinance #13-09]*

(i) In the State regulated Zones NRB1 & NRB2 where obvious conflicts between actual field conditions and USGS and Wake County Soil Survey maps

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exist, appeals may be made to the North Carolina Division of Water Quality, in accordance with the Neuse *Riparian Buffer* Rules, 15A NCAC 2B.0233. If an applicant obtains a map revision, approvals, certifications, permit, or variance by NC Division of Water Quality or the NC Environmental Management Commission, the applicant shall submit all documentation, including corresponding maps, to the Town of Holly Springs, Department of Engineering. Engineering staff will review the information provided by the applicant during the *construction drawing* review process or earlier if the information required is available. The review staff shall ask for additional documentation or recommend approval of the *construction drawings* provided that the *construction drawings* correspond with all of the NC Division of Water Quality requirements. The Director of Engineering or his/her designee shall grant approval of the *construction drawings* consistent with NC Division of Water Quality ruling.

(ii) In all other instances where a *waiver* is requested for the Town-mandated *riparian buffer*, applicants may appeal to the *Environmental Appeal Committee*. The applicant must provide documentation to the Department of Engineering to support the appeal, in the *construction drawing* review process, or as early as the *preliminary plan* or *development plan* review process, if sufficient information exists for review as described in the Chapter 8, Article VII, of the Town of Holly Springs' Code of Ordinances.

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(e) Description of *Buffer Areas on Development Petition* [Added Ordinance #13-09]* – 100-foot undisturbed *Stream* buffers shall be graphically shown on all *preliminary plans, development plans, construction drawings*, erosion control plans and *final plats* or any site plan or plot plan submitted for a *UDO Permit*. The buffers shall be clearly labeled “Undisturbed Bass Lake Watershed *Riparian buffer*” and the conservation easement shall be clearly shown and labeled with restrictions noted.

(f) Lots Containing Bass Lake Watershed *Riparian Buffer Area* [Added Ordinance #13-09]* – Proposed *lots* shall not be approved in the Bass Lake Watershed *Riparian Buffer* on new *Development Plans*, the proposed *building lot* shall be wholly outside of the *riparian buffer zone*. New construction of or substantial improvements to any *structure* located on existing lots with Bass Lake Watershed *Riparian Buffer* areas shall be located outside of the Bass Lake Watershed *riparian buffer zone*.

(g) Homeowner Education Packets [Added Ordinance #13-09]* – The developer of any *project* or *subdivision* shall be required to provide all property owners of *lots* with *riparian buffers* adjacent to any State or Town-mandated buffer a Homeowner Education Packet from the developer at the time of the sale of the property. The most current version of the Town’s Homeowner Education Packet shall be updated and approved by Engineering Staff.

(h) Tree Protection Requirements [Added Ordinance #13-09]*

(i) Tree protection fencing shall be present on all *development plans* clearly showing protection of the Bass Lake Watershed *riparian buffer*.

(ii) Tree protection fencing shall be present on each development site prior to initiating any timbering or land disturbing activity.

(iii) Tree protection fencing and signage must meet the criteria outlined in the Town of Holly Springs’ Engineering Design and Construction Standards.

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- (i) Vested Rights [Added Ordinance #13-09]* – Shall be administered as described in UDO Section 7.06, D., 4., e., (2).
- (j) Administrative Procedures [Added Ordinance #13-09]* – All administrative procedures shall be implemented in as described in UDO Section 7.06, D., 4., e. (2).
- (k) Violations & Appeals [Added Ordinance #13-09]*
 - (i) Violations shall be administered as described in UDO Section 7.06, D., 4., e., (2).
 - (ii) Appeals to violations of this section shall be administered as described in the Chapter 8, Article VII, of the Town of Holly Springs' Code of Ordinances.

(2) **Neuse River Basin Riparian Buffer Protection** [Amended Ordinance #03-03] - Any proposed *project or subdivision* which is located within the Town of Holly Springs or its extra-territorial jurisdiction in the Neuse River Basin shall provide *riparian buffer* areas on both sides of all *perennial* and *intermittent streams*; including lakes, ponds, and other bodies of water (features). All perennial features indicated on the most recent version of the 1:24,000 scale (7.5 minutes) quadrangle topographic maps prepared by the United States Geological Survey (USGS) and/or on the most recent version of the Soil Survey of Wake County, North Carolina, prepared by the United States Department of Agriculture (USDA) shall provide the 100-foot-wide *riparian buffers* directly adjacent to such surface waters (or features), excluding wetlands. In the event of a discrepancy between these two maps that would affect a required buffer the most restrictive map shall apply. Other surface waters (or Features) shall provide the 50-foot-wide *riparian buffers* directly adjacent to such surface waters (or features).

All requirements of Section 7.06, D. - Buffer Areas, of this UDO shall apply to any buffer area established to satisfy the *Riparian Buffer Protection Rules*.

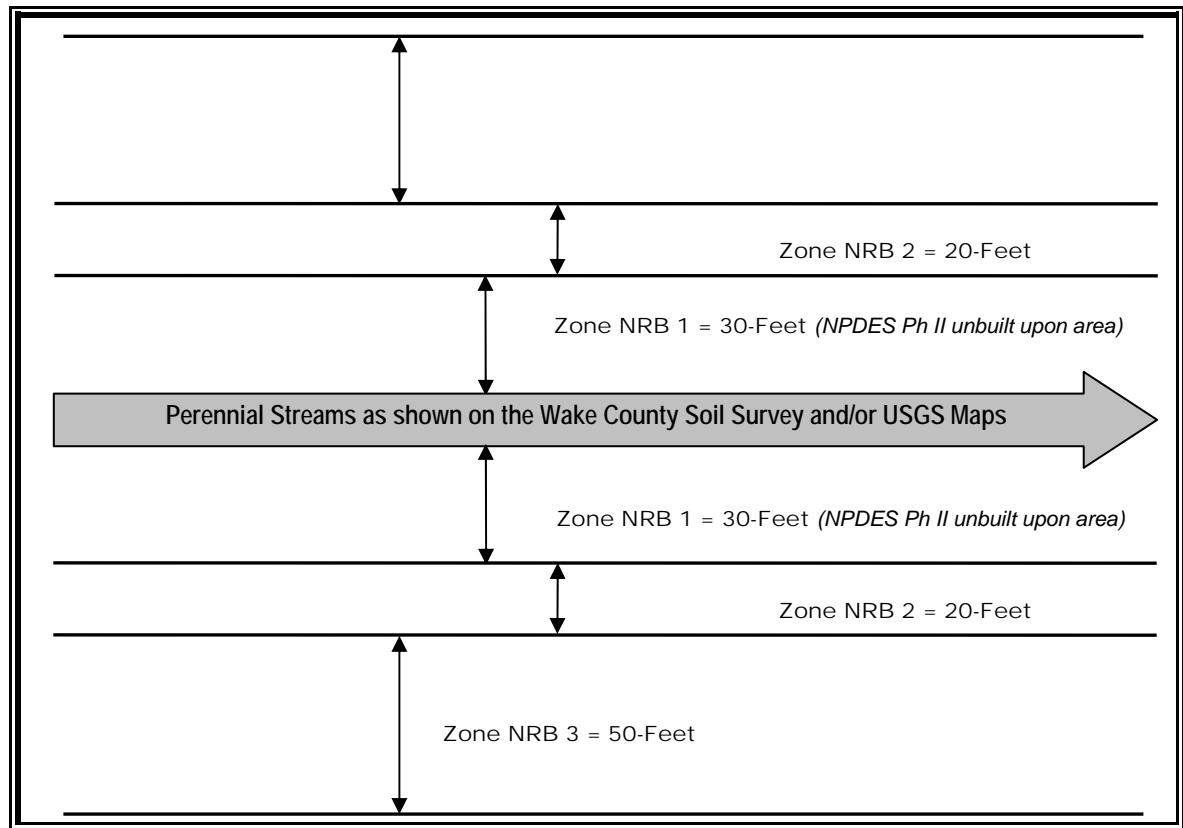
(a) Delineation of the *Riparian Buffer Zones*:

- (i) Zone NRB1 (30 feet landward adjacent to *stream bank*) on both sides of the *stream*.
- (ii) Zone NRB2 (20 feet landward adjacent to Zone NRB1) on both sides of the *stream*.

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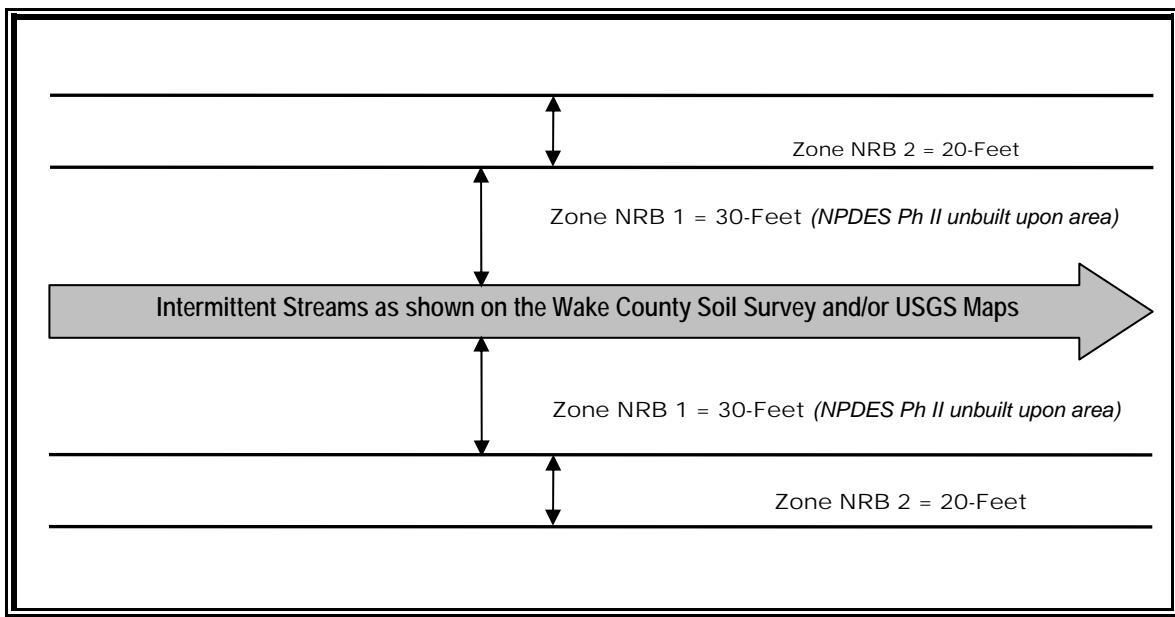
(iii) Zone NRB3 (50 feet landward adjacent to Zone NRB2) on both sides of the *perennial stream*.

The buffers shall be measured horizontally from the edge of the water body (i.e., from *top of bank*).



Riparian Buffer Zones for Perennial Features

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Riparian Buffer Zones for Intermittent Features

(b) *Activity within the Riparian Buffer Zone:*

(i) The State of North Carolina, Division of Water Quality regulates activity within Zones NRB 1 & NRB 2 of the *riparian buffer* in the Neuse River Basin. Activity may take place within any *riparian buffer* zone as defined by *Neuse Riparian Buffer Rules*, 15A NCAC 2B.0233 as amended. The following documentation will be required by the Town prior to permitting development activity to commence within Zones NRB1 & NRB2. The inner 30-foot zone shall also follow the NPDES Post-construction stormwater regulations as described in 15A NCAC 02H .0154. [Amended Ordinance 13-09]*

- (a) An authorization certificate that documents that the NC Division of Water Quality has approved an *allowable* use.
- (b) An opinion from the NC Division of Water Quality that vested rights have been established for that activity.
- (c) A letter from the NC Division of Water Quality documenting that a variance has been granted for the proposed activity.

(ii) The Town of Holly Springs regulates activity in Zone NRB3 of the *riparian buffer* which shall be as defined by Zone 2 requirements established by the Neuse *Riparian Buffer* Rules, 15A NCAC 2B.0233 as amended. All activity in Zone NRB3 must comply with all other Town, State and Federal regulations.

(iii) All timbering activity in the buffer must also comply with the Town's Timbering Ordinance, Chapter 8, Article IV of the Town of Holly Springs' Code of Ordinances. [Amended Ordinance 13-09]*

(iv) All activity in Zone NRB 3 shall comply with the following Neuse River Basin Table of Approved Uses.

Neuse River Basin Table of Approved Uses

The following chart sets forth the *allowable* uses and in the Neuse River Basin and their designation as *Exempt*, *Allowable*, *Allowable with Mitigation*, and *Prohibited*. Under the Neuse River Basin *Riparian buffers* Rule 15A NCAC 02B .0233 which are copied for your reference, the Town of Holly Springs recommends that you consult the North Carolina Division of Water Quality for all questions and concerns regarding any activity in Zones NRB 1 and NRB 2 of the *Riparian Buffer*. Conditions of uses in the Town-mandated portion of the buffer (Zone NRB 3) are also described in the chart. All activities must have construction drawing approval prior to commencing work. All activities must comply with all other Federal, State and Town regulations. It is recommended that you notify the Town of Holly Springs Department of Engineering prior to commencing *exempt* uses in any zone of the *riparian buffer*.

	Please Note This column is for reference only	Town-mandated Portion of the buffer
	Zone NRB 1 & NRB 2	Zone NRB 3
Airport facilities:		
• Airport facilities that impact equal or less than 150 linear feet or one-third of an acre of <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
• Airport facilities that impact greater than 150 linear feet or one-third of <i>riparian buffer</i>	<i>Allowable with Mitigation</i>	<i>Allowable</i>
Archaeological activities	<i>Exempt</i>	<i>Exempt</i>
Bridges	<i>Allowable</i>	<i>Allowable</i>
Dam maintenance activities	<i>Exempt</i>	<i>Exempt</i>
Drainage ditched, roadside ditches and stormwater outfalls through <i>riparian buffers</i> :		

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• Existing drainage ditches, roadside ditches, and stormwater outfalls provided that they are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies	<i>Exempt</i>	<i>Exempt</i>
• New drainage ditches, roadside ditches, and stormwater outfalls provided that a stormwater management facility is installed to control nitrogen and attenuate flow before the conveyance discharges through the <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
• New drainage ditches, roadside ditches, and stormwater outfalls provided that do not provide control for nitrogen before discharging through the <i>riparian buffer</i>	<i>Prohibited</i>	<i>Allowable</i>
• Excavation of the streambed in order to bring it to the same elevation as the invert of a ditch	<i>Prohibited</i>	<i>Prohibited</i>
Drainage of a pond in a natural drainage way provided that a new <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules are established adjacent to the new channel	<i>Exempt</i>	<i>Exempt</i>
Driveway crossings of streams and other surface waters subject to this Rule:		
• Driveway crossing on single family residential lots that disturb equal or less than 25 linear feet or 2,500 square feet of <i>riparian buffer</i>	<i>Exempt</i>	<i>Exempt</i>
• Driveway crossing on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
• In a subdivision that cumulatively disturb equal or less than 150 linear feet or one-third of an acre of <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
• In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of <i>riparian buffer</i>	<i>Allowable with Mitigation</i>	<i>Allowable</i>
Fences provided that disturbance is minimized and installation does not result in removal of the forest vegetation	<i>Exempt</i>	<i>Exempt</i>
Forest Harvesting – see Item (11) of the Neuse Buffer Rules and Timbering Chapter 8, Article IV of the <u>Town of Holly Springs' Code of Ordinances</u> . [Amended Ordinance 13-09]*		
Fertilizer Application:		
• One-time fertilizer application to establish replanted vegetation	<i>Exempt</i>	<i>Exempt</i>
• Ongoing fertilizer application	<i>Prohibited</i>	<i>Prohibited</i>
Grading and revegetation in Zone 2 & 3 only provided that diffuse flow and the health of existing vegetation in Zone 1 is not compromised and disturbed areas are stabilized. [Added Ordinance 13-09]*	<i>Exempt</i>	<i>Exempt</i>
Greenway/hiking trails located	<i>Allowable</i>	<i>Allowable</i>
Historic Preservation	<i>Exempt</i>	<i>Exempt</i>
Landfills as defined by G.S. 130A-290	<i>Prohibited</i>	<i>Prohibited</i>
Mining Activities:		
• Mining activities that are covered by the Mining Act provided that new <i>riparian buffers</i> that meeting the requirements of Items (4) and (5) of the Neuse Buffer Rule are established adjacent to the relocated channels	<i>Allowable</i>	<i>Allowable</i> [Amended Ordinance 13-09]*

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• Mining activities that are not covered by the Mining Act OR were new <i>riparian buffers</i> that meet the requirements or Items (4) and (5) of the Neuse Buffer Rules are not established to the relocated channels	<i>Allowable with Mitigation</i>	<i>Allowable</i>
• Wastewater or mining dewatering wells approved NPDES permit	<i>Exempt</i>	<i>Exempt</i>
Non-Electric Utility Lines:		
• Impacts other than perpendicular crossing in Zone 2 only	<i>Allowable</i>	<i>Allowable</i>
• Impacts other than perpendicular crossings in Zone 1	<i>Allowable with Mitigation</i>	<i>Allowable</i>
• Impacts other than perpendicular crossings in Zone 3		<i>Allowable</i>
Non-electric utility lines perpendicular crossing of streams and other surface waters subject to the Neuse Buffer Rules:		
• Perpendicular crossing that disturb equal or less than 40 linear feet of <i>riparian buffer</i> with a maintenance corridor equal to or less than 10 feet in width	<i>Exempt</i>	<i>Allowable</i>
• Perpendicular crossing that disturb greater than 40 linear feet of <i>riparian buffer</i> with a maintenance corridor greater than 10 feet in width	<i>Allowable</i>	<i>Allowable</i>
• Perpendicular crossing that disturb greater than 40 linear feet but equal or less than 150 feet of <i>riparian buffer</i> with a maintenance corridor equal to or less than 10 feet in width	<i>Allowable</i>	<i>Allowable</i>
• Perpendicular crossing that disturb greater than 40 linear feet but equal or less than 150 feet of <i>riparian buffer</i> with a maintenance corridor greater than 10 feet in width	<i>Allowable with Mitigation</i>	<i>Allowable</i>
• Perpendicular crossing that disturb greater than 150 linear feet of <i>riparian buffer</i>	<i>Allowable with Mitigation</i>	<i>Allowable</i>
On-site sanitary sewer sewage systems - new ones that use ground absorption	<i>Prohibited</i>	<i>Prohibited</i>
Overhead electrical utility lines:		
• Impacts other than perpendicular crossing in Zone 2 only	<i>Exempt</i>	<i>Exempt</i>
• Impacts other than perpendicular crossing in Zone 1	<i>Exempt</i>	<i>Exempt</i>
• Impacts other than perpendicular crossing in Zone 3 only		<i>Exempt</i>
Overhead electrical utility line perpendicular crossing of <i>streams</i> and other surface waters subject to the Neuse Buffer Rules:		
• Perpendicular crossing that disturb equal to or less than 150 linear feet of <i>riparian buffer</i>	<i>Exempt</i> [Amended Ordinance 13-09]*	<i>Exempt</i> [Amended Ordinance 13-09]*
• Perpendicular crossing that disturb greater than 150 linear feet of <i>riparian buffer</i>	<i>Allowable</i> [Amended Ordinance 13-09]*	<i>Allowable</i> [Amended Ordinance 13-09]*
Periodic maintenance of modified natural <i>streams</i> such as canals and grasses travelway on one side of the surface water when alternative forms of maintenance access are not practical	<i>Allowable</i> [Amended Ordinance 13-09]*	<i>Exempt</i>
Playground Equipment:		
• Playground equipment on single family lots provided that installation and use does not result in removal of vegetation	<i>Exempt</i>	<i>Exempt</i>

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• Playground equipment installed on lands other than single family lots or that requires removal of vegetation.	Allowable	Allowable
Ponds in natural drainage ways, excluding dry ponds:		
• New Ponds provided that a <i>riparian buffer</i> that meets requirements of Items (4) and (5) of the Neuse Buffer Rules	Allowable	Allowable
• New Ponds where a <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules	Allowable with Mitigation	Allowable
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the <i>riparian buffer</i> or the stream channel	Allowable	Allowable
Railroad crossing of streams and other surface waters subject to this Rule:	Allowable with Mitigation	Allowable
Railroad crossings of streams and other surface waters subject to the Neuse Buffer Rules		
• Railroad crossings that impact equal to or less than 40 linear feet of <i>riparian buffer</i>	Exempt	Exempt
• Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 feet or one-third of an acre of <i>riparian buffer</i>	Allowable	Allowable
• Railroad crossings that impact greater than 150 linear feet or one-third acre of <i>riparian buffer</i>	Allowable with Mitigation	Allowable
Removal of previous fill or debris provided that diffuse flow is maintained and any vegetation removed is restored	Exempt	Exempt
Road impacts other than crossings of <i>streams</i> and other surface waters subject to the Neuse Buffer Rules	Allowable with Mitigation	Allowable
Road crossings of <i>streams</i> and other surface waters subject to the Neuse Buffer Rules:		
• Road Crossings that impact equal or less than 40 linear feet of <i>riparian buffer</i>	Exempt	Exempt
• Road crossings that impact greater than 40 linear feet of <i>riparian buffer</i> but equal to or less than 150 feet or one-third acre of <i>riparian buffer</i>	Allowable	Allowable
• Road crossings that impact greater than 150 linear feet of or one-third acre of <i>riparian buffer</i>	Allowable with Mitigation	Allowable
Scientific Stream Studies and Stream Gauging	Exempt	Exempt
Stormwater management ponds excluding dry ponds:		
• New stormwater management ponds provided that a <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules is established adjacent to the pond.	Allowable	Allowable
• New stormwater management ponds where a <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules is NOT established adjacent to the pond	Allowable with Mitigation	Allowable
• Stormwater management ponds located in Zone 3 only		Allowable
Stream restoration	Exempt	Exempt
Streambank stabilization	Allowable	Allowable
Temporary Roads:		

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• Temporary roads that disturb less than or equal to 2,500 square feet provided that vegetation is restored within six months of initial disturbance	<i>Exempt</i>	<i>Exempt</i>
• Temporary roads that disturb greater than 2,500 square feet provided that vegetation is restored within six months of initial disturbance	<i>Allowable</i>	<i>Allowable</i>
• Temporary roads used for bridge construction or replacement provided that restoration activities, such as soil stabilization and revegetating, are conducted immediately after construction	<i>Allowable</i>	<i>Allowable</i>
Temporary sediment and erosion control devices:		
• In Zone 2 only provided that the vegetation in Zone 1 is not compromised and that discharge is released as diffuse flow in accordance with Item (5) of the Neuse Buffer Rules	<i>Exempt</i>	<i>Exempt</i>
• In Zones 1 and 2 to control impacts associated with uses approved by NC DWQ 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.	<i>Allowable</i>	<i>Allowable</i>
• In-stream temporary erosion and sediment control measures for work within a stream channel	<i>Exempt</i>	<i>Exempt</i>
Underground electric utility lines:		
• Impacts other than perpendicular crossings in Zone 3 only		<i>Exempt</i>
• Impacts other than perpendicular crossings in Zone 2 only	<i>Exempt</i>	<i>Exempt</i>
• Impacts other than perpendicular crossings in Zone 1	<i>Exempt</i>	<i>Exempt</i>
Underground electric utility lines perpendicular crossing of <i>streams</i> and other surface waters subject to the Neuse Buffer Rules:		
• Perpendicular crossings that disturb less than or equal to 40 linear feet of <i>riparian buffer</i>	<i>Exempt</i>	<i>Exempt</i>
• Perpendicular crossings that disturb greater than 40 linear feet of <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
Vegetation Management:		
• Emergency fire control measures provided that topography is restored	<i>Exempt</i>	<i>Exempt</i>
• Periodic mowing and harvesting of plant products in Zone 3 only	<i>Exempt</i>	<i>Exempt</i>
• Periodic mowing and harvesting of plant products in Zone 2 only	<i>Exempt</i>	<i>Exempt</i>
• Planting vegetation to enhance the <i>riparian buffer</i>	<i>Exempt</i>	<i>Exempt</i>
• Removal of individual trees which are in danger of causing damage to dwellings, other structures or human life	<i>Exempt</i>	<i>Exempt</i>
• Removal of Poison Ivy	<i>Exempt</i>	<i>Exempt</i>
• Removal of understory nuisance vegetation as defined in: Smith, Cherri L. 1998. Exotic Plant Guidelines. Department of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30	<i>Exempt</i>	<i>Exempt</i>

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Water dependent structures as defined in 15A NCAC 2B .0202	<i>Allowable</i>	<i>Allowable</i>
Water supply reservoirs:		
• New reservoirs where a <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules is established adjacent to the reservoir	<i>Allowable</i>	<i>Allowable</i>
• New reservoirs where a <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules is NOT established adjacent to the reservoir	<i>Allowable with Mitigation</i>	<i>Allowable</i>
Water Wells	<i>Exempt</i>	<i>Exempt</i>
Wetland Restoration	<i>Exempt</i>	<i>Exempt</i>

(c) Modifications and Waivers of Neuse River *Riparian Buffer* Areas

(i) In the State regulated Zones NRB1 & NRB2 where obvious conflicts between actual field conditions and USGS and Wake County Soil Survey maps exist, appeals may be made to the North Carolina Division of Water Quality, in accordance with the Neuse *Riparian buffer* Rules, 15A NCAC 2B.0233. If an applicant obtains a map revision, permit, or variance by NC Division of Water Quality or the NC Environmental Management Commission, the applicant shall submit all documentation, including corresponding maps, to the Town of Holly Springs, Department of Engineering. Engineering staff shall review the information provided by the applicant during the *construction drawing* review process or earlier if the information required is available. After the review staff will ask for additional documentation or recommend approval of the *construction drawings* provided that the *construction drawings* correspond with all of the NC Division of Water Quality requirements. The Director of Engineering or his/her designee shall grant approval of the *construction drawings* consistent with NC Division of Water Quality ruling. [Amended Ordinance 13-09]*

(ii) In all other instances where a *waiver* is requested for the Town-mandated *riparian buffer*, applicants may appeal to the *Environmental Appeal Committee*. The applicant must provide documentation to the Department of Engineering to

support the appeal, in the *construction drawing* review process, or as early as the *preliminary plan* or *development plan* review process, if sufficient information exists for review as described in the Chapter 8, Article VII, of the Town of Holly Springs' Code of Ordinances. [Amended Ordinance #13-09]*

(d) ***Mitigation:***

- (i) Persons who wish to undertake or are required to provide *mitigation* shall be required to meet the requirements of acceptable *mitigation* practices as outlined in the Town of Holly Springs Engineering Design and Construction Standards in order to proceed with their proposed use.
- (ii) *Best Management Practices (BMP's)* used for *mitigation* shall be included in a platted drainage easement.

(e) ***Description of Buffer Areas on Development Petition:***

Stream buffers (Zones NRB1, NRB2 and NRB3) shall be graphically shown on all preliminary plans, development plans, construction drawings, erosion control plans and final plats or any site plan or plot plan submitted for a UDO Permit as outlined in section 7.06, D.,3. The buffers shall be clearly labeled "Riparian Buffer" and zones shall be clearly shown and labeled with zone restrictions noted.

(f) ***Lots Containing Riparian Buffer Area:***

- (i) ***Residential and Non-residential Construction:*** New construction of or substantial improvements to any residential structure shall be located outside of the *riparian buffer* area. No proposed *building* lot that is wholly or partly in the *riparian buffer* area shall be approved unless there is established on the *final plat* a line representing the limits of the *riparian buffer* area and a minimum usable area as specified in the following table. The usable lot area is defined by the area of the lot outside of the *riparian buffer* area that will contain the *structure* and related *setbacks*. This area must be contiguous.

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District	Minimum Contiguous Lot Size Outside of <i>Riparian Buffer</i>
R-30	15,000 square feet
R-20	10,000 square feet
R-15, R-10, R-8	8,000 square feet
PUD	8,000 square feet or the min. lot size for lots based on the PUD, whichever is less

(g) Homeowner Education Packets: The developer of any *project* or *subdivision* shall be required to provide all property owners of *lots* with *riparian buffers* on or adjacent to any State or Town-mandated buffer, shall receive a Homeowner Education Packet from the developer at the time of the sale of the property. The most current version of the Town's Homeowner Education Packet shall be updated and approved by Engineering Staff. [Amended Ordinance #13-09]*

(h) Tree Protection Requirements:

- (i) Tree protection fencing shall be present on all *development plans* clearly showing protection of the *riparian buffer*.
- (ii) Tree protection fencing shall be present on each development site prior to initiating any timbering or land disturbing activity.
- (iii) Tree protection fencing and signage must meet the criteria outlined in the Town of Holly Springs Engineering Design and Construction Standards.

(i) Vested Rights:

(i) Purpose: The purpose of this part is to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability and fairness to the reasonable expectations of landowners affected by this Ordinance in recognition that approval of land *development projects* or *subdivisions* typically follows significant landowner investment in site development.

(ii) Establishment of Vested Rights: A vested right with respect to this Section shall be established upon the approval of a site specific *development plan*, or a *PUD* plan approval, that is currently valid or has been submitted for formal development

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review and continues on the current review schedule.

- (iii) Exceptions: Excepted from the provision in subsection 7.06, 4., e., (2), (i), (ii) above is any vesting of rights on property located partially or entirely within Zone 1 or Zone 2 of the Neuse River Basin, as defined by 15A NCAC 02B .022. Vested rights within these Zones shall be determined in accordance with 15A NCAC 02B .022, *et seq.*
- (iv) Vested rights shall run with the land: The right to carry out development in accordance with the site specific *development plan* or *PUD* approval shall attach and run with the land, and is not a personal right to the landowner. All successors and heirs to the original landowner shall be entitled to exercise such rights, as long as any development occurs in accordance within the approved plan as noted above.
- (v) Subsequent Changes Prohibited:
 - a. A vested right, once established as provided for in this Ordinance, precludes any zoning action by the Town which would change, alter, impair, diminish, or otherwise delay the development or use of the property as set forth in the site specific *development plan* or approved *PUD* plan as submitted, except:
 - (1) Upon written consent of the Landowner;
 - (2) Upon a finding by the *Town Council* after notice and public hearing that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site specific *development plan*; [Amended Ordinance #04-06]

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- (3) To the extent that the landowner receives compensation for all costs, expenses and other losses incurred by the landowner.
- (4) Where the *Town Council* finds, after notice and public hearing, that the landowner or his representative supplied intentionally inaccurate information or made material misrepresentations which made a difference in the approval of the site specific *development plan* or *PUD plan*; [Amended Ordinance #04-06]
- (5) Upon the enactment of a State or federal law or regulation which precludes development as contemplated in the site specific *development plan* or *PUD plan*, in which case the *Town Council* may after notice and public hearing, allow for a modification of the plan so as to comply with the new State or federal law or regulation; [Amended Ordinance #04-06]

b. Vested rights under this Ordinance shall not preclude the application of overlay zoning which may impose additional requirements but does not affect the allowable type or use density, or other ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the Town.

(vi) Changes to Site Specific *Development Plan* or Approved *PUD Plan*: Changes made by the owner of the project as listed in the *development petition* to a site specific *development plan* or an approved *PUD plan* must be approved by the Department of Engineering as not significantly deviating from the original site specific *development plan*. Other changes to the plan will terminate the vested rights.

(j) Administrative Procedures:

- (i) Inspections of Work in Progress: As the work pursuant to a permit progresses, the Environmental Inspector shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Environmental Inspector has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action. The Environmental Inspector shall have the ability to direct the owner of the project for corrective actions in accordance with the approved plan. The directive shall give a compliance date. If corrective actions are not met by the compliance date the Environmental Inspector may initiate other enforcement actions.
- (ii) Stop-Work Orders: Whenever a *project* or *subdivision* is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Director of Engineering may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the owner of the project as listed in the development petition by certified mail and facsimile. The stop-work 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. Violation of a stop-work order constitutes a misdemeanor.
- (iii) Order to Take Corrective Action: In order to continue work on the project, the property owner shall supply a revised plan showing proposed replanting of an equivalent *riparian buffer* and pay the required *riparian buffer* fines in the amount of \$500.00 a square foot of disturbed buffer area. Any revised plan revised presented for review will be processed by the Town Staff in the normal established development petition review process and shall not be expedited in any way. The Department of Engineering shall lift the Stop-Work

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order in writing within 48 hours of the approval of the revised plan and receipt of fines paid in full.

- (iv) Revocation of Permits: The Director of Engineering may revoke and require the return of development related 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; for refusal or failure to comply with the requirements of local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable local law may also be revoked.
- (v) Appeal: Any owner who wishes to appeal issuance of a Stop-Work Order to the *Environmental Appeal Committee* as described in the Chapter 8, Article VII, of the Town of Holly Springs' Code of Ordinances. [Amended Ordinance #13-09]*
- (vi) Failure to Comply with Order: The failure to comply with a Stop Work Order, an Order to Take Corrective Action, or a demand to return a revoked development related permit constitutes a violation of this Ordinance.

(k) Violations of this Ordinance; Appeals:

- (i) Enforcement: Enforcement of the provisions of this Ordinance may be by any one or more of the methods enumerated in the following provisions, and the institution of any action by the Town under any of these methods shall not relieve any party from any other civil or criminal proceedings.
- (ii) Equitable Remedies: The Town may apply for any appropriate equitable remedy from a court of competent jurisdiction to enforce the provisions of this Ordinance, including but not limited to Orders for injunction and Orders for abatement. An order for abatement may direct that any buildings or other structures on the property be closed, demolished, or removed, that improvements or repairs be made, or

to take any other action necessary to bring the property into compliance with this Ordinance. Whenever a party is cited for contempt by a court and the Town has executed an Order for abatement, the Town shall have a lien in the nature of a mechanic's or material man's lien on the property for the cost of executing the Order for abatement thereof.

- (iii) Criminal Prosecution: Violations of this Ordinance shall constitute a misdemeanor or infraction as provided by the General Statute §14-4. The maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation maximum as allowed by law. Each day's continuing violation shall be a separate and distinct offense.
- (iv) Civil Penalties: Any act constituting a violation of this Ordinance shall subject the offender to a civil penalty to be recovered by the Town in a civil action in the nature of a debt or as otherwise provided herein if the offender fails to pay the penalty within five days from and after the receipt of a citation of a violation. All citations shall be subject to a civil penalty in the amount of \$5,000.00 unless a higher amount is provided herein.
 - a. Citation Contents: A citation for violation of this Ordinance shall contain, among other things as the Department of Engineering may include:
 - (1) A statement upon its face of the amount of the penalty for the specific violation if the penalty is paid within five days from its issuance;
 - (2) A statement notifying the offender that failure to pay within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus additional penalties and costs, including reasonable attorney fees.

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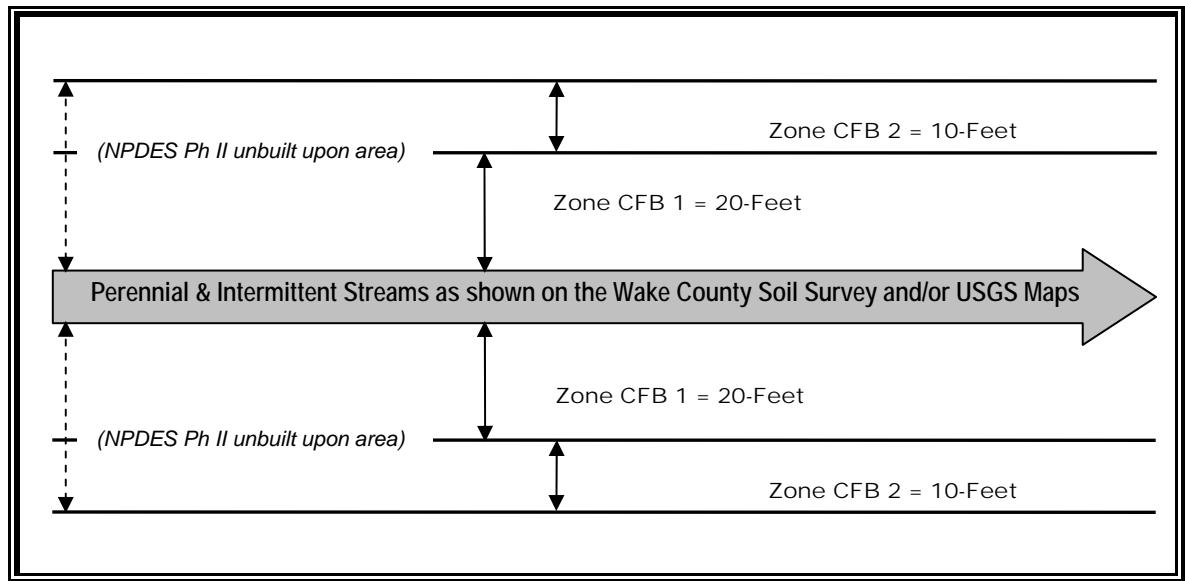
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- (3) Further provide that the offender may answer the citation by mailing the citation along with payment to: The Town of Holly Springs, Engineering Department, PO Box 8, Holly Springs, NC, 27540.
- b. Each day's continuing violation shall be a separate and distinct offense.
- (v) Appeals: appeals to violations of this section shall be administered as described in the Chapter 8, Article VII, of the Town of Holly Springs' Code of Ordinances. [Amended Ordinance #13-09]*

(3) **Cape Fear River Basin Riparian Buffer Protection** [Amended Ordinance #03-03]- Any proposed *project* or *subdivision* which is located within the Town of Holly Springs or its extra-territorial jurisdiction in the Cape Fear River Basin shall provide *riparian buffers* on both sides of all *perennial* and *intermittent streams*; including lakes, ponds, and other bodies of water (features). All features indicated on the most recent version of the 1:24,000 scale (7.5 minutes) quadrangle topographic maps prepared by the United States Geological Survey (USGS) and/or the most recent version of the Soil Survey of Wake County, North Carolina prepared by the United States Department of Agriculture (USDA) shall provide the 30-foot-wide *riparian buffers* directly adjacent to such surface waters (or features), excluding wetlands.

All requirements of Section 7.06, D. - Buffer Areas, of this UDO shall apply to any buffer established to satisfy the *Riparian buffer* Protection Rules.

- (a) Delineation of the *Riparian Buffer* Zones:
 - (i) Zone CFB1 (20 feet landward adjacent to *stream* bank) on both sides of the *stream*.
 - (ii) Zone CFB2 (10 feet landward adjacent to Zone 1) on both sides of the *stream*.



The buffers shall be measured horizontally from the edge of the water body (i.e., from *top of bank*).

(b) Activity within the *Riparian Buffer Zone*:

- (i) All built upon area shall be out of both of the buffer Zones CFB1 and CFB2 (30 feet landward of all perennial and intermittent features) The entire 30-foot *riparian buffer* shall also follow the NPDES Post-construction stormwater regulations as described in 15A NCAC 02H .0154. [Amended Ordinance #13-09]*
- (ii) All activity taking place must comply with all other Town, State and Federal regulations.
- (iii) All timbering activity in the buffer must also comply with the Town's Soil Erosion and Sediment Control, Stream and Wetland Protection, Land Disturbance Ordinance 02-06 Section 9-5023.
- (iv) Zone CFB1 shall consist of a vegetated area that is undisturbed except for the uses outlined in the Cape Fear River Basin Table of Approved Uses.
- (v) Zone CFB2 shall consist of a stable vegetated area that is undisturbed except for the activities outlined in the Cape Fear River Basin Table of Approved

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Uses. The Town of Holly Springs recommends keeping natural undisturbed vegetation in this area to the maximum extent practicable.

Cape Fear River Basin Table of Approved Uses

The following chart sets forth *allowable* uses in the Cape Fear River Basin and their designation as *Exempt*, *Allowable*, *Allowable with Mitigation*, and *Prohibited*. Conditions of uses in the Town-mandated buffer (Zones CFB1 & CFB2). All activities must comply with all other Federal, State or Town regulations. It is recommended that you notify the Town of Holly Springs Department of Engineering prior to commencing *exempt* uses in any zone of the *riparian buffer*.

	Zone CFB 1	Zone CFB 2
Airport facilities:		
• Airport facilities that impact equal or less than 150 linear feet or one-third of an acre of <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
• Airport facilities that impact greater than 150 linear feet or one-third of <i>riparian buffer</i>	<i>Allowable with Mitigation</i>	<i>Allowable</i>
Archaeological activities	<i>Exempt</i>	<i>Exempt</i>
Bridges	<i>Allowable</i>	<i>Allowable</i>
Dam maintenance activities	<i>Exempt</i>	<i>Exempt</i>
Drainage ditched, roadside ditches and stormwater outfalls through <i>riparian buffers</i> :		
• Existing drainage ditches, roadside ditches, and stormwater outfalls provided that they are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies	<i>Exempt</i>	<i>Exempt</i>
• New drainage ditches, roadside ditches, and stormwater outfalls provided that a stormwater management facility is installed to control nitrogen and attenuate flow before the conveyance discharges through the <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
• New drainage ditches, roadside ditches, and stormwater outfalls provided that do not provide control for nitrogen before discharging through the <i>riparian buffer</i>	<i>Prohibited</i>	<i>Prohibited</i>
• Excavation of the streambed in order to bring it to the same elevation as the invert of a ditch	<i>Prohibited</i>	<i>Prohibited</i>
Drainage of a pond in a natural drainage way provided that a new <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules are established adjacent to the new channel	<i>Exempt</i> [Amended Ordinance #13-09]*	<i>Exempt</i> [Amended Ordinance #13-09]*
Driveway crossings of streams and other surface waters subject to this Rule	<i>Allowable</i>	<i>Allowable</i>
Fences provided that disturbance is minimized and installation does not result in removal of the forest vegetation	<i>Exempt</i> [Amended Ordinance #13-09]*	<i>Exempt</i> [Amended Ordinance #13-09]*
Forest Harvesting - see Timbering Chapter 8, Article IV of the <u>Town of Holly Springs Code of Ordinances</u> . [Amended Ordinance #13-09]*	<i>Prohibited</i>	<i>Allowable</i>

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Fertilizer Application:		
• One-time fertilizer application to establish replanted vegetation	<i>Exempt</i>	<i>Exempt</i>
• Ongoing fertilizer application	<i>Prohibited</i>	<i>Prohibited</i>
Grading and revegetation in Zone 2 only provided that diffuse flow and the health of existing vegetation in Zone 1 is not compromised and disturbed areas are stabilized. [Added Ordinance #13-09]*	<i>Exempt</i>	<i>Exempt</i>
Greenway/hiking trails	<i>Exempt</i> [Amended Ordinance #13-09]*	<i>Exempt</i> [Amended Ordinance #13-09]*
Historic Preservation	<i>Exempt</i>	<i>Exempt</i>
Landfills as defined by G.S. 130A-290	<i>Prohibited</i>	<i>Prohibited</i>
Mining Activities:		
• Mining activities that are covered by the Mining Act provided that new Riparian Buffers that meeting the requirements of Items (4) and (5) of the Neuse Buffer Rule are established adjacent to the relocated channels	<i>Allowable</i>	<i>Allowable</i>
• Mining activities that are not covered by the Mining Act OR were new <i>riparian buffers</i> that meet the requirements or Items (4) and (5) of the Neuse Buffer Rules are not established to the relocated channels	<i>Allowable</i>	<i>Allowable</i>
• Wastewater or mining dewatering wells approved NPDES permit	<i>Exempt</i>	<i>Exempt</i>
Non-Electric Utility Lines - Impacts other than perpendicular crossing	<i>Exempt</i> [Amended Ordinance #13-09]*	<i>Exempt</i> [Amended Ordinance #13-09]*
Non-electric utility lines perpendicular crossing of <i>streams</i> and other surface waters:	<i>Allowable</i>	<i>Allowable</i>
On-site sanitary sewer sewage systems - new ones that use ground absorption	<i>Prohibited</i>	<i>Prohibited</i>
Overhead electrical utility lines - impacts other than perpendicular.	<i>Exempt</i> [Amended Ordinance #13-09]*	<i>Exempt</i>
Overhead electrical utility line perpendicular crossing of <i>streams</i> and other surface waters subject to the Buffer Rules:		
• Perpendicular crossing that disturb equal to or less than 150 linear feet of <i>riparian buffer</i>	<i>Exempt</i>	<i>Exempt</i>
• Perpendicular crossing that disturb greater than 150 linear feet of <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
Periodic maintenance of modified natural <i>streams</i> such as canals and grasses travelway on one side of the surface water when alternative forms of maintenance access are not practical	<i>Allowable</i>	<i>Allowable</i>
Playground Equipment:		
• Playground equipment on single family lots provided that installation and use does not result in removal of vegetation	<i>Exempt</i>	<i>Exempt</i>
• Playground equipment installed on lands other than single family lots or that requires removal of vegetation.	<i>Allowable</i>	<i>Allowable</i>
Ponds in natural drainage ways, excluding dry ponds:	<i>Allowable</i>	<i>Allowable</i>

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Protection of existing structures, facilities and stream banks when this requires additional disturbance of the <i>riparian buffer</i> or the stream channel	<i>Allowable</i>	<i>Allowable</i>
Railroad crossing of streams and other surface waters subject to this Rule:	<i>Allowable</i>	<i>Allowable</i>
Removal of previous fill or debris provided that diffuse flow is maintained and any vegetation removed is restored	<i>Exempt</i>	<i>Exempt</i>
Road impacts other than crossings of <i>streams</i> and other surface waters subject to the Buffer Rules	<i>Allowable with Mitigation</i>	<i>Allowable with Mitigation</i>
Road crossings of <i>streams</i> and other surface waters subject to the Buffer Rules:	<i>Allowable</i>	<i>Allowable</i>
Scientific <i>Stream</i> Studies and <i>Stream</i> Gauging	<i>Exempt</i>	<i>Exempt</i>
Stormwater management ponds excluding dry ponds:	<i>Allowable</i>	<i>Allowable</i>
<i>Stream</i> Restoration	<i>Allowable</i>	<i>Allowable</i>
Stream bank stabilization	<i>Allowable</i>	<i>Allowable</i>
Temporary Roads:		
• Temporary roads that disturb less than or equal to 2,500 square feet provided that vegetation is restored within six months of initial disturbance	<i>Exempt</i>	<i>Exempt</i>
• Temporary roads that disturb greater than 2,500 square feet provided that vegetation is restored within six months of initial disturbance	<i>Allowable</i>	<i>Allowable</i>
• Temporary roads used for bridge construction or replacement provided that restoration activities, such as soil stabilization and revegetating, are conducted immediately after construction	<i>Allowable</i>	<i>Allowable</i>
Temporary sediment and erosion control devices:	<i>Allowable</i> [Amended Ordinance #13-09]*	<i>Allowable</i>
Underground electric utility lines - Impacts other than perpendicular	<i>Prohibited</i>	<i>Allowable</i>
Underground electric utility lines perpendicular crossing of streams and other surface waters subject to the Buffer Rules:		
• Perpendicular crossings that disturb less than or equal to 40 linear feet of <i>riparian buffer</i>	<i>Allowable</i>	<i>Allowable</i>
• Perpendicular crossings that disturb greater than 40 linear feet of <i>riparian buffer</i>	<i>Allowable with Mitigation</i>	<i>Allowable with Mitigation</i>
Vegetation Management:		
• Emergency fire control measures provided that topography is restored	<i>Exempt</i>	<i>Exempt</i>
• Periodic mowing and harvesting of plant products.	<i>Prohibited</i>	<i>Exempt</i>
• Planting vegetation to enhance the <i>riparian buffer</i>	<i>Exempt</i>	<i>Exempt</i>
• Removal of individual trees which are in danger of causing damage to dwellings, other structures or human life	<i>Exempt</i>	<i>Exempt</i>
• Removal of Poison Ivy	<i>Exempt</i>	<i>Exempt</i>
• Removal of understory nuisance vegetation as defined in: Smith, Cherri L. 1998. Exotic Plant Guidelines. Department of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30	<i>Exempt</i>	<i>Exempt</i>
Water dependent structures as defined in 15A NCAC 2B .0202	<i>Allowable</i>	<i>Allowable</i>

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Water supply reservoirs:		
• New reservoirs where a <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules is established adjacent to the reservoir	<i>Allowable</i>	<i>Allowable</i>
• New reservoirs where a <i>riparian buffer</i> that meets the requirements of Items (4) and (5) of the Neuse Buffer Rules is NOT established adjacent to the reservoir	<i>Allowable</i>	<i>Allowable</i>
Water Wells	<i>Prohibited</i>	<i>Prohibited</i>
Wetland Restoration	<i>Allowable</i>	<i>Allowable</i>

(c) Modifications and Waivers of Cape Fear River *Riparian Buffer* Areas

(i) *Buffer Areas for Map Inconsistency:* Where obvious conflicts between actual field conditions and USGS and Wake County Soil Survey maps exist, appeals may be made to the North Carolina Division of Water Quality in accordance with the Neuse *Riparian Buffer* Rules, 15A NCAC 2B.0233. If an applicant obtains a map revision, permit, or variance by NC Division of Water Quality or the NC Environmental Management Commission, the applicant shall submit all documentation, including corresponding maps, to the Town of Holly Springs, Department of Engineering. Engineering staff shall review the information provided by the applicant during the *construction drawing* review process or earlier if the information required is available. After the review staff will ask for additional documentation or recommend approval of the *construction drawings* provided that the *construction drawings* correspond with all of the NC Division of Water Quality requirements. The *Director of Engineering* or his/her designee shall grant approval of the *construction drawings* consistent with NC Division of Water Quality ruling. [Amended Ordinance #09-15]

(ii) *Modifications:* In instances where an alternate *Buffer Area* is requested for the Town-mandated to be consistent with criteria allowable under 401 and 404 Permits of the Federal Clean Water Act, applicants may request an appeal to the Director of the Department of Engineering or his/her designee. The applicant must provide documentation to the Department of Engineering prior to the appeal, in

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the *construction drawing* review process, or as early as the *preliminary plan* review process, if sufficient information exists for review. Engineering staff will review the documentation and ask for additional information as needed. Once the review is complete, the Engineering staff shall recommend approval or disapproval of the modification.

(iii) In all other instances where a *waiver* is requested for the Town-mandated *riparian buffer*, applicants may appeal to the *Environmental Appeal Committee*. The applicant must provide documentation to the Department of Engineering to support the appeal, in the *construction drawing* review process, or as early as the *preliminary plan* or *development plan* review process, if sufficient information exists for review as described in the Chapter 8, Article VII, of the Town of Holly Springs' Code of Ordinances. [Amended Ordinance #13-09]*

(d) *Mitigation:*

(i) Persons who wish to undertake or are required to provide *mitigation* shall be required to meet the requirements of acceptable *mitigation* practices as outlined in the Town of Holly Springs Engineering Design and *Construction Standards* in order to proceed with their proposed use.

(ii) *Best Management Practices (BMP's)* used for *mitigation* shall be included in a platted drainage easement.

(e) Description of *Buffer Areas Development Petitions: Stream* buffers (Zones CFB1 and CFB2) shall be graphically shown on all *development plans, preliminary plans, construction drawings*, erosion control plans and final plats or any site plan or plot plan submitted for a *UDO Permit* as outlined in section 7.06, D.,3. The *buffer areas* shall be clearly labeled “*Riparian Buffer*” and zones shall be clearly shown and labeled with zone restrictions noted.

(f) Lots Containing *Riparian Buffer Area:*

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(i) Residential and Non-residential Construction: New construction of or substantial improvements to any residential structure shall be located outside of the *riparian buffer* area. No proposed building lot that is wholly or partly in the *riparian buffer* area shall be approved unless there is established on the final plat a line representing the limits of the *riparian buffer* area and a minimum usable area as specified in the following table. The usable lot area is defined by the area of the lot outside of the *riparian buffer* area that will contain the structure and related setbacks. This area must be contiguous.

District	Minimum Contiguous Lot Size Outside of Riparian buffer
R-30	15,000 square feet
R-20	10,000 square feet
R-15, R-10, R-8	8,000 square feet
PUD	8,000 square feet or the min. lot size for lots based on the PUD, whichever is more restrictive

(g) Homeowner Education Packets: The developer of any *project* or *subdivision* shall be required to provide all property owners of lots with *riparian buffers* on or adjacent to any State or Town-mandated buffer, shall receive a Homeowner Education Packet from the developer at the time of the sale of the property. The most current version of the Town's Homeowner Education Packet shall be updated and approved by Engineering Staff. [Amended Ordinance #13-09]*

(h) Tree Protection Requirements:

(i) Tree protection fencing shall be present on all plans clearly showing protection of the *riparian buffer*.

(ii) Tree protection fencing shall be present on each development site prior to initiating any timbering or land disturbing activity.

(iii) Tree protection fencing and signage must meet the criteria outlined in the Town of Holly Springs Engineering Design and Construction Standards.

(i) Diffuse Flow Requirements: Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow

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and reestablishing vegetation. Techniques for providing diffuse flow are specified in the Town of Holly Springs Engineering Design and Construction Standards.

- (i) Concentrated runoff from ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters the buffer.
- (ii) Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to prevent the formation of erosion gullies.
- (iii) *BMP's* for obtaining diffuse flow shall be included in a platted drainage easement.

(j) Vested Rights:

- (i) Purpose: The purpose of this part is to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability and fairness to the reasonable expectations of landowners affected by this Ordinance in recognition that approval of land development projects or subdivisions typically follows significant landowner investment in site development.
- (ii) Establishment of Vested Rights: A vested right with respect to this Section shall be established upon the approval of a site specific development plan, or a PUD plan approval, that is currently valid or has been submitted for formal development review and continues on the current review schedule.
- (iii) Exceptions: Excepted from the provision in subsection 7.06, 4., e., (3), (j), (ii) above is any vesting of rights on property located partially or entirely within Zone 1 or Zone 2 of the Neuse River Basin, as defined by 15A NCAC 02B .022. Vested rights within these Zones shall be determined in accordance with 15A NCAC 02B .022, *et seq.*
- (iv) Vested rights shall run with the land: The right to carry out development in accordance with the site specific *development plan* or *PUD* approval shall

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attach and run with the land, and is not a personal right to the landowner. All successors and heirs to the original landowner shall be entitled to exercise such rights, as long as any development occurs in accordance within the approved plan as noted above.

(v) Subsequent Changes Prohibited:

- a. A vested right, once established as provided for in this Ordinance, precludes any zoning action by the Town which would change, alter, impair, diminish, or otherwise delay the development or use of the property as set forth in the site specific *development plan* or approved *PUD* plan as submitted, except:
 1. Upon written consent of the Landowner;
 2. Upon a finding by the *Town Council* after notice and public hearing that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site specific *development plan*; [Amended Ordinance #04-06]
 3. To the extent that the landowner receives compensation for all costs, expenses and other losses incurred by the landowner.
 4. Where the *Town Council* finds, after notice and public hearing, that the landowner or his representative supplied intentionally inaccurate information or made material misrepresentations which made a difference in the approval of the site specific *development plan* or *PUD* plan; [Amended Ordinance #04-06]

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5. Upon the enactment of a State or federal law or regulation which precludes development as contemplated in the site specific *development plan* or *PUD* plan, in which case the *Town Council* may after notice and public hearing, allow for a modification of the plan so as to comply with the new State or federal law or regulation; [Amended Ordinance #04-06]
- b. Vested rights under this Ordinance shall not preclude the application of overlay zoning which may impose additional requirements but does not affect the allowable type or use *density*, or other ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the Town.

(vi) Changes to Site Specific *Development Plan* or Approved *PUD* Plan: Changes made by the owner of the project as listed in the *development petition* to a site specific *development plan* or an approved *PUD* plan must be approved by the Department of Engineering as not significantly deviating from the original site specific development plan. Other changes to the plan will terminate the vested rights.

(k) Administrative Procedures:

- (i) **Inspections of Work in Progress:** As the work pursuant to a permit progresses, the Environmental Inspector shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Environmental Inspector has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action. The Environmental Inspector shall have the ability direct the owner of

the *project* for corrective actions in accordance with the approved plan. The directive shall give a compliance date. If corrective actions are not met by the compliance date the Environmental Inspector may initiate other enforcement actions.

- (ii) Stop-Work Orders: Whenever a *project* or *subdivision* is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Director of Engineering may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the owner of the *project* as listed in the *development petition* by certified mail and facsimile. The stop-work 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. Violation of a stop-work order constitutes a misdemeanor.
- (iii) Order to Take Corrective Action: In order to continue work on the *project*, the property owner shall supply a revised plan showing proposed replanting of an equivalent *riparian buffer* and pay the required *riparian buffer* fines in the amount of \$500.00 a square foot of disturbed *buffer area*. Any revised plan revised presented for review will be processed by the Town Staff in the normal established *development petition* review process and shall not be expedited in any way. The Department of Engineering shall lift the Stop-Work order in writing within 48 hours of the approval of the revised plan and receipt of fines paid in full.
- (iv) Revocation of Permits: The Director of Engineering may revoke and require the return of development related 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; for refusal or failure to comply with the requirements of local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable local law may also be revoked.

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- (v) Appeal: Any owner who wishes to appeal issuance of a Stop-Work Order to the *Environmental Appeal Committee* as described in the Chapter 8, Article VII, of the Town of Holly Springs' Code of Ordinances. [Amended Ordinance #13-09]*
- (vi) Failure to Comply with Order: The failure to comply with a Stop Work Order, an Order to Take Corrective Action, or a demand to return a revoked development related permit constitutes a violation of this Ordinance.

(1) Violations of this Ordinance; Appeals:

- (i) Enforcement: Enforcement of the provisions of this Ordinance may be by any one or more of the methods enumerated in the following provisions, and the institution of any action by the Town under any of these methods shall not relieve any party from any other civil or criminal proceedings.
- (ii) Equitable Remedies: The Town may apply for any appropriate equitable remedy from a court of competent jurisdiction to enforce the provisions of this Ordinance, including but not limited to Orders for injunction and Orders for abatement. An order for abatement may direct that any *buildings* or other *structures* on the property be closed, demolished, or removed, that improvements or repairs be made, or to take any other action necessary to bring the property into compliance with this Ordinance. Whenever a party is cited for contempt by a court and the Town has executed an Order for abatement, the Town shall have a lien in the nature of a mechanic's or materialman's lien on the property for the cost of executing the Order for abatement thereof.
- (iii) Criminal Prosecution: Violations of this Ordinance shall constitute a misdemeanor or infraction as provided by the General Statute §14-4. The maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation maximum as

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allowed by law. Each day's continuing violation shall be a separate and distinct offense.

(iv) Civil Penalties: Any act constituting a violation of this Ordinance shall subject the offender to a civil penalty to be recovered by the Town in a civil action in the nature of a debt or as otherwise provided herein if the offender fails to pay the penalty within five days from and after the receipt of a citation of a violation. All citations shall be subject to a civil penalty in the amount of \$5,000.00 unless a higher amount is provided herein.

a. Citation Contents: A citation for violation of this Ordinance shall contain, among other things as the Department of Engineering may include:

1. A statement upon its face of the amount of the penalty for the specific violation if the penalty is paid within five days from its issuance;
2. A statement notifying the offender that failure to pay within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus additional penalties and costs, including reasonable attorney fees.
3. Further provide that the offender may answer the citation by mailing the citation along with payment to: The Town of Holly Springs, Engineering Department, PO Box 8, Holly Springs, NC, 27540.

b. Each day's continuing violation shall be a separate and distinct offense.

(v) Appeals: Appeals to violations of this section shall be administered as described in the Chapter 8, Article VII, of the Town of Holly Springs' Code of Ordinances. [Amended Ordinance #13-09]*

2. Floodplain Protection (Town Code Chapter 8, Article III)

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Chapter 8 - ENVIRONMENT

ARTICLE III. - FLOOD DAMAGE PREVENTION

ARTICLE III. - FLOOD DAMAGE PREVENTION [\[2\]](#)

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DIVISION 2. - ADMINISTRATION

DIVISION 3. - PROVISIONS FOR FLOOD HAZARD REDUCTION

FOOTNOTE(S):

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Editor's note— Part I of Ord. No. 06-08, adopted May 2, 2006, replaced in its entirety Art. III, and enacted similar provisions to read as herein set out. Former Art. III derived from the 1982 Code, §§ 9-6001—9-6022. [\(Back\)](#)

Cross reference— Code enforcement, ch. 6; health and sanitation, § 6-171 et seq.; streets, sidewalks and other public places, § 14-91 et seq.; water and sewer, ch. 16. [\(Back\)](#)

State Law reference— Floodway regulation, G.S. 160A-458.1. [\(Back\)](#)

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Sec. 8-81. - Statutory authorization.

Sec. 8-82. - Findings of fact.

Sec. 8-83. - Statement of purpose.

Sec. 8-84. - Objectives.

Sec. 8-85. - Definitions.

Sec. 8-86. - Lands to which this article applies.

Sec. 8-87. - Basis for establishing the special flood hazard areas and future conditions flood hazard areas.

Sec. 8-88. - Establishment of floodplain development permit.

Sec. 8-89. - Compliance.

Sec. 8-90. - Abrogation and greater restrictions.

Sec. 8-91. - Interpretation.

Sec. 8-92. - Warning and disclaimer of liability.

Sec. 8-93. - Penalties for violation.

Secs. 8-94—8-120. - Reserved.

Sec. 8-81. - Statutory authorization.

The general assembly of the State of North Carolina has in part 6, article 21 of chapter 143; parts 3, 5, and 8 of article 19 of chapter 160A; and article 8 of chapter 160A of the North Carolina General Statutes, delegated to local governments the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(Ord. No. 06-08, pt. I, 5-2-2006)

Sec. 8-82. - Findings of fact.

- (a) The floodprone areas within the jurisdiction of the Town of Holly Springs are subject to periodic inundation which results in the possible 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 floodprone areas of uses vulnerable to floods or other hazards.

(Ord. No. 06-08, pt. I, 5-2-2006)

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Sec. 8-83. - Statement of purpose.

It is the purpose of this article to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within floodprone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that 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 floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-84. - Objectives.

The objectives of this article are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business losses and interruptions;
- (5) To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in floodprone areas;
- (6) To help maintain a stable tax base by providing for the sound use and development of floodprone areas; and
- (7) To provide a mechanism to allow that potential buyers to become aware that property is in a special flood hazard area or future conditions flood hazard area.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-85. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Appeal board means the environmental appeal committee appointed by the town manager.

Accessory structure (appurtenant structure) means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds

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and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this article.

Appeal board means the town council.

Area of special flood hazard: See *Special flood hazard area (SFHA)*.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Base flood or 100-year flood means a flood that has one percent chance of being equaled or exceeded in any given year as shown on National Flood Insurance Program maps or town floodplain maps, which ever is more restrictive shall apply.

Base flood elevation (BFE) means a determination of the water surface elevations of the base flood based on current conditions hydrology 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, state, or other source using FEMA approved engineering methodologies or by identifying through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated into the FIRM or town floodplain maps.

Business days means days other than Saturday, Sunday and town holidays.

Building: See *Structure*.

Chemical storage facility means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Current conditions hydrology means the flood discharges associated with the land-use conditions existing within the drainage area of a watercourse at the time a flood study of the watercourse was conducted. Current conditions flood discharges and historical flood study information are published in the flood insurance study. Typically these studies are found in the Neuse River basin where existing detailed flood insurance studies have been redelineated by FEMA and the North Carolina Floodplain Mapping Program.

Development means any manmade 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.

Disposal means, as defined in G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Elevated building means, for floodplain management purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment means 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.

Existing manufactured home park or manufactured home subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured

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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 (August 16, 1994).

FEMA means the Federal Emergency Management Agency.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood fringe means that part of a special flood hazard area which is not located in the floodway.

Flood hazard area means the area designated by the town, pursuant to this section, as an area where development must be regulated to prevent damage from flooding. The flood hazard area must include and may exceed the base floodplain.

Flood hazard boundary map (FHBm) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as zone A.

Flood insurance means the insurance coverage provided under the National Flood Insurance Program.

Flood insurance rate map (FIRM) means an official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas, the future conditions flood hazard areas, and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS) means 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.

Floodprone area: See *Floodplain*.

Floodplain means any land susceptible to being inundated by water from any source and identified graphically on a FIRM or town floodplain map.

Floodplain administrator means the director of engineering of the Town of Holly Springs, or their designee.

Floodplain development permit means the permit that is required in conformance with the provisions of this section and granted by the town, prior to the commencement of any development.

Floodplain management means 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.

Floodplain management regulations means this article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in floodprone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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Floodproofing means 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.

Floodway means 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 foot.

Flood zone means 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.

Freeboard means the height added to the base flood elevation (BFE) or the future conditions flood elevation to account for the 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.

Future conditions flood means the flood having a one percent chance of being equaled or exceeded in any given year based on future conditions hydrology.

Future conditions flood elevation means a determination of the water surface elevations of the one percent annual chance flood based on future conditions hydrology as published in the flood insurance study. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation in future conditions flood hazard areas.

Future conditions flood hazard area means the land area that would be inundated by the one percent annual chance flood based on future conditions hydrology as determined in division 3, [section 8-152](#) of this article.

Future conditions hydrology means the flood discharges associated with projected land-use conditions based on the Wake County's June 2003 countywide equivalent zoning classification data or current town land use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway such as bridge and culvert construction, fill, and excavation. Future conditions flood discharges are published in the flood insurance study. Typically these studies are found in the Cape Fear River basin where limited detailed flood insurance studies have been created by FEMA and the North Carolina Floodplain Mapping Program or in areas where a town flood study has been required.

Functionally dependent facility means 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.

Hazardous waste facility means, as defined in G.S. 130A, [Art. 9](#), a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest adjacent grade (HAG) means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the secretary of interior as meeting the requirements for individual listing on the National Register;

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- (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 local inventory of historic landmarks in communities with a certified local government (CLG) program; or
- (4) Certified as contributing to the historical significance of a historic district designated by a community with a certified local government (CLG) program.

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the state historic preservation officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Lowest adjacent grade (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest floor means 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 article.

Manufactured home means 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.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means 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.

Mean sea level means, for purposes of this article, 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.

New construction means 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 section and includes any subsequent improvements to such structures.

Nonencroachment area means 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 foot as designated in the flood insurance study report.

Post-FIRM means 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.

Pre-FIRM means 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.

Principally above ground means that at least 51 percent of the actual cash value of the structure is above ground.

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Public safety and/or nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle (RV) means a vehicle, which is:

- (1) Built on a single chassis;
- (2) Four hundred 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.

Reference level means the top of the lowest floor for structures within special flood hazard areas and future conditions flood hazard areas designated as zone AE, A, A99 or X (future).

Regulatory flood protection elevation means the elevation above mean sea level to which the reference level of all structures and other development located within special flood hazard areas and future conditions flood hazard areas must be protected.

- (1) In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard.
- (2) In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.
- (3) In future conditions flood hazard areas this elevation shall be the future conditions flood elevation plus two feet of freeboard.

Remedy a violation means 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.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage yard means any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid waste disposal facility means, as defined in G.S. 130A-290(a)(35), any facility involved in the disposal of solid waste.

Solid waste disposal site means, as defined in G.S. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special flood hazard area (SFHA) means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year based on current conditions hydrology, as determined in [section 8-87](#) of this article.

Start of construction includes 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

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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.

Stream means an intermittent or perennial stream as defined in 15A NCAC 2B.0233 (Neuse River Basin Riparian Buffer Rules). A stream shall be present if the feature is approximately shown on either the most recent version of the Wake County soil survey map or the most recent version of the 1:24,000 scale quadrangle topographic maps prepared by the United States Geologic Survey (USGS).

Structure means, for floodplain management purposes, a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground, or other manmade facilities or infrastructures that are principally above ground.

Substantial damage means 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 50 percent of the market value of the structure before the damage occurred. See definition of *Substantial improvement*.

Substantial improvement means 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 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.

Town means the Town of Holly Springs.

Variance means a grant of relief from the customary requirements of this article, pursuant to [section 8-125](#) which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation means 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 division 2 and division 3 is presumed to be in violation until such time as that documentation is provided.

Water surface elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse means 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.

(Ord. No. 06-08, pt. 1, 5-2-2006; Ord. No. 10-03, pt. 3, 5-4-2010)

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Sec. 8-86. - Lands to which this article applies.

This article shall apply to all areas within the jurisdiction, including extra-territorial jurisdictions (ETJs).

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-87. - Basis for establishing the special flood hazard areas and future conditions flood hazard areas.

The special flood hazard areas and future conditions 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 Wake County dated May 2, 2006, which are adopted by reference and declared to be a part of this article. The special flood hazard areas and future conditions flood hazard areas also include those identified through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated into the FIRM or town floodplain maps.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-88. - Establishment of floodplain development permit.

A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within special flood hazard areas and future conditions flood hazard areas determined in accordance with [section 8-87](#) of this article.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-89. - Compliance.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this article and other applicable regulations.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-90. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-91. - Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and

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(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-92. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard areas and future conditions flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of Town of Holly Springs or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-93. - Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Town of Holly Springs from taking such other lawful action as is necessary to prevent or remedy any violation. Within 30 days from notification, the owner in violation may file a petition for appeal as outlined by the provisions provided in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the absence of a petition of appeal within 30 days from notification the assessment of the town shall be final.

(Ord. No. 06-08, pt. 1, 5-2-2006; Ord. No. 10-03, pt. 3, 5-4-2010)

Secs. 8-94—8-120. - Reserved.

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[Sec. 8-121. - Designation of floodplain administrator.](#)

[Sec. 8-122. - Floodplain development application, permit and certification requirements.](#)

[Sec. 8-123. - Duties and responsibilities of the floodplain administrator.](#)

[Sec. 8-124. - Corrective procedures.](#)

[Sec. 8-125. - Variance procedures.](#)

[Secs. 8-126—8-150. - Reserved.](#)

Sec. 8-121. - Designation of floodplain administrator.

The director of engineering, or their designee, hereinafter referred to as the floodplain administrator, is hereby appointed to administer and implement the provisions of this article.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-122. - Floodplain development application, permit and certification requirements.

- (1) *Administrative determination.* The applicant shall provide location boundary and proposed use of the project, upon determination of applicability the floodplain administrator shall require the application to submit a floodplain development permit application to pursuant to [section 8-122](#)(2) of this article.
- (2) *Application requirements.* Application for a floodplain development permit shall be made to the floodplain administrator. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:
 - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 2. The boundary of the special flood hazard area or future conditions flood hazard area as delineated on the FIRM or other flood map as determined in [section 8-87](#) of this article, or a statement that the entire lot is within the special flood hazard area or future conditions flood hazard area; in addition the plot plan must show the 0.2 percent annual chance floodplain contour when applicable;
 3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in [section 8-87](#) of this article;
 4. The boundary of the floodway(s) or nonencroachment area(s) as determined in [section 8-87](#) of this article;
 5. The base flood elevation (BFE) or future conditions flood elevation where provided as set forth in [section 8-87](#); subsection [8-123](#)(11) and (12); or [section 8-153](#)

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6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and
7. Certification of the plot plan by a registered land surveyor or professional engineer.

(b) Proposed elevation, and method thereof, of all development within a special flood hazard area or future conditions flood hazard area including but not limited to:

1. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
2. Elevation in relation to mean sea level to which any nonresidential structure in zone AE, A or X (future) will be floodproofed; and
3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(c) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:

1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
2. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with subsection [8-152\(4\)\(c\)](#), when solid foundation perimeter walls are used in zones A, AE and X (future).

(e) Usage details of any enclosed areas below the regulatory flood protection elevation.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(g) Copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, etc.).

(h) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure subsection [8-152\(6\)](#) and [\(7\)](#) of this article are met.

1. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(3) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

- (a) A description of the development to be permitted under the floodplain development permit.
- (b) The special flood hazard area or future conditions flood hazard area determination for the proposed development per available data specified in [section 8-87](#) of this article.
- (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.

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- (d) The regulatory flood protection elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or nonencroachment area of any watercourse, as applicable.
- (g) The flood openings requirements, if in zones A, AE or X (future).
- (h) Limitations of below BFE enclosure uses to parking, building access and limited storage only.

(4) *Certification requirements.*

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

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Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

- (c) If a manufactured home is placed within zone A, AE or X (future) and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per subsection [8-152\(3\)](#).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification exemptions. The following structures, if located within zone A, AE or X (future), are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - 1. Recreational vehicles meeting requirements of subsection [8-152\(6\)\(a\)](#);
 - 2. Temporary structures meeting requirements of subsection [8-152\(7\)](#); and
 - 3. Accessory structures less than 150 square feet meeting requirements of subsection [8-152\(8\)](#).

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-123. - Duties and responsibilities of the floodplain administrator.

Duties of the floodplain administrator shall include, but not be limited to:

- (1) Review information provided by the applicant in respect to a project's applicability to this article.
- (2) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas and future conditions flood hazard areas to assure that the requirements of this article have been satisfied.
- (3) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (4) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, division of emergency management, state coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (5) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (6) Prevent encroachments into floodways and nonencroachment areas unless the certification and flood hazard reduction provisions of [section 8-154](#) are met.
- (7) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with subsection [8-122\(3\)](#).

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- (8) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with subsection [8-122\(3\)](#).
- (9) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with subsection [8-122\(3\)](#).
- (10) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with subsection [8-122\(3\)](#) and subsection [8-152\(2\)](#).
- (11) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas or future conditions flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (12) When base flood elevation (BFE) data has not been provided in accordance with [section 8-87](#), obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or nonencroachment area data available from a federal, state, or other source, including data developed pursuant to subsection [8-153\(2\)\(b\)](#), in order to administer the provisions of this article.
- (13) When base flood elevation (BFE) data is provided but no floodway nor nonencroachment area data has been provided in accordance with [section 8-87](#), obtain, review, and reasonably utilize any floodway data or nonencroachment area data available from a federal, state, or other source in order to administer the provisions of this article.
- (14) When the lowest ground elevation of a parcel or structure located within zone AE is above the base flood elevation (BFE), advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the letter of map amendment (LOMA) issued by FEMA in the floodplain development permit file.
- (15) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection.
- (16) Make onsite inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (17) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (18) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made

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in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

- (19) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (20) Follow through with corrective procedures of [section 8-124](#)
- (21) Review, provide input, and make recommendations for variance requests.
- (22) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with [section 8-87](#) of this article, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.
- (23) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-124. - Corrective procedures.

- (1) *Violations to be corrected.* When the floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the flood damage prevention ordinance;
 - (b) That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (c) That following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- (3) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the flood damage prevention ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- (4) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the appeal board by following procedures set out in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the absence of an appeal, the order of the floodplain administrator shall be final. The appeal board shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

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(5) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the appeal board following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. No. 06-08, pt. 1, 5-2-2006; Ord. No. 10-03, pt. 3, 5-4-2010)

Sec. 8-125. - Variance procedures.

(a) The appeal board shall hear and decide requests for variances from the requirements of this article following procedures set out in [Chapter 8](#), Article VII of the Town's Code of Ordinances.

(b) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. ch. 7A.

(c) Variances may be issued for:

- (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- (2) Functionally dependant facilities if determined to meet the definition as stated in [section 8-85](#) of this article, provided provisions of subsection [8-125\(i\)\(2\)](#), (3) and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages.
- (3) Any other type of development, provided it meets the requirements stated in this section.

(d) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location as defined under [section 8-85](#) of this article as a functionally dependant facility, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

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- (e) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (f) Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (g) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to \$25.00 per \$100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (h) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (i) Conditions for variances:
 - (1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (2) Variances shall not be issued within any designated floodway or nonencroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall only be issued prior to development permit approval.
 - (5) Variances shall only be issued upon:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
- (j) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas or future conditions flood hazard areas provided that all of the following conditions are met:
 - (1) The use serves a critical need in the community.
 - (2) No feasible location exists for the use outside the special flood hazard area or future conditions flood hazard area.
 - (3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
 - (4) The use complies with all other applicable federal, state and local laws.
 - (5) The Town of Holly Springs has notified the secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. No. 06-08, pt. 1, 5-2-2006; Ord. No. 10-03, pt. 3, 5-4-2010)

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Secs. 8-126—8-150. - Reserved.

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DIVISION 3. - PROVISIONS FOR FLOOD HAZARD REDUCTION

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[Sec. 8-151. - General standards.](#)

[Sec. 8-152. - Specific standards.](#)

[Sec. 8-153. - Standards for floodplains without established base flood elevations.](#)

[Sec. 8-154. - Floodways and nonencroachment areas.](#)

[Secs. 8-155—8-179. - Reserved](#)

Sec. 8-151. - General standards.

In all special flood hazard areas and future conditions 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 floodwaters.
- (7) Onsite 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 article, shall meet the requirements of new construction as contained in this article.
- (9) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this article and located totally or partially within the floodway, nonencroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, nonencroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.
- (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

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subsection [8-125\(j\)](#). 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 or future conditions 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 subsection [8-122\(3\)](#) of this article.

- (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.

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-152. - Specific standards.

In all special flood hazard areas where base flood elevation (BFE) data has been provided and in future conditions flood hazard areas where future conditions flood elevations data has been provided, as set forth in [section 8-87](#), subsection [8-123\(11\)](#) and [\(12\)](#), the following provisions, in addition to [section 8-151](#), 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 8-85](#) of this article. No fill shall be placed in the floodplain for the purpose of providing any buildable area on a residential lot that is located in the floodplain. The area of special hazard may be included within the lot containing the residential structure provided that the usable lot area is no less than the square footage listed in the table below. The usable lot area is defined by the area of the lot outside of the floodplain that will contain the residential structure and related setbacks. This area must be contiguous.

District	Minimum Lot Size Outside of Floodplain or Special Flood Hazard Area (Area Must be Contiguous)
R-10, R-15, R-20	8,000 square feet
TN	Min. lot size for this district based on housing type
PUD	Min. lot size for lots based on the PUD

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All new residential construction and substantial residential improvements proposed on a parcel of land which has no buildable area outside the floodplain, and which was recorded prior to June 1978, shall be exempt from the requirements for residential construction set forth in this subsection, but shall be developed in strict accordance with the requirements for nonresidential construction.

- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in [section 8-85](#) of this article. Structures located in zones A, AE, and X (future) 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 subsection [8-122\(3\)](#), 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 8-85](#) of this article.
 - (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 G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 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 36 inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of subsection [8-152\(4\)\(a\), \(b\) 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 floodprone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.
- (4) *Elevated buildings.* Fully enclosed areas of new construction and substantially improved structures which are 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;

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- (b) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (c) Shall include, in zones A, AE and X (future), 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:
 1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 2. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
 3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 4. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
 5. 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
 6. 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:
 1. 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.
 2. 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:
 1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 2. 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:

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- (a) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- (b) Meet all the requirements for new construction.

(7) *Temporary nonresidential 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 or future conditions 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 or future conditions 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 subsection [8-151\(1\)](#);
- (f) All service facilities such as electrical shall be installed in accordance with subsection [8-151\(4\)](#); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with subsection [8-152\(4\)\(c\)](#).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection [8-122\(3\)](#).

(Ord. No. 06-08, pt. 1, 5-2-2006)

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Sec. 8-153. - Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate zone A and established in [section 8-87](#), where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to [section 8-151](#) and [section 8-152](#), shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
 - (a) 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 article and shall be elevated or floodproofed in accordance with standards in subsection [8-123](#) (11) and (12).
 - (b) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference per [section 8-87](#) to be utilized in implementing this article.
 - (c) 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 8-85](#)
- (3) Cross drainage area standards and restrictions. For any new proposed development subject to flooding which includes, but is not limited to, those lots along any significant watercourse, whether or not the stream or water course is enclosed with a pipe or culvert; the applicant shall make a determination of the crest elevation of the flood expected to be equaled or exceeded, on average, of one time in 100 years in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to the director of engineering.
- (4) No proposed building lot that is wholly or partly subjected to flooding shall be approved unless there is established on the final plat a line representing an actual contour as determined by field survey at an elevation two feet above the 100-year flood crest as determined in accordance with generally accepted engineering practices. Such a line shall be known and identified on the development plan and final plat as the "building restriction floodline." The area of 100-year floodplain may be included within the lot containing the residential structure provided that the lot contains a usable lot area that is no less than the square footage included in the table below. The usable lot area is defined by the area of the lot outside of the 100-year floodplain as defined by a professional engineer that will contain the residential structure and required setbacks (the lot may contain 100-year floodplain). This area must be contiguous.

District	Minimum Lot Size Outside of Floodplain or Special Flood Hazard Area (Area Must be Contiguous)
R-10, R-15, R-20	8,000 square feet

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TN	Min. lot size for this district based on housing type
PUD	Min. lot size for lots based on the PUD

(Ord. No. 06-08, pt. 1, 5-2-2006)

Sec. 8-154. - Floodways and nonencroachment areas.

Areas designated as floodways or nonencroachment areas are located within the special flood hazard areas established in [section 8-87](#). The floodways and nonencroachment 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 [section 8-151](#) and [section 8-152](#), shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:
 - (a) 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
 - (b) 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.
- (2) If subsection [8-154\(1\)](#) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (a) The anchoring and the elevation standards of subsection [8-152\(3\)](#); and
 - (b) The no encroachment standard of subsection [8-154\(1\)](#).

(Ord. No. 06-08, pt. 1, 5-2-2006)

Secs. 8-155—8-179. - Reserved

3. Erosion & Sediment Control & Timbering

- Soil Erosion and Sedimentation Control, Stream and Wetland Protection, Land Disturbance (Town Code Chapter 8, Article II)
- Landscape Regulations (UDO Section 7.01 I)
- Forestry Activity, Timbering Operations and Site Clearing (UDO Section 7.11)
- Timbering Ordinance (Town Code Chapter 8, Article IV)

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**ARTICLE II. - SOIL EROSION AND SEDIMENTATION CONTROL, STREAM AND WETLAND
PROTECTION, LAND DISTURBANCE**

[Sec. 8-30. - Title.](#)

[Sec. 8-31. - Purpose.](#)

[Sec. 8-32. - Definitions.](#)

[Sec. 8-33. - Scope and exclusions.](#)

[Sec. 8-34. - Mandatory standards for land-disturbing activities.](#)

[Sec. 8-35. - Erosion and sedimentation control plans.](#)

[Sec. 8-36. - Basic control objectives.](#)

[Sec. 8-37. - Design and performance standards](#)

[Sec. 8-38. - Stormwater outlet protection.](#)

[Sec. 8-39. - Borrow and waste areas.](#)

[Sec. 8-40. - Access and haul roads.](#)

[Sec. 8-41. - Operations in lakes, natural watercourses, riparian buffers, wetlands and floodplain.](#)

[Sec. 8-42. - Responsibility for maintenance.](#)

[Sec. 8-43. - Additional measures.](#)

[Sec. 8-44. - Existing uncovered areas.](#)

[Sec. 8-45. - Fees](#)

[Sec. 8-46. - Plan appeals.](#)

[Sec. 8-47. - Inspections and investigations.](#)

[Sec. 8-48. - Penalties.](#)

[Sec. 8-49. - Injunctive relief.](#)

[Sec. 8-50. - Restoration after non-compliance.](#)

[Sec. 8-51. - Revisions.](#)

[Secs. 8-52—8-80. - Reserved.](#)

Sec. 8-30. - Title.

This article shall be known and may be cited as the Erosion and Sedimentation Control, Stream and Wetland Protection, Land Disturbance Ordinance of Holly Springs, North Carolina.

(Ord. No. 10-03, pt. 2, 5-4-2010)

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Sec. 8-31. - Purpose.

This article is adopted for the purposes of:

- (1) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (2) Establishing procedures through which these purposes can be fulfilled.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-32. - Definitions.

As used in this article, unless the context clearly indicates otherwise, the following definitions apply:

Accelerated erosion shall mean any increase over the rate of natural erosion as a result of land-disturbing activity.

Act shall mean the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

Adequate erosion control measure, structure, or device shall mean one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

Affiliate means a person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Borrow shall mean fill material which is required for on-site construction and is obtained from other locations.

Buffer zone shall mean the strip of land adjacent to a lake or natural watercourse.

Certificate of completion shall mean a certificate issued by the Town of Holly Springs Engineering Department indicating that the permittee has achieved acceptable stabilization in accordance with the approved plan and has completed all work necessary on the site related to soil erosion control. This certificate provides notification that the land disturbance permit for the plan has been closed out.

Certificate of compliance shall mean a certificate issued by the Town of Holly Springs Engineering Department indicating that the erosion control devices shown on the approved plan have been constructed in accordance with the approved plan, Town Engineering Design and Construction Standards and this article.

Coastal counties shall mean the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.

Commission shall mean the North Carolina Sedimentation Control Commission.

Completion (as in completion of construction or development) shall mean that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Department shall mean the North Carolina Department of Environment and Natural Resources.

Director shall mean the director of the division of land resources of the department of environment and natural resources.

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Director of engineering shall mean the Director of the Engineering Department for the Town of Holly Springs Department of Engineering or designee.

Discharge point shall mean that point at which stormwater runoff leaves a tract of land.

District shall mean the Wake County Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.

Energy dissipater shall mean a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Environmental development permit shall mean the umbrella permit issued by the department of engineering that contains the land disturbance permit, floodplain development permit and the post-construction stormwater management plan approvals. The erosion and sedimentation control plan is issued through the land disturbance portion of this permit.

Erosion shall mean the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.

Fill shall mean material used to bring an area up to grade as specified on the approved construction drawings, grading and erosion control plans.

Floodplain shall mean an area adjacent to a lake or natural watercourse that is regulated by [Chapter 8](#), Article III of the Town Code and/or the Federal Emergency Management Agency (FEMA)

Forestry shall mean the professional practice embracing the science, business, and the art of creating, conserving, and managing forest and forestlands for the sustained use and enjoyment of their resources, materials, or other forest products.

Ground cover shall mean any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

High quality waters shall mean 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 G.S. 150B-14(c).

High quality water (HQW) zones shall mean, for the coastal counties, areas within 575 feet of high quality waters; and for the remainder of the state, areas within one mile and draining to HQW's.

Lake or natural watercourse shall mean 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.

Land-disturbing activity shall mean any use of the land by any person in residential, industrial, education, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Land disturbance permit shall mean the permit issued by the Town of Holly Springs that allows a project to undertake land-disturbing activity in accordance with the approved plan. The land disturbance permit is one of the three components of the environmental development permit.

Local government shall mean any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.

Margin shall mean the edge of a watercourse from which a buffer zone is measured.

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Natural erosion shall mean the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

Notice of plan approval shall mean a letter issued by the Town of Holly Springs that provides notification that erosion and sedimentation control plans are approved, approved with modifications, or approved with performance reservations. Upon receipt of the notice of plan approval the preconstruction conference may be scheduled, fees may be paid and a land disturbance permit issued.

Notice of violation shall mean the document issued by the town to provide notification to a person or persons responsible for the violation that they are not in compliance with the regulations of this article and specify compliance date and actions required to come into compliance. Any person failing to come into compliance with the notice can be subject to additional enforcement as outlined in this article.

Parent shall mean an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

Person shall mean any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, or other legal entity.

Person conducting land-disturbing activity shall mean any person who may be held responsible for violation unless expressly provided otherwise by this article, the Act, or any order adopted pursuant to this article or the Act.

Person responsible for the violation shall mean:

- (1) The developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; or
- (2) The landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefited from it or failed to comply with a duty imposed by any provision of this article, the Act, or any order adopted pursuant to this article or the Act.

Phase of grading shall mean one of two types of grading: rough or fine. *Plan* shall mean an erosion and sedimentation control plan as described in [section 8-35](#) of this article.

Preconstruction conference shall mean a meeting held by the Town of Holly Springs Engineering Department that shall be held at the time of the issuance of the land disturbance permit and prior to initiating the installation of erosion control devices.

Riparian buffer shall mean a town or state regulated protected stream buffer.

Sediment shall mean 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.

Sedimentation shall mean 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.

Sedimentation inspection report shall mean the form used by town staff during a site inspection to document the need for repairs to or the installation of erosion and sedimentation control measures and identify corrective actions required for a project to remain in compliance with this article. Any person failing to come into compliance will be subject to additional enforcement as outlined in this article.

Siltation shall mean 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.

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Soil stockpile shall mean soil stored on a tract permanently or temporally.

Stop work order shall mean an order by the director of engineering for all construction to stop on a tract until it has come into compliance with the approved plan, engineering design and construction standards or this article.

Storm drainage facilities shall mean the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater runoff shall mean the surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

Subsidiary shall mean an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

Ten-year storm shall mean the stormwater runoff resulting from precipitation of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

The town shall mean the Town of Holly Springs, North Carolina.

Timbering plan shall mean a plan approved by the town showing the limits of tree removal on a property pursuant to [Chapter 8](#), Article IV of the Town Code.

Town council shall mean the governing body of the Town of Holly Springs.

Tract shall mean all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five-year storm shall mean the stormwater runoff resulting from precipitation of an intensity expected to be equaled or exceeded on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Uncovered shall mean the removal of ground cover from, on, or above the soil surface.

Undertaken shall mean 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.

Velocity shall mean 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.

Violation shall mean a person engaged in land-disturbing activity has failed to comply with the Act, this article, or rules or orders adopted or issued pursuant to this article. Including but not limited to: No approved plan and land disturbance permit; failure to follow approved plan; failure to submit revised plan; failure to provide adequate groundcover, insufficient measures to retain sediment on site; failure to take all reasonable measures; inadequate buffer zone; graded slopes and fills too steep; unprotected exposed slopes; failure to maintain erosion control measures, failure to install/maintain tree protection measures.

Waste shall mean surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.

Working days shall mean days exclusive of Saturday, Sunday and Town Holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Watercourse or *natural watercourse* shall mean any channel, ditch, gully, swale, or stream which conveys the flow of water.

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(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-33. - Scope and exclusions.

- (a) *Geographical scope of regulated land-disturbing activity.* This article shall apply to land-disturbing activity within the territorial jurisdiction of the town and to the extraterritorial jurisdiction of the town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.
- (b) *Exclusions from regulated land-disturbing activity.* Notwithstanding the general applicability of this article to all land-disturbing activity, this article shall not apply to the following types of land-disturbing activity:
 - (1) An activity, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - a. Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.
 - b. Dairy animals and dairy products.
 - c. Poultry and poultry products.
 - d. Livestock, including beef cattle, sheep swine, horses, ponies, mules, and goats.
 - e. Bees and apiary products.
 - f. Fur producing animals.
 - (2) Forestry conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the department. If forestry is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this article, or [Chapter 8](#), Article IV of the Town Code of Ordinances shall apply to such activity and any related land-disturbing activity on the tract.
 - (3) An activity for which a permit is required under the Mining Act of 1971, [Article 7](#) of Chapter 74 of the General Statutes.
 - (4) A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).
 - (5) An activity which is essential to protect human life during an emergency.
- (c) *Plan approval requirement for land-disturbing activity.* No person shall undertake any land-disturbing activity subject to this article without first obtaining a plan approval from the town.
- (d) *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.
- (e) *More restrictive rules shall apply.* Whenever conflicts exist between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.
- (f) *Plan approval exceptions.* Notwithstanding the general requirement to obtain a plan approval prior to undertaking land-disturbing activity, a plan approval shall not be required for land-disturbing activity that does not exceed 20,000 square feet in surface area. In determining the area, lands developed as a unit will be aggregated without regard to ownership.

(Ord. No. 10-03, pt. 2, 5-4-2010)

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Sec. 8-34. - Mandatory standards for land-disturbing activities.

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

(1) *Buffer zone.*

- a. *Standard buffer.* No land-disturbing activity during periods of construction or improvement to land 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 25 percent of the buffer zone nearest the land-disturbing activity.
 1. *Projects on, over or under water.* This subdivision 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.
 2. *Buffer measurement.* Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.
- b. *Trout buffer.* Waters that have been classified as trout waters by the environmental management commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal.
 1. *Trout buffer measurement.* The 25-foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank to the nearest edge of the disturbed area.
 2. *Projects on, over or under water.* This subdivision 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.
 3. *Limit on land disturbance.* Where a temporary and minimal disturbance has been permitted as an exception to the trout buffer, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten percent of the total length of the buffer zone within the tract to be disturbed such that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the director.
 4. *Limit on temperature fluctuations.* No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations in the trout waters, as set forth in 15 NCAC 2B.0211 Fresh Surface Water Classification and Standards.

(2) *Graded slopes and fills.* The angle for graded slopes and fills shall be no steeper than two horizontal to one vertical. Slopes where vegetative cover is used for stabilization vegetation that requires regular mowing shall be no steeper than three horizontal to one vertical unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners, the angle for side slopes shall be sufficient to restrain accelerated erosion. In any event, slopes left exposed shall, within seven calendar days, of completion of any phase of grading, construction or development be planted

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or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints. Extension to the seven calendar day stabilization timeframe can be approved on a case by case basis by the development inspector as documented in a sedimentation inspection report and not to exceed 14 calendar days.

- (3) *Soil stockpiles and fills.*
 - a. Temporary and permanent stockpiles shall be shown graphically on the plan and shall be no greater than 20 feet in height. Stockpile slopes shall be built in accordance with [section 8-34\(2\)](#). Temporary stockpile areas shall be removed and constructed to grade shown on the approved plan prior to the certificate of completion.
 - b. Fill areas shall be constructed to the size and grade shown on the plan. Fill slopes shall be constructed in accordance with [section 8-34\(2\)](#). Where fill has been placed on tracts for which construction drawings have not yet been approved, fill areas shall be stabilized, temporary erosion control devices shall be removed, and a certificate of completion shall be issued for the associated plan. Future land disturbance activities shall require a new plan.
- (4) *Fill material.* Unless a permit from the department's division of waste management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.
- (5) *Ground cover.* Whenever land-disturbing activity that will disturb more than or equal to 20,000 square feet is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that 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 8-37\(5\)\(b\)](#), provisions for a ground cover sufficient to restrain erosion must be accomplished as follows:
 - a. All perimeter dikes, swales, ditches, perimeter slopes and all slopes steeper than three horizontal to one vertical shall be provided temporary or permanent stabilization with ground cover as soon as practicable but in any event within seven calendar days from the last land disturbing activity.
 - b. All other disturbed areas shall be provided temporary or permanent stabilization with ground cover as soon as practicable but in any event within 14 calendar days from the last land disturbing activity.
- (6) *Plan approval.* Prior to plan approval, no person shall initiate any land-disturbing activity that will disturb more than or equal to 20,000 square feet on a tract unless, 30 or more days prior to initiating the activity, a plan for the activity is filed with and approved by the town. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved. The town shall forward to the director of the division of water quality a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

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The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

(Ord. No. 10-03, pt. 2, 5-4-2010; Ord. No. 12-02, §§ 1, 2, 3-20-2012)

Sec. 8-35. - Erosion and sedimentation control plans.

- (a) *Plan submission.* A plan shall be prepared for all land-disturbing activities subject to this article whenever the proposed activity will disturb more than or equal to 20,000 square feet on a tract. Three copies of the plan shall be filed with the town.
- (b) *Financial responsibility and ownership.* 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 (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this article, or rules or orders adopted or issued pursuant to this article. If the applicant is not the owner of the land to be disturbed, the erosion and sedimentation control plan must include the owner's written consent for the applicant to submit an erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.
- (c) *Environmental Policy Act document.* Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review and approved. The town shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to this article shall not begin until a complete environmental document is available for review and approved.
- (d) *Content.* 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 planned to comply with the requirements of this article. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the town upon request.
- (e) *Timeline for decisions on plans.* The town will review each complete plan submitted to them and within 30 days of receipt thereof and will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a complete plan within 30 days of receipt shall be deemed approval. Plan revisions shall follow the same procedure except that the town shall respond within 15 days instead of 30.
- (f) *Approval.* The town shall only approve a plan upon determining that it complies with all applicable state and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. Approval of any plan or revised plan is hereby conditioned upon the applicant's compliance with federal and state water quality laws, regulations and rules. If land disturbing activities are not substantially initiated within one year from the date of plan approval, plan approval shall expire and a new plan submittal is required. Approval of an erosion control and sedimentation plan will be contained in the notice of plan approval as issued by the town. The notice of plan approval and land disturbance permit must be posted at the primary entrance to the job site before construction begins. In addition, a land disturbance permit must be purchased, fees must be paid and a preconstruction meeting must be

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held before any work begins on site. Failure to comply with this section will result in the land-disturbance fee being doubled.

- (g) *Disapproval for content.* The town shall disapprove a plan or draft plan based on its content. The plan shall be deemed disapproved until all outstanding plan review comments have been adequately addressed and a notice of plan approval has been issued by the town. In the event of disapproval the town shall provide specific comments that identify items that must be addressed on the plan or corresponding calculations prior to plan approval.
- (h) *Other disapprovals.* The town shall disapprove a plan or draft plans if implementation of the plan would result in a violation of the rules adopted by the environmental management commission to protect riparian buffers along surface waters. The town shall also disapprove a plan upon finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:
 - (1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received a notice of violation of a plan previously approved by the commission or a local government pursuant to the Act 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 a local ordinance adopted pursuant to the Act by the time the payment is due.
 - (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act or;
 - (4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act.

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

In the event that a plan is disapproved pursuant to this subsection, the town shall notify the director of such disapproval within ten days. The town shall advise the applicant and the director in writing as to the specific reasons that the plan was disapproved.

- (i) *Notice of activity initiation.* No person may initiate a land-disturbing activity before notifying the town within one business day of the date the land-disturbing activity will begin.
- (j) *Preconstruction conference.* Once a plan is approved, the applicant is required to attend a preconstruction conference with the town. A portion of the pre-construction conference will be an environmental education session discussing all environmental aspects of the approved project. The land disturbance permit will be issued at the pre-construction conference.
- (k) *Display of plan approval.* A plan approval issued under this article shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed and the site has been stabilized. A copy of the approved plan, rain gauge and land disturbance permit shall be kept on file at the job site.
- (l) *Required revisions.* After approving a plan, if the town 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 town shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If, following commencement of a land-disturbing activity pursuant to an approved plan, the town determines that the plan is inadequate to meet the requirements of this article, the town may require any revision of the plan that is necessary to comply with this article.

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- (m) *Amendment to a plan.* Applications for amendment of a 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 town the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.
- (n) *Failure to file a plan.* Any person engaged in land-disturbing activity who fails to file a plan in accordance with this article, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this article.
- (o) *Site inspection.* The landowner, the financially responsible party, or their agent shall perform a site inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with this article and G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-36. - Basic control objectives.

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives:

- (1) *Identify critical areas.* On-site areas which are subject to severe erosion and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation are to be identified and receive special attention.
- (2) *Limit time of exposure.* All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.
- (3) *Limit exposed areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (4) *Control surface water.* Surface water runoff originating from exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (5) *Control sedimentation.* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (6) *Manage stormwater runoff.* When the increase in the velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, a plan shall include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-37. - Design and performance standards

- (a) Except as provided in [section 8-38\(b\)](#) of this article, erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated

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using the procedures in the USDA, 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.

- (b) All plans and measures shall conform to the minimum applicable standards specified in Town of Holly Springs Engineering Design and Construction Standards and the North Carolina's Erosion and Sedimentation Control Planning and Design Manual. A copy of the current State Standards and Specifications shall remain, at all times, on file with the Engineering Department of the Town of Holly Springs.
- (c) HQW zones. In high quality water (HQW) zones the following design standards shall apply:
 - (1) *Limit on uncovered area.* Uncovered areas in HQW zones shall be limited at any time to a maximum total area of 20 acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the director.
 - (2) *Maximum peak rate of runoff protection.* Erosion and sedimentation control measures, structures, and devices within HQW zones shall be planned, designed and constructed to provide protection from the runoff of the 25-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
 - (3) *Settling efficiency.* Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70 percent for the 40 micron (0.04 millimeter) size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
 - (4) *Grade.* Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical (2:1) 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.* Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within seven calendar, following completion any phase of grading, construction or development, whichever period is shorter.

(Ord. No. 10-03, pt. 2, 5-4-2010; Ord. No. 12-02, § 3, 3-20-2012)

Sec. 8-38. - Stormwater 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:

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- (1) The velocity established by the maximum permissible velocities table set out within this subsection; or
- (2) The velocity of the ten-year storm runoff in the receiving watercourse prior to development or as specified in the most current [Section 8](#) of the Engineering Design and Construction Standards for that type of development.

If condition (1) or (2) of this paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten percent.

- (c) *Maximum permissible velocities table.* The following is a table for maximum permissible velocity for stormwater discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

Material	F.P.S	M.P.S.
Fine sand (noncolloidal)	2.5	.8
Sandy loam (noncolloidal)	2.5	.8
Silt loam (noncolloidal)	3.0	.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 (colloidal)	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

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(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.)

- (d) *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 town 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, while not exhaustive, are to:
 - (1) Avoid increases in 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 place of closed drains and high velocity paved sections;
 - (3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
 - (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
 - (5) Upgrade or replace the receiving device structure or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.
- (e) *Exceptions.* This rule shall not apply where it can be demonstrated to the town that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-39. - Borrow and waste areas.

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the department's division of 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 the 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.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-40. - Access and haul roads.

- (a) 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 and included in the approved plan and permit.

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(b) Temporary access and haul roads, other than public roads constructed that is equal to or greater than 20,000 square feet of disturbed area requires a land disturbance permit regardless if it is in connection with any other land-disturbing activity.

(Ord. No. 10-03, pt. 2, 5-4-2010)

**Sec. 8-41. - Operations in lakes, natural watercourses, riparian buffers, wetlands and
floodplain.**

(a) Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

(b) All federal and state permits required for impacts to lakes and natural watercourses, riparian buffers, wetlands and floodplain must be provided to the town prior to plan approval and issuance of the land disturbance permit.

(c) Groundcover and other forms of stabilization must be provided 14 calendar days for all areas except for slopes steeper than three to one, HQW zones days, after any phase of grading, construction or development, whichever is shorter and in accordance with all state and federal regulations.

(Ord. No. 10-03, pt. 2, 5-4-2010; Ord. No. 12-02, § 4, 3-20-2012)

Sec. 8-42. - 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 or any provision of this article, the Act, or any order adopted pursuant to this article or the Act. After site development, the landowner 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 maintenance by a governmental agency.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-43. - Additional measures.

Whenever the town determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity shall take additional protective action as directed by the town by means of a sedimentation inspection report.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-44. - Existing uncovered areas.

(a) All uncovered areas existing on the effective date of this article, November 21, 2000, which resulted from land-disturbing activity, more than or equal to 20,000 square feet, are subject to continued accelerated erosion, and 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.

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(b) The town shall serve upon the landowner or other person in possession or control of the land a written notice to comply with the Act, this article, a rule or order adopted or issued pursuant to the Act by the commission or by the town. The notice to comply shall be sent by registered or certified mail, return receipt requested, or other means provided by Rule 4 of the North Carolina Rules of Civil Procedure. 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 town shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.

(1) The town reserves the right to require preparation and approval of a plan in any instance where extensive control measures are required.

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

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-45. - Fees

(a) The town may establish a fee schedule for the review and approval of plans.

(b) In establishing the fee schedule, the director of engineering shall consider the administrative and personnel costs incurred for reviewing the plans and for related compliance activities.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-46. - Plan appeals.

Except as provided in [section 8-36](#) of this article, the appeal of a disapproval or approval with modifications of a plan shall be governed by the provisions provided in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the event that a plan is disapproved the applicant may appeal the town's disapproval of the plan directly to the commission. In the absence of a petition appeal of the decision within 30 days from notification from the town shall be final.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-47. - Inspections and investigations.

(a) *Inspection.* Agents, officials, or other qualified persons authorized by the town will periodically inspect land-disturbing activities to ensure compliance with the Act, this article, or rules or orders adopted or issued pursuant to this article and determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.

(b) *Willful resistance, delay or obstruction.* No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the town while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

(c) *Notice of violation.* If the town determines that a person engaged in land-disturbing activity has failed to comply with the Act, this article, or rules, or orders adopted or issued pursuant to this article, a notice of violation shall be served upon that person. The notice may be served by any means authorized under Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall specify a date by which the person must comply and inform the person of the actions that need to be taken.

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Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this article.

- (d) *Investigation.* The town shall have the power to conduct any such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this article and enter at reasonable times any property without notice to the responsible person for the purpose of investigating and inspecting the sites of any land-disturbing activity.
- (e) *Certificate of compliance for preliminary soil erosion and sedimentation control.* By means of an on-site visual inspection shall be issued indicating that initial soil erosion and sedimentation controls have been installed. This certificate shall be issued prior to the approval by the town of an application for building construction in the town, in any of the incorporated areas of the town, or the extraterritorial jurisdictional areas of the town subject to the article.
- (f) *Certificate of completion.*
 - (1) Shall be issued when the following requirements have been met:
 - a. The petition for town or NCDOT acceptance of roadways is submitted and the site has been stabilized.
 - b. All utilities (gas, electrical, telephone, water and sewer) have been installed in or along all roads on the approved plan and the site have been stabilized. This does not include individual building lots.
 - c. All post-construction stormwater Best Management Practices (BMPs) have been installed in accordance with the approved stormwater management plan and the performance monitoring period for the project or phase has been completed.
 - d. Once a certificate of completion has been issued, any land disturbing activity will be the responsibility of the individual building lot owners. Failure to control project against off-site damage as documented by the town's authorized representative shall be deemed a violation of the article. Erosion control devices including but not limited to silt fence at the low side(s) of the property and a residential construction entrance built in accordance with the most current version of the Town of Holly Springs, Engineering Design and Construction Standards shall be required for each building lot at such time when the lot is cleared for construction. Seeding and mulching of any disturbed area shall be required prior to issuance of a certificate of occupancy (CO). Lot construction resulting in land-disturbance activities of a cumulative 20,000 square feet of disturbed area shall obtain plan approval and a land disturbance permit as outlined in this article. In determining the area, lands developed as a unit will be aggregated without regard to ownership.
- (g) *Statements and reports.* The town shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-48. - Penalties.

Whenever any person is violating this article or any rule or order adopted or issued pursuant to this article, or any term, condition, or provisions of an approved erosion control plan, the director of engineering may, either before or after the institution of any other action or proceeding authorized by this article, take one or more of the following actions outlined in subsection [8-49\(b\)](#).

- (1) *Factors for determining penalty.* In order to determine which form of penalty shall be assessed; the director of engineering shall apply the following factors, and shall support the decision in

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writing regarding the appropriate penalty as outlined below and in 15ANCAC04C.0106 Criteria for Civil Penalty Assessment.

- a. Severity of the violation.
- b. Degree and extent of harm caused by the violation.
- c. Type of violation.
- d. Duration.
- e. Cause.
- f. Extent of any resulting off-site damage.
- g. Adherence to plan submitted by the violator.
- h. Effectiveness of plan submitted by the violator.
- i. Cost of rectifying the damage.
- j. Prior record of the violator in complying or failing to comply with this article.
- k. Was the violation committed willfully.
- l. The amount of money the violator saved by his noncompliance, estimated cost of installing and/or maintaining corrective measures.
- m. Staff investigative costs.

(2) *Civil penalties.*

- a. *Civil penalty for a violation.*
 - 1. Violation is subject to a civil penalty. The maximum civil penalty amount that the town may assess per violation is \$5,000.00. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.
 - 2. The director of engineering may assess a one-time civil penalty of up to \$5,000.00 for the day the violation is first detected based upon whether the violation has resulted in off-site sedimentation, and/or was committed willfully and/or was committed by an applicant with a prior record of failing to comply with this article.
- b. *Civil penalty assessment factors.* The director of engineering shall determine the amount of the civil penalty based upon any of the factors in subsection (a) above.
- c. *Notice of civil penalty assessment.* The director of engineering shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under Rule 4 of the North Carolina Rules of Civil Procedure and shall direct the violator to either pay the assessment or contest the assessment, as outlined in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the absence of a petition of contested case within 30 days from notification of the penalty assessment the penalty assessment of the town shall be final.
- d. *Collection.* If payment is not received within 30 days after it is due, the Town may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the county where the violation occurred, or the violator's residence or principal place of business is located. An assessment that is not contested is due at the time the violator is served with the notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

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- e. *Application of civil penalties.* Civil penalties collected pursuant to this article shall be applied to the general fund as non-taxable revenue.
- (3) *Criminal penalties.* Violators shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000.00 as provided in G.S. § 113A-64 for a knowing and willful violation of this article. If the director of engineering makes findings under subsection (a) above to support a criminal conviction, the director shall forward the matter to the Holly Springs Police Department and District Attorney for prosecution under this article.
- (4) *Stop-work orders.* The town may issue a stop work order for the site on which the violation has occurred.
 - a. Upon issuance of such an order and the posting of same on the site of the violation, all work on the site of the violation shall cease, except those activities necessary to bring the site into compliance with this article.
 - b. Notice of the stop work order shall be in writing, directed to the person conducting the land-disturbing activity and shall state the reasons for the issuance of the order, and the conditions under which work may be resumed. Notice shall be given by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice.
 - c. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in Rule 4(j) of the North Carolina Rules of Civil Procedure.
- (5) *Revocation of land disturbance permit.* The director of engineering may revoke the land disturbance permit for the site.
 - a. Notice of revocation shall be sent by registered or certified mail to the person conducting the land-disturbing activity. In the event delivery cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in Rule 4(j) of the North Carolina Rules of Civil Procedure.
 - b. Upon receipt of the revocation notice, the person responsible must immediately order all land-disturbing activities to cease except those that are specifically directed towards bringing the site into compliance. Once the site has been inspected and remedial work approved by the engineering department, the responsible party may reapply for a land disturbance permit and pay the appropriate fee.
 - c. Resumption of land-disturbing activities other than that necessary to bring the site back into compliance before the re-issuance of the land disturbance permit will constitute a violation of the article.
 - d. The person conducting the land-disturbing activity may appeal the revocation of a land disturbance permit following procedures set out in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the absence of an appeal, the revocation of the land disturbance permit by the town shall be final.
- (6) *Town authorized to withhold other approvals.* The town may withhold any other approval the violator may have pending with the town, including but not limited to development plans, rezoning requests, annexation petitions, building permits, certificates of occupancy, sewer or water connections, or any other approval required by the town until such time as the violation is corrected and the penalty is paid in full.

(Ord. No. 10-03, pt. 2, 5-4-2010)

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Sec. 8-49. - Injunctive relief.

- (a) *Violation of local program.* Whenever the town has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the Town of Holly Springs, or any term, condition, or provision of an approved plan, it may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the town for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.
- (b) *Abatement of violation.* Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this article.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-50. - Restoration after non-compliance.

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

(Ord. No. 10-03, pt. 2, 5-4-2010)

Sec. 8-51. - Revisions.

The town shall incorporate revisions required by the commission within eight months following receipt of the required revisions.

(Ord. No. 10-03, pt. 2, 5-4-2010)

Secs. 8-52—8-80. - Reserved.

Section 7.01
Landscape Regulations

I. Credit for Preservation of Existing Trees and Vegetation. [Re-Numbered Ordinance #12-06]*

In order to encourage the preservation of existing stands of trees and vegetation and to enhance the quality of the built environment, the preservation of existing trees and vegetation is encouraged. To that end, a landscape plan may utilize a Tree Save Area in lieu of new plantings for a required *yard* or *bufferyard*, *foundation landscaping*, interior *parking area* landscaping, or *parking area* screening.

1. Preservation Versus Installation of New Plant Materials.

In any instance in which existing trees or vegetation exist and are proposed to be preserved, a Preservation Landscape Plan may be approved provided all requirements of this Section 7.01, I., are met. [Section Reference Modified Ordinance #12-06]*

2. Preservation Landscape Plan Requirements.

All Preservation Landscape Plans shall:

- a. provide for the saving of trees in the Tree Save Area at or in excess of eighty (80) percent the *plant unit value* required for new plantings in the required *yard*, required *bufferyard*, required *foundation landscaping* or required interior landscape islands in *parking areas* (see Table 7.01-C: Type and Plant Unit Value of Required Landscaping, and Table 7.01-D: Tree Preservation Credits for applicable *plant unit values* and credits);
- b. include a Tree Inventory with sufficient detailed information for each one-hundred (100) foot increment to demonstrate that existing trees or vegetation have sufficient *plant unit value* to comply with the eighty (80) percent of the required *plant unit value* requirement specified above, a Tree Inventory shall comply with the following:
 - (1) A Tree Inventory shall include a plan which depicts the location of each one-hundred (100) foot increment that has been inventoried;
 - (2) One (1) Tree Inventory shall be provided for each one-hundred (100) foot increment for each *perimeter yard* or *bufferyard* which includes a preservation area;
 - (3) A Tree Inventory need only include sufficient detail regarding the trees and vegetation located within each one-hundred (100) foot increment to determine that the *plant unit value* in each one-hundred (100) foot increment meets the requirements for the *perimeter yard* or *bufferyard* (i.e., deciduous tree – 4" caliper – *plant unit value* = XX, evergreen tree – 12' tall – *plant unit value* = XX, etc. / 80% of total *plant unit value* required = yy / total *plant unit value* inventoried = zz);

- c. provide that all trees which are to be preserved in a Tree Save Area shall be maintained without injury and with sufficient area for the root system to sustain the trees;
- d. provide that protective care and physical restraint barriers at the drip line, such as temporary protective fencing, shall be provided in the Tree Save Area to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction; and
- e. include a Sample Area Survey which complies with the following:
 - (1) A Sample Area Survey shall include a detailed survey of all trees and other vegetation existing in a twenty foot by twenty foot (20' X 20') representative sample area to be preserved and the location of the sample area. [Amended Ordinance #09-19]
 - (2) One (1) Sample Area Survey shall be provided for each *perimeter yard* or *bufferyard* which includes a preservation area. If a *perimeter yard* is in excess of one-hundred lineal feet, an additional Sample Area Survey shall be provided for each one-hundred lineal feet, or portion thereof, of the applicable *perimeter yard*. If additional Sample Area Surveys are required, such additional Sample Area Surveys shall be equally distributed along the applicable *perimeter yard*. [Amended Ordinance #07-14]
 - (3) One (1) Sample Area Survey shall be provided for the *foundation landscaping* and interior *parking area* landscaping which includes a preservation area.
 - (4) If the Director determines, after site inspection, that the Sample Area Survey is of an area which is not representative of existing trees and vegetation, the Director may request an updated Sample Area Survey for specific locations, not to exceed the number of Sample Area Surveys required above.
 - (5) In the event that trees or vegetation within the Tree Save Area are removed from a site, the Sample Area Survey shall be used as the basis to determine the nature of re-vegetation plant materials.

3. Replacement Rate.

In the event trees or vegetation designated for saving in the Tree Save Area are damaged during construction or die within three (3) years of completion of construction on the site, the *plant unit value* of re-vegetation landscaping shall be a minimum of one-hundred and twenty (120) percent of the required *plant unit*

Section 7.01

Landscape Regulations

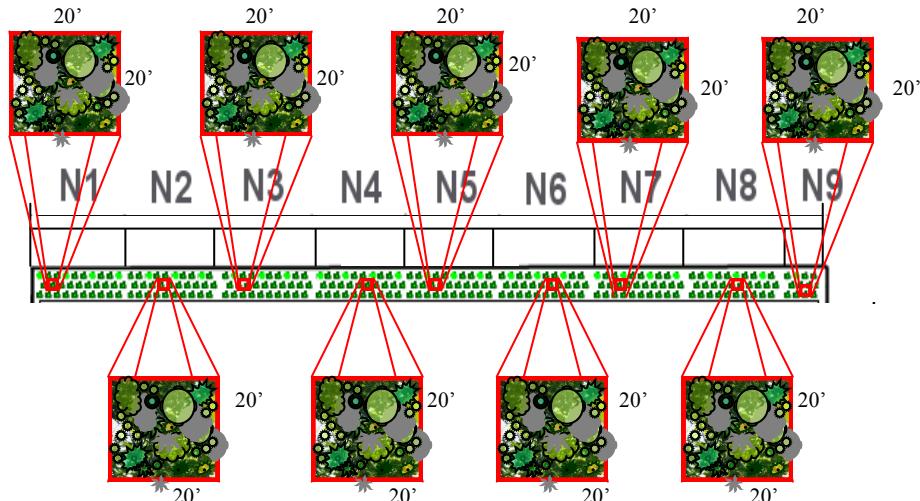
value specified in Table 7.01-C: Type and Plant Unit Value of Required Landscaping.

4. Limitation on Replacement.

Nothing in this section shall require the installation of replacement trees or other vegetation if sufficient vegetation remains in the Tree Save Area in a healthy condition and has a *plant unit value* which meets or exceeds the eighty (80) percent requirement to qualify for a Tree Save Area.

5. Supplemental Planting.

A Tree Save Area which does not contain the minimum of eighty (80) percent of the required *plant unit value* necessary to qualify for a Preservation Landscape Plan, may be designated for preservation at a *plant unit value* as specified in Table 7.01 – D: Tree Preservation Credits on a standard Landscape Plan and may include supplemental new plant materials necessary to attain the *plant unit value* required by this UDO.



[Added Ordinance #07-14]

Table 7.01-D: Tree Preservation Credits

Required Plant Categories and Minimum Sizes	Plant Categories of Trees to be Preserved	Size of Trees to be Preserved	Plant Unit Value of Preserved Trees
Small Deciduous Trees (1 1/2" caliper) or Large Deciduous Trees (2" caliper)	Small Deciduous Tree	1" – 3" caliper 3" – 5" caliper > 5" caliper	4 8 12
	Large Deciduous Tree	2" – 4" caliper 4" – 6" caliper > 6" caliper	6 12 18
	Small Evergreen Tree	3' – 5' high 5' – 10' high > 10' high	2 4 6
	Large Evergreen Tree	5' – 8' high 8' – 12' high > 12' high	5 8 12
Small Evergreen Trees (4' high) or Large Evergreen Trees (6' high)	Small Deciduous Tree	1" – 3" caliper 3" – 5" caliper > 5" caliper	2 4 6
	Large Deciduous Tree	2" – 4" caliper 4" – 6" caliper > 6" caliper	3 6 9
	Small Evergreen Tree	3' – 5' high 5' – 10' high > 10' high	2 5 8
	Large Evergreen Tree	5' – 8' high 8' – 12' high > 12' high	5 8 12
<p>*Note: When calculating the Plant Unit Value (PUV) for a Tree Save Area, evergreens may count for deciduous and deciduous for evergreens as specified in this Table.</p>			

[Amended Ordinance #07-14]

Section 7.11 Forestry Activity, Timbering Operations and Site Clearing.

It is the intent of these regulations to protect, preserve, and enhance the forested areas and natural resources of the Town of Holly Springs and its extra-territorial jurisdiction. The Town of Holly Springs finds that the presence of trees improves air quality, conserves energy, provides wildlife habitat, reduces soil erosion, enhances storm water detention and drainage, assures the presence of healthy, mature vegetation to comply with the landscape requirements of this UDO as undeveloped sites are proposed for development, and preserves and enhances property values in the Town of Holly Springs and its extra-territorial jurisdiction. The policy of the Town of Holly Springs is to balance the private property rights of landowners with the public health, safety, and welfare that is promoted by the existence and maintenance of trees in the Town of Holly Springs and its extra-territorial jurisdiction.

A. Permit Required.

A *UDO permit* shall be required for the *use* of any *lot* for a *forestry activity*, timbering operation or site clearing which is not being undertaken pursuant to a valid *UDO permit* from the Town of Holly Springs in connection with a proposed development in compliance with the terms of this UDO.

The following activities shall be considered exempt from the requirement to obtain a *UDO permit*:

1. Removal of trees found to be diseased or insect infested;
2. Removal of trees which has become, or threatens to become, a danger to human life or property;
3. Removal of trees in preparation for development pursuant to an approved and valid *development plan* or *UDO permit*;
4. Removal of trees from horticultural properties, such as farms, nurseries or orchards. This exemption shall not include *forestry activities*;
5. Removal of trees for agricultural purposes authorized in the R-30 district; and,
6. Removal of trees in connection with approved utility construction within a permanent utility easement.

B. Exempted Forestry Activity.

Any site for which a valid permit for a *forestry activity* has been issued by the State of North Carolina under North Carolina law, and undertaken pursuant to such State permit, shall be exempt from the standards of this UDO. Prior to commencing any *forestry activity*, the owner shall provide a copy of such State permit to the *Director* so that the

Section 7.11
Forestry Activity, Timbering Operations and Site Clearing

Town of Holly Springs may monitor State permitted *forestry activity* within the Town of Holly Springs and its extra-territorial jurisdiction.

C. Standards for Site Clearing.

Any *forestry activity*, timbering operation or site clearing which has not been issued a permit by the State of North Carolina for a valid *forestry activity* shall be accomplished in compliance with the terms and conditions of the *UDO permit* for such activity. All timbering operations or site clearing activities that do not qualify as an exempted *forestry activity* shall comply with the following standards:

1. A fifty (50) foot undisturbed buffer shall be provided and maintained at all times along the perimeter of the property, along public roadways and property boundaries adjacent to developed properties, and a twenty-five (25) foot undisturbed buffer along property boundaries adjacent to undeveloped properties. [Amended Ordinance #10-11]*
 - a. no property owner shall be required to preserve an undisturbed buffer that covers more than twenty (20) percent of the area of the tract, net of public road right-of-way and required conservation easements; [Amended Ordinance #10-11]*

[Amended Ordinance #10-11]*

2. The undisturbed buffer area shall be delineated by a four (4) foot orange tree protection fencing. The tree protection fencing shall be maintained at all times until completion of timbering operations or site clearing or until the Certification of Completion is issued. [Amended Ordinance #10-11]*

[Amended Ordinance #10-11]*

3. Compliance with Chapter 8, Article IV Timbering of the Town Code of Ordinances. [Amended Ordinance #10-11]*

[Amended Ordinance #10-11]*

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ARTICLE IV. - TIMBERING

ARTICLE IV. - TIMBERING

[Sec. 8-180. - Title.](#)

[Sec. 8-181. - Purpose.](#)

[Sec. 8-182. - Scope and exclusions.](#)

[Sec. 8-183. - Mandatory standards for timbering operations.](#)

[Sec. 8-184. - Plan required.](#)

[Sec. 8-185. - Inspections.](#)

[Sec. 8-186. - Penalties.](#)

[Sec. 8-187. - Appeals.](#)

[Secs. 8-188—8-190. - Reserved.](#)

Sec. 8-180. - Title.

This article shall be known and may be cited as the Timbering Ordinance of Holly Springs, North Carolina.

(Ord. No. 10-03, pt. 5, 5-4-2010)

Sec. 8-181. - Purpose.

This article is adopted for the purposes of:

- (1) Regulating the removal and preservation of existing trees and shrubs prior to development within a perimeter buffer zone.
- (2) Establishing procedures through which these purposes can be fulfilled.

(Ord. No. 10-03, pt. 5, 5-4-2010)

Sec. 8-182. - Scope and exclusions.

- (a) *Geographical scope of regulated timbering activity.* This article shall apply to tree removal activity within the territorial jurisdiction of the Town of Holly Springs and to the extraterritorial jurisdiction (ETJ) of the Town of Holly Springs as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law
- (b) *Exclusions from regulated timbering activity.* This section does not apply to normal forestry activities conducted pursuant to a forestry management plan prepared or approved by a registered forester pursuant to G.S. Ch. 89B and which is located within the town's ETJ. A copy of the forestry management plan prepared or approved by a registered forester shall be submitted to the town prior to or at the initiation of timber harvesting for the site to be exempt from the requirements of subsections (a) and (b) of this section.
- (c) Any properties zoned at the request of the landowner will be subject to all requirements of that zoning classification with no exclusions.

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(Ord. No. 10-03, pt. 5, 5-4-2010)

Sec. 8-183. - Mandatory standards for timbering operations.

- (a) A perimeter buffer zone of up to 50 feet along public roadways and property boundaries adjacent to developed properties and up to 25 feet along property boundaries adjacent to undeveloped properties.
- (b) The required buffer area shall not exceed 20 percent of the area of the tract, net of public road rights-of-way and any required conservation easements.
- (c) The buffer zones that adjoin public roadways shall be measured from the edge of the public road right-of-way.
- (d) Tracts of two acres or less, net of public road rights-of-way that are zoned for single-family residential use are exempt from the requirements of the ordinances.

(Ord. No. 10-03, pt. 5, 5-4-2010)

Sec. 8-184. - Plan required.

- (a) A separate timbering plan shall be submitted for any proposed timbering or clearing operations in the town's jurisdiction.
- (b) The timbering plan shall clearly showing the following:
 - (1) All buffers to be protected during timbering activities as outlined in [section 8-183](#) of this article.
 - (2) All other buffers (on the land to be timbered) that are required by the town's subdivision and zoning ordinances for developing properties. These buffers will include, but not be limited to thoroughfare buffers, streetscape buffers, stream and riparian buffers, and buffers based on the existing and/or proposed use of the adjacent property.
 - (3) Location of buffers that are to be protected during the timbering operation through the use of tree protection fencing or other approved methods.
 - (4) General and narrative information as required in the most current version of the Town of Holly Springs Engineering Design and Construction Standards.
- (c) The survey of individual trees is not required for this plan.
- (d) The landowner shall be required to provide affidavits indicating the intent and scope of the timbering activity.
- (e) The timbering plan will be submitted to the department of engineering of the town a minimum of 30 calendar days prior to the beginning of timbering operations. The department of engineering shall route the timbering plan through both the planning and parks and recreation departments, and shall give final approval of the timbering plan.

(Ord. No. 10-03, pt. 5, 5-4-2010)

Sec. 8-185. - Inspections.

- (a) Once the timbering plan is approved, the tree protection material will be installed by the landowner and the town will inspect the protection to ensure it complies with the approved timbering plan. If the tract is found to be in compliance with the approved timbering plan, then a certificate of compliance

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for installation of tree protection measures will be issued for the project. At this point, the landowner will be able to harvest the timber from the unprotected areas of the tract of land.

(b) Periodic inspections by the town shall occur as necessary.

(Ord. No. 10-03, pt. 5, 5-4-2010)

Sec. 8-186. - Penalties.

If timbering activities are conducted such that buffer requirements for development are not met this article will be considered as violated. This section shall apply to the property regardless of ownership.

- (1) The town may deny a building permit or refuse to approve a site or subdivision plan for a period of three years following completion of the harvest if all or substantially all of the perimeter buffer trees that should have been protected were removed from the tract of land for which the permit or plan approval is sought.
- (2) The town may deny a permit or refuse to approve a site or subdivision plan for a period of two years if the owner replants the buffer area within 120 days of harvest with plant material that is consistent with buffer areas required under the municipality's ordinances.

(Ord. No. 10-03, pt. 5, 5-4-2010)

Sec. 8-187. - Appeals.

The person conducting timbering activity may file a petition for contested case as outlined by the provisions provided in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the absence of an appeal, the order of the Town shall be final.

(Ord. No. 10-03, pt. 5, 5-4-2010)

Secs. 8-188—8-190. - Reserved.

4. Stormwater Management

-Post-construction Stormwater Ordinances (Town Code Chapter 8, Article V)

-NPDES Phase II Stormwater Illicit Discharge Detection and Elimination Ordinances
(Town Code Chapter 8, Article II)

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ARTICLE V. - NPDES PHASE II POST-CONSTRUCTION STORMWATER

ARTICLE V. - NPDES PHASE II POST-CONSTRUCTION STORMWATER

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[DIVISION 2. - ADMINISTRATION AND PROCEDURES](#)

[DIVISION 3. - STANDARDS](#)

[DIVISION 4. - PERFORMANCE AND MAINTENANCE](#)

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DIVISION 1. - GENERALLY

DIVISION 1. - GENERALLY

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- [Sec. 8-192. - Authority.](#)
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- [Sec. 8-194. - Purpose.](#)
- [Sec. 8-195. - Applicability and jurisdiction.](#)
- [Sec. 8-196. - Interpretation.](#)
- [Sec. 8-197. - Design manual.](#)
- [Sec. 8-198. - Relationship to other laws, regulations and private agreements.](#)
- [Sec. 8-199. - Severability.](#)
- [Sec. 8-200. - Effective date and transitional provisions.](#)
- [Sec. 8-201. - Responsibility for extending stormwater.](#)
- [Secs. 8-202—8-210. - Reserved.](#)

Sec. 8-191. - Title.

This article shall be officially known as "The Phase II Post-Construction Stormwater Ordinance." It is referred to herein as "this article."

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-192. - Authority.

The Holly Springs Town Council is authorized to adopt this article pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; Town of Holly Springs; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapters 160A, §§ 174, 185 and Article 19 of Chapter 160A.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-193. - Findings.

The Holly Springs Town Council hereby finds that development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment; and

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DIVISION 1. - GENERALLY

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules (Phase II Rules) promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt the minimum stormwater controls such as those included in this article.

Therefore, the Holly Springs Town Council ("town council") establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-194. - Purpose.

- (a) *General.* The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources. This article works cooperatively with the flood damage prevention ordinance to achieve this purpose.
- (b) *Specific.* This article seeks to meet its general purpose through the following specific objectives and means:
 - (1) Establishing decision-making processes for development that protects the integrity of watersheds and preserves the health of water resources;
 - (2) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm in order to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
 - (3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
 - (4) Establishing design and review criteria for the construction, function, and use of structural stormwater best management practices ("BMPs") that may be used to meet the minimum post-development stormwater management standards;
 - (5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of green space and other conservation areas to the maximum extent practicable;
 - (6) Establishing provisions for the long-term responsibility for and maintenance of structural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
 - (7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

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(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-195. - Applicability and jurisdiction.

- (a) *General.* Beginning with and subsequent to its effective date, this article shall be applicable to all development and redevelopment, including, but not limited to, development plan applications, preliminary plan applications, and grading applications, unless exempt pursuant to subsection (c) of this section, exemptions, below.
- (b) *Jurisdiction.* This article is hereby adopted by the town council to apply to the corporate limits of the Town of Holly Springs ("town") and its extraterritorial jurisdiction ("ETJ").
- (c) *Exemptions.* Development that cumulatively disturbs less than 20,000 square feet and is not part of a larger common plan of development or sale is exempt from the provisions of this article.

Redevelopment that cumulatively disturbs less than 20,000 square feet and is not part of a larger common plan of development or sale is exempt from the provisions of this article.

Development and redevelopment that disturb 20,000 square feet are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.

Activities 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 from the provisions of this article.

Single-family residential that cumulatively disturbs 20,000 square feet or more and is not part of a larger common plan of development or sale may be exempt from portions of this article provided that they utilize nonstructural BMPs as outlined in the design manual.

- (d) *No development or redevelopment until compliance and permit.* No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development for which a permit is required pursuant to this article shall occur except in compliance with the provisions, conditions, and limitations of the permit.
- (e) *Map.* A "Town of Holly Springs Stormwater Map" ("stormwater map") shall be kept on file by the engineering department. The stormwater map will apply to the town and its ETJ. The stormwater map may be amended from time to time to include changes to the geographic boundaries of the town due to annexation or extension of the town's ETJ. The stormwater map shall be updated to take into account the geographic location of all structural BMPs permitted under this article. In the event of a dispute, the applicability of this article to a particular area of land or structural BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning (Unified Development Ordinance (UDO)) and jurisdictional boundary ordinances.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-196. - Interpretation.

- (a) *Meaning and intent.* All provisions, terms, phrases, and expressions contained in this article shall be construed according to the general and specific purposes set forth in Section 104, Purpose. If a different or more specific meaning is given for a term defined elsewhere in Holly Springs Town Code the meaning and application of the term in this article shall control for purposes of application of this article.

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- (b) *Text controls in event of conflict.* In the event of a conflict or inconsistency between the text of this article and any heading, caption, figure, illustration, table, or map, the text shall control.
- (c) *Authority for interpretation.* The director of engineering, or engineering department, has authority to determine the interpretation of this article. Any person may request an interpretation by submitting a written request to the engineering department who shall respond in writing within 30 days. The engineering department shall keep on file a record of all written interpretations of this article.
- (d) *References to statutes, regulations, and documents.* Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the design manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.
- (e) *Computation of time.* The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the town. References to days are calendar days unless otherwise stated.
- (f) *Delegation of authority.* Any act authorized by this article to be carried out by the engineering department of the town may be carried out by his or her designee.
- (g) *Usage.*
 - (1) *Mandatory and discretionary terms.* The words "shall" and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.
 - (2) *Conjunctions.* Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions or events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.
 - (3) *Tense, plurals, and gender.* Words used in the present tense include the future tense. 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. Words used in the masculine gender include the feminine gender, and vice versa.
- (h) *Measurement and computation.* Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-197. - Design manual.

- (a) *Reference to design manual.* The engineering department shall use the policy, criteria, and information, including technical specifications and standards, in the Town of Holly Springs Stormwater Design Manual ("design manual"), which is contained in [Section 8](#) of the Town of Holly Springs Engineering Design Standards and Specifications, as the basis for decisions about stormwater permits and about the design, implementation and performance of structural BMPs and nonstructural BMPs.

The design manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

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- (b) *Relationship of design manual to other laws and regulations.* If the specifications or guidelines of the design manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the design manual.
- (c) *Changes to standards and specifications.* If the standards, specifications, guidelines, policies, criteria, or other information in the design manual are amended subsequent to the submittal of an application for approval pursuant to this article but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this article with regard to the application.
- (d) *Amendments to design manual.* The design manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.

Prior to amending or updating the design manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-198. - Relationship to other laws, regulations and private agreements.

- (a) *Conflict of laws.* This article is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.
- (b) *Private agreements.* This article is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this article are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this article shall govern. Nothing in this article shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this article. In no case shall the town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-199. - Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-200. - Effective date and transitional provisions.

- (a) *Effective date.* This article shall take effect on November 6, 2007.
- (b) *Final approvals, complete applications.* All development and redevelopment projects for which complete major residential subdivision plan, master plan, development plan, special exception use and PUD master plan where a complete petition has been submitted and remains active in the

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development review process or approved by the town prior to the effective date of this article and otherwise valid pursuant to the Town of Holly Springs Unified Development Ordinance ("UDO") shall be exempt from complying with all provisions of this article dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions.

- (c) *Violations continue.* Any violation of provisions existing on the effective date of this article shall continue to be a violation under this article and be subject to penalties and enforcement under this article unless the use, development, construction, or other activity complies with the provisions of this article.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-201. - Responsibility for extending stormwater.

All development shall extend stormwater connections, contained in private drainage easements, sized to receive and to convey stormwater to and from adjacent properties built out conditions shown on the most current version of the town future land use plan and in accordance with the town engineering design and construction standards.

(Ord. No. 12-02, § 5, 3-20-2012)

Secs. 8-202—8-210. - Reserved.

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[Sec. 8-212. - Review procedures.](#)

[Sec. 8-213. - Applications for approval.](#)

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[Secs. 8-216—8-230. - Reserved.](#)

Sec. 8-211. - Review and decision-making entities.

- (a) *Director of engineering designation.* The director of engineering, or engineering department, shall administer and enforce this article.
- (b) *Powers and duties.* In addition to the powers and duties that may be conferred by other provisions of the Town of Holly Springs Town Code and other laws, the engineering department shall have the following powers and duties under this article:
 - (1) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this article.
 - (2) To make determinations and render interpretations of this article.
 - (3) To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the town council on applications for development or redevelopment approvals.
 - (4) To enforce the provisions of this article in accordance with its enforcement provisions.
 - (5) To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this article.
 - (6) To provide expertise and technical assistance to the town council, upon request.
 - (7) To designate appropriate other person(s) who shall carry out the powers and duties of the engineering department.
 - (8) To take any other action necessary to administer the provisions of this article.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-212. - Review procedures.

- (a) *Permit required; shall apply for permit.* A stormwater permit ("permit") is required for all development and redevelopment unless exempt pursuant to this article. A permit may only be issued subsequent to a properly submitted and reviewed stormwater permit application, pursuant to this section.
- (b) *Effect of permit.* A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including structural stormwater BMPs and elements of site design for stormwater management other than structural stormwater BMPs.

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The permit is intended to provide a mechanism for the review, approval, and inspection of the method to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this article, whether the approach consists of structural stormwater BMPs 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 article.

- (c) *Authority to file applications.* All applications required pursuant to this article shall be submitted to the engineering department by the landowner or the land owner's duly authorized agent.
- (d) *Establishment of application requirements, schedule, and fees.*
 - (1) *Application contents and form.* The engineering department shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this article.
 - (2) *Submission schedule.* The engineering department shall establish a submission schedule for applications, which shall be in accordance with other schedules for plan approval as described in the Town of Holly Springs Development Procedures Manual ("DPM"). The schedule shall establish deadlines by which complete applications shall be submitted for the purpose of ensuring that there is adequate time to review applications and that the various stages in the review process are accommodated.
 - (3) *Permit review fees.* The town council shall establish permit review fees and may amend and update the fees and policies from time to time. Fees will be set based on the effective schedule of fees and approved by the town council.
- (e) *Submittal of complete application.* Applications shall be submitted to the engineering department pursuant to the application submittal schedule in the form established by the engineering department, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this article, along with the appropriate fee. If the engineering department finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

- (f) *Review.* The engineering department shall review the application and determine whether the application complies with the standards of this article. The review will take place in accordance with schedules set forth in the DPM.
 - (1) *Approval.* If the engineering department finds that the application complies with the standards of this article, the engineering department shall approve the application. The engineering department may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included as part of the approval.
 - (2) *Fails to comply.* If the engineering department finds that the application fails to comply with the standards of this article, the engineering department shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.
 - (3) *Revision and subsequent review.* A complete revised application shall be reviewed by the engineering department after its resubmittal and shall be approved, approved with conditions or disapproved in accordance with time schedules set forth in the DPM.

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If a revised application is not resubmitted within 30 calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.

One resubmittal of a revised application may be submitted without payment of an additional permit review fee. Any resubmittal after the first resubmittal shall be accompanied by a permit review fee additional fee, as established pursuant to this article.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-213. - Applications for approval.

(a) *Preliminary review, concept plan and consultation meeting.* Before a stormwater permit application is deemed complete, it shall be preliminarily reviewed by the engineering department at a meeting. This concept plan meeting shall take place a minimum of 14 days prior to submittal of a development plan at the time of the preliminary review process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the current stormwater map, the current open space master plan, and other relevant resource protection plans may be consulted in the discussion of the concept plan.

To accomplish this goal the following information should be included in the concept plan, which shall be submitted 14 days in advance of the meeting:

- (1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
- (2) *Natural resources inventory.* A natural resource inventory is a written or graphic inventory of the natural resources at the site and surrounding area, as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- (3) *Stormwater management system concept plan.* A stormwater management system concept plan is a written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(b) *Stormwater permit application.* The stormwater permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this article, including Division 3, Standards. All such plans shall be prepared by a qualified registered North Carolina Professional Engineer, and the engineer shall perform services

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only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the design manual, and that the designs and plans ensure compliance with this article.

The submittal shall include all of the information required in the submittal checklist established by the engineering department. Incomplete submittals shall be treated pursuant to Section xx-202(E).

(c) *As-built plans and final approval.* Upon completion of a project, and before a certificate of occupancy shall be granted, a licensed professional engineer ("PE") for the applicant shall certify that the completed project is substantially in accordance with the approved stormwater management plans and designs, and shall submit actual "as-built" plans for all structural BMPs after final construction is completed.

The plans shall show the final design specifications for all structural BMPs and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the structural BMPs and plans shall certify, under seal, that the as-builts are in compliance with the approved stormwater management plans and designs and with the requirements of this article. A final inspection and approval by the engineering department shall occur before the release of any performance securities. Such plans shall be submitted in mylar and in an approved electronic format to the engineering department.

(d) *Private drainage easements.* The approval of the stormwater management plan shall require documentation, approved by the town, of an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

Private drainage easements are intended to provide access for inspection, maintenance, and access for repair of structural portions of storm drainage conveyance systems. In addition to structural BMPs, all other portions of the storm drainage systems located on private property shall be maintained by the property owner(s). In the event that privately-owned storm drainage systems are not maintained by the property owner and are causing an emergency situation or threat to public rights of way, the town may take corrective action, then charge the property owner(s) for all costs associated with the corrective action. All private drainage easements shall be recorded after construction but prior to certificate of occupancy and shall meet all other requirements outlined in this article.

Private drainage easements shall be provided on all storm drainage systems and structures including but not limited to the following: pipes, channels, inlets, junction boxes, structural post-construction stormwater BMPs, new impoundments, existing impoundments on or off site and/or adjacent to new development, streams, wetlands, other natural stormwater conveyances, and any other drainage locations deemed appropriate by the town's engineering department. Private drainage easements shall be indicated on the final plat, labeled and recorded as a private drainage easement. Such easements shall be located on commonly owned property unless it is required for individual lot use. All private drainage easements shall be at least 20-[feet] in width unless otherwise specified in the town engineering design and construction standards.

Private drainage easements shall be required on site for any and all development which accepts and/or conveys stormwater runoff. Exemptions can be permitted by the director of engineering in instances where it can be proven that the storm drainage system on non-residential parcel(s) has been designed to serve lands only internal to the property.

(e) *Other permits.* No certificate of compliance or occupancy, building permits, or inspections may be issued by the town without final as-built plans, recorded deeds and plats and a final inspection and

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approval by the engineering department, except where multiple units are served by the structural BMPs, in which case the town may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007; Ord. No. 11-10, pt. 1, 12-20-2011)

Sec. 8-214. - Approvals.

- (a) *Effect of approval.* Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.
- (b) *Time limit/expiration.* An approved plan shall become null and void if the applicant has failed to make substantial progress on the site within one year after the date of approval. The engineering department may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

In granting an extension, the engineering department may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-215. - Appeals.

- (a) *Right of appeal.* Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article and made by the engineering department may file an appeal within 30 days from notification as outlined by the provisions provided in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the absence of a petition of appeal within 30 days from notification the assessment of the town shall be final.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007; Ord. No. 10-03, pt. 6, 5-4-2010)

Secs. 8-216—8-230. - Reserved.

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[Sec. 8-232. - Development standards.](#)

[Sec. 8-233. - Comprehensive watershed plan.](#)

[Sec. 8-234. - Standards for stormwater control measures.](#)

[Sec. 8-235. - Variances.](#)

[Sec. 8-236. - Vested rights.](#)

[Secs. 8-237—8-259. - Reserved.](#)

Sec. 8-231. - General standards.

All development and redevelopment to which this article applies shall comply with the standards of this section.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-232. - Development standards.

All development for which a land disturbance permit is required (20,000 square feet or greater of disturbed area) shall implement structural and nonstructural BMPs that comply with each of the following performance standards. The structural and nonstructural BMPs shall control and treat:

- (1) The difference in stormwater runoff peak discharge rate leaving the project site between the pre-development and post-development conditions for, at a minimum, the one-year, 24-hour storm (2.83 inches). Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours.
- (2) The total nitrogen (TN) export limitations, in a manner consistent with the Neuse Basin Rules, 15A NCAC 2B.0233, will be required throughout the town and extra territorial jurisdiction. The town council may establish fee in lieu for nitrogen export and may amend and update the fees and policies from time to time. Fee costs and policies will be outlined in the design manual.
- (3) A minimum of 85 percent average annual removal for Total Suspended Solids (TSS);
- (4) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H.1008©, as explained in the design manual;
- (5) All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters, as described in Section 7.06 of the UDO.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-233. - Comprehensive watershed plan.

- (a) *In general.* The town does not currently have a comprehensive watershed plan; however the town may choose to implement one or more comprehensive watershed plans with the intent to meet the

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minimum NPDES Phase II requirements for post-construction discharges and other local, state or federal regulations. This plan may be for planned development or for watersheds in general. They may be developed in conjunction with existing or planned structural and nonstructural BMPs. Such measures include but are not limited to: stormwater master planning, riparian buffers, floodplain protections, open space preservation, conservation or drainage easements, and erosion and sediment control.

(b) *Basin models required.* The town shall require hydrologic and hydraulic studies to be prepared (or updated whichever is applicable) for development which occurs upstream or downstream of existing or potential drainage problems and/or flooding problems, as determined by the director of engineering. In addition, if development occurs upstream or downstream of any existing flood study or basin model, then the flood study or basin model shall be modified. This determination shall be made by the director of engineering after an evaluation of the project and the downstream basin with respect to information contained in Holly Springs Policy Statement P-18. New studies and updates under this requirement shall be required to be submitted to the town as part of the development review process.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-234. - Standards for stormwater control measures.

(a) *Evaluation according to contents of design manual.* All structural and nonstructural BMPs required under this article shall be evaluated by the engineering department according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice in the design manual. The engineering department shall determine whether they will be adequate to meet the requirements of this article.

(b) *Determination of adequacy; presumptions and alternatives.* Structural stormwater BMPs that are designed, constructed, and maintained in accordance with the criteria and specifications in the design manual will be presumed to meet the minimum water quality and quantity performance standards of this article. Whenever an applicant proposes to utilize structural stormwater BMP(s) not designed and constructed in accordance with the criteria and specifications in the design manual, the applicant shall have the burden of demonstrating that the structural stormwater BMP(s) will satisfy the minimum water quality and quantity performance standards of this article. The engineering department may require the applicant to provide such documentation, calculations, and examples as necessary for the engineering department to determine whether such an affirmative showing is made.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-235. - Variances.

(a) *Petitions for variances.* Any person may petition the environmental appeal committee as outlined in [Chapter 8](#), Article VII of the Town's Code of Ordinances for a variance granting permission to use the person's land in a manner otherwise prohibited by this article.

- (1) Unnecessary hardships would result from strict application of this article.
- (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
- (3) The hardships did not result from actions taken by the petitioner.

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- (4) The requested variance is consistent with the spirit, purpose, and intent of this article; will secure public safety and welfare; and will preserve substantial justice.
- (b) *Safeguards upon variances.* The town may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007; Ord. No. 10-03, pt. 6, 5-4-2010)

Sec. 8-236. - Vested rights.

The purpose of this section is to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability and fairness to the reasonable expectations of landowners affected by this article in recognition that approval of land development projects or subdivisions typically follows significant landowner investment in site development.

A vested right shall be established upon the approval of a major residential subdivision plan, master plan, special exception use, development plan or approved PUD master plan with an approval that is currently valid.

- (1) *Exceptions.* Excepted from this provision is any vesting of rights on property located partially or entirely within Zone 1 or Zone 2 of the Neuse River Basin, as defined by 15A NCAC 02B.022. Vested rights within these zones shall be determined in accordance with 15A NCAC 02B.022, et seq.
- (2) *Vested rights shall run with the land.* The right to carry out development in accordance with the major residential subdivision plan, master plan, special exception use, development plan or approved PUD master plan approval shall attach and run with the land, and is not a personal right to the landowner. All successors and heirs to the original landowner shall be entitled to exercise such rights, as long as development occurs in accordance within the approved plan as noted above.
- (3) *Subsequent changes prohibited.*
 - a. A vested right, once established as provided for in this article, precludes any zoning action by the town which would change, alter, impair, diminish, or otherwise delay the development or use of the property as set forth in the major residential subdivision plan, master plan, special exception use, development plan or approved PUD master plan as submitted, except:
 - b. Upon written consent of the landowner;
 - c. Upon a finding by the town council after notice and public hearing that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the major residential subdivision plan, master plan, special exception use, development plan or approved PUD master plan;
 - d. To the extent that the landowner receives compensation for all costs, expenses and other losses incurred by the landowner.
 - e. Where the Holly Springs Town Council finds, after notice and public hearing, that the landowner or his representative supplied intentionally inaccurate information or made material misrepresentations which made a difference in the approval of the major residential subdivision plan, master plan, special exception use, development plan or approved PUD master plan;

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- f. Upon the enactment of a state or federal law or regulation which precludes development as contemplated in the major residential subdivision plan, master plan, special exception use, development plan or approved PUD master plan, in which case the town council may after notice and public hearing, allow for a modification of the plan so as to comply with the new state or federal law or regulation;
- g. Vested rights under this article shall not preclude the application of overlay zoning which may impose additional requirements but does not affect the allowable type or use density, or other ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the town.

(4) *Changes to major residential subdivision plan, master plan, special exception use, development plan or approved PUD master plan.* Changes made by the owner of the project as listed in the development petition to a major residential subdivision plan, master plan, special exception use, development plan or approved PUD master plan shall be approved by the engineering department as not significantly deviating from the original plan or PUD. Other changes to the plan will terminate the vested rights.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Secs. 8-237—8-259. - Reserved.

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[Sec. 8-260. - Function of BMPs as intended.](#)

[Sec. 8-261. - Inspection program.](#)

[Sec. 8-262. - Stormwater facility replacement fund \(SFRF\).](#)

[Sec. 8-263. - Performance surety for installation of structural BMPs.](#)

[Sec. 8-264. - Operation and maintenance surety for structural BMPs.](#)

[Sec. 8-265. - Notice to owners.](#)

[Sec. 8-266. - Records of installation and maintenance activities.](#)

[Sec. 8-267. - Nuisance.](#)

[Sec. 8-268. - Maintenance access easement.](#)

[Sec. 8-269. - Insurance.](#)

[Secs. 8-270—8-300. - Reserved.](#)

Sec. 8-260. - Function of BMPs as intended.

The applicant, permit holder, or owner of each structural BMP installed pursuant to this article shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-261. - Inspection program.

Inspections. The town may conduct or establish on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs. If the applicant, permit holder, owner or occupant of any property refuses to permit such inspection, the engineering department shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2. No person shall obstruct, hamper or interfere with the engineering department while carrying out his or her official duties.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-262. - Stormwater facility replacement fund (SFRF).

(a) *In general.* The town shall establish a SFRF to provide means for the town to implement the use of stormwater maintenance surety funds paid by applicant, permit holder, or owner(s) for the purpose of operation and maintenance of structural BMPs at the town's discretion.

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(b) *Purpose.* The SFRF is to ensure that adequate funds are available for the maintenance, repair, replacement and reconstruction of structural BMPs required by this article. To that end, funds expended from the SFRF shall be made for no other purpose other than for repair, maintenance, reconstruction and replacement of structural BMPs that have paid into that fund. No funds from the SFRF shall be used for administration of the program. Payments collected by the town pursuant to this section shall be kept separate from other revenue of the town. Any funds on deposit not immediately necessary for expenditure shall be invested as allowed in G.S. 159-30; all income derived shall be deposited in the separate account and can only be used as noted above. Monies expended from the SFRF together with interest may be recouped by the town from lot owners served by stormwater water control facilities maintained, repaired, reconstructed and replaced by the town or its contractors. All recouped monies and interest shall be returned to the SFRF. Payment into the fund is not intended as a substitute for surety that ensures the construction of the facilities, which surety may be required at such point in the development process as specified in town ordinances and policies.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-263. - Performance surety for installation of structural BMPs.

Performance surety is required. Town requires the establishment of a performance surety to guarantee completion of construction plus one year of performance for structural BMPs. The performance surety for sites shall be required to be in place prior to/or at the time of the pre-construction meeting and the performance surety for subdivisions shall be in place prior to recording of the first plat, at the beginning of the infrastructure one year warranty period.

- (1) *In general.* Town requires the submittal of a surety in the form of a bond, cash escrow, or letter of credit in order to ensure that the structural BMPs are installed by the permit holder as required.
- (2) *Amount.* The amount of the performance surety shall be **the total estimated construction cost** of the structural BMPs sealed by a registered professional engineer approved under the permit **plus 50 percent.**
- (3) *Stormwater development project improvements agreement (SDPIA).* An executed SDPIA is required to establish and outline the requirements of the performance surety. For all structural BMPs required pursuant to this article the required SDPIA shall include all of the following provisions:
 - a. Requiring the applicant, permit holder, owner(s) or association to construct all required structural BMPs at its own expense and maintain those structural BMPs, and shall state the terms, conditions, and schedule of maintenance for the structural BMPs are transferred from the developer to the owner(s) or association.
 - b. Granting to the town a right of entry in the event that the engineering department has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMPs; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the structural BMPs.
 - c. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the town to enforce any of its ordinances as authorized by law.
 - d. A provision indemnifying and holding harmless the town for any costs and injuries arising from or related to the structural BMPs.
 - e. The SDPIA shall be executed by one of the following:

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1. The person(s) financially responsible,
2. The owner(s) of the land, and
3. Any registered agents.

If the person(s) financially responsible or the owner(s) is not a resident of this state, a [state] agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the act, this chapter, or rules or orders adopted or issued pursuant to this chapter.

- (4) *Forfeiture provisions.* The performance surety and SDPIA shall contain forfeiture provisions for the failure to construct the BMPs, failure to annually renew the surety, or failure to maintain the BMPs, after proper notice from the town.
- (5) *Default.* Upon default of the applicant, permit holder, or owner with respect to the performance surety the town may obtain and use all or any portion of the surety to make necessary improvements. Such expenditure of funds shall only be made after requesting the applicant, permit holder, or owner to comply with the stormwater management plan or the SDPIA. In the event of a default triggering the use of performance surety, the town shall not return any of the unused funds.
- (6) *Costs in excess of performance surety.* If the town takes action to correct such failure by the applicant, permit holder, or owner, the town may collect additional monies from the applicant, permit holder, or owner.
- (7) *Release of guarantee.* The performance surety shall be released to the applicant, permit holder, owner, or terminated, after the following items have occurred or been completed.
 - a. Construction of the structural BMPs have been completed;
 - b. All applicable documentation and certifications have been received;
 - c. The maintenance surety has been received.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-264. - Operation and maintenance surety for structural BMPs.

Maintenance surety is required. Town requires payment of a maintenance surety to the town's SFRF for the purpose of operation and maintenance of structural BMPs at the town's discretion. Prior to the release of the performance surety, after completion of construction of the BMPs and the end of the stormwater performance monitoring period (SPMP) the applicant, permit holder, owner(s) or association of the site shall execute a stormwater maintenance agreement (SMA) with the town that shall be binding on all subsequent owners of the site, portions of the site, and other lots or parcels served by the structural BMP. Until the transfer or conveyance of all property, sites, or lots served by the structural BMP, the original applicant, permit holder, or owner shall have sole responsibility for carrying out the provisions of the SMA.

- (1) *In general.* Town requires the submittal of a surety in the form cash to the SFRF in order to ensure that adequate funds are available for the maintenance, repair, replacement and reconstruction of structural BMPs required by this article.
- (2) *Amount.* The original applicant, permit holder, or owner shall make a payment to the town's SFRF in the amount of **35 percent of the actual cost** of constructing all structural BMPs shown

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on applicable stormwater management plans. Cash will be deposited in a town account without regard to interest being accrued for the applicant, developer, owner(s) or association.

(3) *Stormwater maintenance agreement (SMA)*. An executed SMA is required to establish and outline the requirements of the maintenance surety. The SMA shall be approved by the engineering department prior to the transfer of maintenance responsibility from the original applicant, permit holder, or owner to the association or owner(s). For all structural BMPs required pursuant to this article the required SMA shall include all of the following provisions:

- a. Acknowledgment that the applicant, permit holder, owner(s) or association shall continuously operate and maintain the structural BMPs.
- b. Requiring the applicant, permit holder, owner(s) or association to maintain, repair and, if necessary, reconstruct the structural BMPs, and shall state the terms, conditions, and schedule of maintenance for the structural BMPs.
- c. Granting to the town a right of entry in the event that the engineering department has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMPs; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the structural BMPs.
- d. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the town to enforce any of its ordinances as authorized by law.
- e. A provision indemnifying and holding harmless the town for any costs and injuries arising from or related to the structural BMPs.
- f. All inspection records shall remain with the owner or responsible party. A copy of the approved operation & maintenance (O&M) manual for the structural BMPs, including a provision requiring an annual inspection and certification by a registered professional engineer.
- g. The SMA shall be executed by one of the following:
 1. The person(s) financially responsible,
 2. The owner(s) of the land, and
 3. Any registered agents.

If the person(s) financially responsible or the owner(s) is not a resident of this state, a [state] agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the act, this article, or rules or orders adopted or issued pursuant to this article.

(4) *Forfeiture provisions*. The maintenance surety and SMA shall contain forfeiture provisions for the failure to operate and maintain the BMPs after proper notice from the town.

(5) *Default*. Upon default of the applicant, permit holder, owner(s) or association with respect to the maintenance surety the town may obtain and use all or any portion of the surety paid to the SFRF as outlined in [section 8-262](#)

(6) *Recovering costs and costs in excess of maintenance surety*. If the town takes action to maintain or repair the structural BMPs or to correct any operational deficiencies. The town shall take action to collect monies from the applicant, permit holder, owner(s), or association to recover expenditures. Failure to pay the town all of its expended costs, after 180 days' written notice, shall constitute a breach of the SMA. The town shall thereafter be entitled to bring an action against the applicant, permit holder, owner(s), or association to pay or foreclose upon the

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lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, staff administrative costs, and attorney fees shall be added to the recovery.

(7) *Release of guarantee.* Release of guarantee shall only occur if the structural BMP is, in the opinion of the town, no longer required for controlling stormwater quality.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-265. - Notice to owners.

(a) *Deed recordation and indications on plat.* The applicable SMA, O&M manual, and private drainage easement pertaining to every structural BMP shall be referenced on the final plat and shall be recorded at the expense of the owner with the county register of deeds upon final plat approval. The following statement shall be required on all plats that include structural BMPs:

"Structural Stormwater BMPs are contained in Private Drainage Easements shown on this plat and shall be operated and maintained as described in the executed Stormwater Maintenance Agreement and recorded Stormwater Operation and Maintenance Manual for this project."

If no plat is recorded for the project, then the O&M manual and the easement shall be recorded at the expense of the owner with the county register of deeds, with the current owner's name in the grantor index so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A certified copy of the recorded O&M manual and the easement deed shall be given to the engineering department within 14 days following its recordation.

(b) *Signage.* Structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection, professional engineer's certification, and the structural BMP's purpose. The sign shall be maintained by the owner so as to remain visible and legible and shall otherwise comply with the town sign ordinances and the engineering design and construction standards.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-266. - Records of installation and maintenance activities.

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs from the date of creation of the record and shall submit the same upon reasonable request to the engineering department.

(1) *Annual maintenance inspection and report.* The person responsible for maintenance of any structural BMP installed pursuant to this article shall annually submit to the engineering department an inspection report and certification, from a qualified registered state professional engineer, performing services only in their area of competence. The inspection report and certification shall contain all of the following:

- a. The name and address of the landowner;
- b. The recorded book and page number of the lot of each structural BMP;
- c. A statement that an inspection was made of all structural BMPs;
- d. The date the inspection was made;

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- e. Statements that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved O&M manual required by this article. If maintenance measures are required, a statement of what maintenance is required shall be included, including the schedule of performing the maintenance; and
- f. The original signature and seal of the engineer.

All documents shall be supplied in a format approved by the engineering department as described in the recorded O&M manual.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-267. - Nuisance.

The owner of each structural BMP shall maintain it so as not to create or result in a nuisance condition. For the purpose of this section, nuisance includes, but is not limited to, the following:

- (1) Structural BMPs that have maintenance issues such as overgrowth, trash accumulation, erosion, odor, standing water, mosquito infestation and other issues that could negatively affect the public.
- (2) Structural BMPs that are in the need of repair that negatively affect the public, public rights of way or other properties.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-268. - Maintenance access easement.

In addition to the private drainage easement as outlined in [section 8-213\(d\)](#), every structural BMP installed pursuant to this article shall be made accessible for adequate maintenance access to public rights of way and repair by a maintenance access easement. The easement shall be recorded by plat and its terms shall specify who may make use of the easement and for what purposes pursuant to the design manual.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Sec. 8-269. - Insurance.

As part of the routine costs and expenses of maintaining any structural BMP, the owner of the structural BMP (or the owner(s) or association responsible for maintenance, as either may be applicable) must procure and maintain in full force and effect liability insurance in an amount of not less than \$1,000,000.00 of coverage.

(Ord. No. 11-10, pt. 2, 12-20-2011)

Secs. 8-270—8-300. - Reserved.

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FOOTNOTE(S):

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Editor's note— Ord. No. 11-10, pt. 2, adopted Dec. 20, 2011, replaced §§ 8-261—8-268 in their entirety. Formerly §§ 8-261—8-268 pertained to maintenance and were derived from Ord. No. 07-17, § 2(Exh. A), adopted Nov. 6, 2007. [\(Back\)](#)

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DIVISION 5. - ENFORCEMENT AND VIOLATIONS

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Sec. 8-301. - General.

Sec. 8-302. - Remedies and penalties.

Sec. 8-303. - Remedies and penalties procedures.

Secs. 8-304—8-320. - Reserved.

Sec. 8-301. - General.

- (a) *Authority to enforce.* The provisions of this article shall be enforced by the engineering department, his or her designee, or any authorized agent of the town. Whenever this section refers to the engineering department, it includes his or her designee as well as any authorized agent of the town.
- (b) *Violation unlawful.* Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this article, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article.
- (c) *Each day a separate offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense.
- (d) *Responsible persons/entities.* Any owner or person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, structural or nonstructural BMP, practice, or condition in violation of this article shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

For the purposes of this article, responsible person(s) shall include but not be limited to:

- (1) *Person maintaining condition resulting in or constituting violation.* An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists.
- (2) *Responsibility for land or use of land.* The owner of the land on which the violation occurs, or any person who has control over, or responsibility for, the use, development or redevelopment of the property has responsibility for the use of that land.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

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Sec. 8-302. - Remedies and penalties.

The remedies and penalties provided for violations of this article, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

- (1) *Remedies.*
 - a. *Withholding of a building permit.* The engineering department or other authorized agent may refuse to issue a building permit for a building or other improvements constructed or being constructed on any development site and served by the structural BMP in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
 - b. *Withholding of certificate of occupancy.* The engineering department or other authorized agent may refuse to issue a certificate of occupancy for a building or other improvements constructed or being constructed on any development site and served by the structural BMP in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
 - c. *Disapproval of subsequent permits and development approvals.* As long as a violation of this article continues and remains uncorrected, the engineering department or other authorized agent may withhold, and the town council may disapprove, any request for permit or development approval or authorization provided for by this article or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.
 - d. *Injunction, abatements, etc..* The engineering department, with the authorization of the town manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
 - e. *Correction as public health nuisance, costs as lien, etc.* If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. 160A-193, the engineering department, with the authorization of the town manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.
 - f. *Stop work order.* The engineering department may issue a stop work order to the person(s) violating this article. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.
- (2) *Civil penalties.* Violation of this article may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Town of Holly Springs Director of Engineering and Stormwater Administrator. Civil penalties may be issued up to the full amount of penalty to which the Town of Holly Springs is subject for violations of its Phase II stormwater permit, or \$32,500.00 per day per violation.
- (3) *Criminal penalties.* Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina Law.

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(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Sec. 8-303. - Remedies and penalties procedures.

- (a) *Initiation/complaint.* Whenever a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint or the town may commence enforcement action on its own. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the engineering department, who shall record the complaint. The complaint shall be investigated promptly by the engineering department.
- (b) *Inspection.* The engineering department shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this article.
- (c) *Notice of violation and order to correct.* When the engineering department finds that any building, structure, or land is in violation of this article, the engineering department shall notify, in writing, the property owner or other person violating this article. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they shall be paid or be subject to collection as a debt.

The engineering department may deliver the notice of violation and correction order by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the engineering department may take appropriate action under this article to correct and abate the violation and to ensure compliance with this article.

- (d) *Extension of time.* A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the engineering department a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the engineering department may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The engineering department may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this article. The engineering department may grant such extensions only by a written notice of extension. The notice of extension shall state the date prior to which correction shall be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.
- (e) *Enforcement after time to correct.* After the time has expired to correct a violation, including any extension(s) if authorized by the engineering department, the engineering department shall determine if the violation is corrected. If the violation is not corrected, the engineering department may act to impose one or more of the remedies and penalties authorized by this article.
- (f) *Emergency enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this article or pose an immediate danger to the public health, safety, or welfare, then the engineering department may order the immediate cessation of a violation. Any person so ordered

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shall cease any violation immediately. The engineering department may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007)

Secs. 8-304—8-320. - Reserved.

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DIVISION 6. - DEFINITIONS

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Sec. 8-321. - Terms defined.

Secs. 8-322—8-339. - Reserved.

Sec. 8-321. - Terms defined.

When used in this article, the following words and terms shall have the meaning set forth in this section, unless other provisions of this article specifically indicate otherwise.

Basin model. Engineering hydraulic and hydrologic models performed to calculate discharges and water surface elevations as required by the director of engineering.

Built-upon area. That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area 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.

Concept plan. An informal site plan of a proposed subdivision, project, planned unit development or other development intended to convey the scope, content and nature of a proposed development, but lacking sufficient detail to determine compliance with UDO requirements.

Consultation meeting. The concept plan review meeting held in the development review process as outlined in DPM Section 1.01.

Design manual. The stormwater design manual developed by the town and approved by DENR as at least as stringent as the stormwater design manual approved for use in Phase II jurisdictions by DENR for the proper implementation of the requirements of the federal Phase II stormwater program for the town. The design manual is Section 8 of the Town of Holly Springs Engineering Design Standards and Specifications. All references herein to the design manual are to the latest published edition or revision.

Development. Any land disturbing activity for which a Town of Holly Springs Land Disturbance Permit is required is considered a development in the context of this article.

Development petition. Any petition or review process required by this UDO prior to the issuance of a UDO permit, including but not limited to petitions for: zoning map changes; variances of development standards; special exception uses; master plans or preliminary plans for subdivisions; final plats; vacations of land in a recorded plat; or, development plans.

Development Procedures Manual (DPM). The Town of Holly Springs Development Procedures Manual.

Director of engineering. The Direction [Director] of the Town of Holly Springs Engineering Department.

Drainage easement. See private drainage easement.

Flood study. Engineering flood studies performed to calculate discharges and water surface elevations as required by the director of engineering.

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Impervious area. An impervious area is an area of hardened surface (concrete, rooftop, asphalt, compacted gravel, etc.) that does not absorb stormwater. Impervious surface areas cause increased pollutant loading, increased volume and rate of stormwater runoff, lower stream base flows, and decreased infiltration of stormwater into the soil.

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.

Maintenance access easement. An easement recorded on a plat that shall ensure that every structural BMP installed pursuant to this article shall be made accessible for adequate maintenance access to public rights of way and repair by a maintenance access easement.

Maintenance surety. A legally binding agreement whereby the original applicant, permit holder, or owner posts a surety in a form acceptable to the town for the operation and maintenance of structural BMPs authorized by this article.

Nonstructural BMP. Policy related approaches to stormwater management such as reduced land disturbance, stream buffer requirements, low impact development, and similar measures.

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 (and equal to 3.0 inches).

Operation and maintenance agreement. An agreement that defines the guidelines under which a structural BMP shall be operated and maintained.

Operation & maintenance manual. A document that defines the guidelines under which a structural BMP shall be operated and maintained including but not limited to: frequency of inspections and inspection logs.

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 engineering department 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.

Performance security. A legally binding agreement whereby the owner posts a surety in a form acceptable to the town for the operation and maintenance of structural BMPs authorized by this article, any other applicable ordinances of the town, and any requirements, covenants, or conditions which may be imposed pursuant to the Town of Holly Springs UDO.

Performance surety. A legally binding agreement whereby the applicant, permit holder, or owner posts a surety in a form acceptable to the town for the installation and performance of structural BMPs authorized by this article.

Planned Unit Development (PUD) master plan. A master plan filed in connection with a zoning map change requesting a planned unit development outlined in UDO Section 5.

Private drainage easement. Documentation, approved by the town, of an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to

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ensure that future development and redevelopment maintains the site consistent with the approved project plans.

Redevelopment. Any rebuilding activity other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.

Stormwater development project improvements agreement (SDPIA). An agreement that defines the guidelines under which performance surety funds will be administered.

Stormwater easement. See private drainage easement.

Stormwater facility replacement fund (SFRF). A fund administered by the Town to maintain, repair or replace structural BMPs in emergency situations or after all other enforcement actions have been exhausted.

Stormwater maintenance agreement (SMA). An agreement that defines the guidelines under which a structural BMP shall be operated and maintained and establishment of the permittee's payment into the town's stormwater replacement fund.

Stormwater management plan. A plan for an applicant, developer or owner to construct, operate and maintain structural stormwater best management practices as required pursuant to this article.

Stormwater permit. A permit granted for compliance with stormwater requirements pursuant to this article.

Stormwater permit application. An application made to the town for a stormwater approvals pursuant to this article and the Phase II rules under the Clean Water Act.

Stormwater performance monitoring period (SPMP). Approximately a one year time period starting after construction of the structural BMP has occurred to allow for monitoring of the structural BMP to ensure that it is performing as designed.

Structural BMP. 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. Structural BMPs include physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, underground storage facilities, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice", "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this article.

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this UDO pertaining to preliminary plan approval:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this UDO;
- (2) The division of land into parcels greater than ten acres where 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;

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- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the UDO;
- (5) A division of land into cemetery plots for the purpose of burial; and
- (6) A division of a lot of record, which is or may be legally developed with a two-family dwelling or a multifamily dwelling, into sub-lots for the purpose of transfer of ownership of the individual dwelling units and their associated portion of the lot of record, provided that no additional development sites are created by the division and that no sublots are created which do not contain a dwelling unit.

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 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 approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

Unified Development Ordinance (UDO). The Unified Development Ordinance of the Town of Holly Springs.

(Ord. No. 07-17, § 2(Exh. A), 11-6-2007; Ord. No. 11-10, pt. 3, 12-20-2011)

Secs. 8-322—8-339. - Reserved.

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DIVISION 1. - GENERAL PROVISIONS

DIVISION 1. - GENERAL PROVISIONS

[Sec. 8-340. - Title.](#)

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[Sec. 8-345. - Discharge prohibitions.](#)

[Sec. 8-346. - Watercourse protection.](#)

[Sec. 8-347. - Industrial or construction activity discharges.](#)

Sec. 8-340. - Title.

This article shall be officially known as "The NPDES Phase II Stormwater Illicit Discharge Detection and Elimination Ordinance." It is referred to herein as "this article."

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-341 - Purpose.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Town of Holly Springs through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system;
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-342. - Applicability and jurisdiction.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Town of Holly Springs.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

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Sec. 8-343. - Responsibility for administration.

The Town of Holly Springs Department of Engineering shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the town may be delegated in writing by the director of engineering to persons or entities acting in the beneficial interest of or in the employ of the town.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-344. - Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-345. - Discharge prohibitions.

(a) *Prohibition of illegal discharges.* No person shall discharge into the MS4, any place which may lead into the MS4, or watercourses anything other than stormwater, potable water, or approved re-use water. Any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following are authorized nonstormwater discharges that are exempt from discharge prohibitions established by this article: water line flushing or from other potable water sources, landscape irrigation or lawn watering (does not include reclaimed water as described in 15ANCAC 2H .0200), diverted stream flows, rising ground water, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), water from crawl space pumps, air conditioning condensation (commercial/residential), springs, noncommercial washing of vehicles (residential and charity car washing), natural riparian habitat or wet-land flows, dechlorinated swimming pools, street wash water, or fire-fighting activities. Wash water from the cleaning of exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat.
- (2) Discharges specified in writing by the town as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a notification in writing to the director at least 24 hours prior to the time of the test.
- (4) The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
- (5) If any of the above illicit discharge exceptions are found to be polluted and may therefore negatively impact the quality of the waters of the state, the polluted illicit discharge exception shall be deemed unlawful and shall not be discharged into the MS4. These conditions shall be determined by the director. These polluted illicit discharges, though listed as an exception above, shall be regulated as an illicit connection or discharge.

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(b) *Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- (4) Improper connections in violation of this article must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the director.
- (5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the director requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the director.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-346. - Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-347. - Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the director prior to allowing of discharges to the MS4. The operator of a facility, including construction sites, required to have an NPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the notice of intent (NOI) to the director at the same time the person submits the original NOI to the EPA as applicable. The copy of the NOI may be provided during the applicable stage of the town's development review process. A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial activity without having submitted a copy of the NOI to do so to the director.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

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[Sec. 8-348. - Compliance monitoring.](#)

[Sec. 8-349. - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.](#)

[Sec. 8-350. - Notification of spills.](#)

Sec. 8-348. - Compliance monitoring.

(a) *Access to facilities, right of entry, inspection and sampling.* The town shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article.

- (1) If a discharger has security measure enforcements which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the town.
- (2) Facility operators shall allow the town ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The town shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the director to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The town has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the town and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the town access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the town reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

(b) *Search warrants.* If the director has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the director may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

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DIVISION 2. - ADMINISTRATION AND PROCEDURES

Sec. 8-349. - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The town will adopt requirements identifying best management practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-350. - Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the director in person, by phone, by facsimile, or by email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the town within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

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DIVISION 3. - VIOLATIONS, ENFORCEMENT AND PENALTIES

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Sec. 8-351. - Violations.

Sec. 8-352. - Warning notice.

Sec. 8-353. - Notice of violation.

Sec. 8-354. - Compensatory action.

Sec. 8-355. - Suspension of MS4 discharge access.

Sec. 8-356. - Criminal prosecution.

Sec. 8-357. - Appeal of notice of violation or order.

Sec. 8-358. - Enforcement measures after appeal.

Sec. 8-359. - Recovery of costs and fines.

Sec. 8-360. - Public nuisance and injunctive relief.

Sec. 8-361. - Remedies not exclusive.

Sec. 8-351. - Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Director is authorized to seek costs of the abatement as outlined in [section 8-395](#).

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-352. - Warning notice.

When the director finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the director may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the town to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

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DIVISION 3. - VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec. 8-353. - Notice of violation.

Whenever the director finds that a person has violated this article, the director shall notify the person in writing by registered or certified mail, personal service or posting of the notice of violation (NOV) at the facility where the alleged violation occurred. The NOV shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the facility, building or structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action. Remedial actions may include but are not limited to: Installing equipment or perform testing necessary to monitor, analyze and report on the condition of the user's storm drainage system; eliminating illicit connections or discharges; cease and desist all violating discharges, practices or operations; abate or remedy the stormwater pollution or contamination hazards and restore any affected property; implement source control or treatment BMPs; pay a civil penalty;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the NOV is directed;
- (6) A statement that the determination of violation may be appealed by filing a written notice of appeal as outlined in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the absence of an appeal, the order or violation of the engineering department shall be final.
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator collected pursuant to [section 8-359](#) of this article.
- (8) Refusal to accept the NOV shall not relieve the user of the obligations set forth herein.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008; Ord. No. 10-03, pt. 7, 5-4-2010)

Sec. 8-354. - Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the director may impose upon a violator alternative compensatory actions, such as storm drain marking, attendance at compliance workshops, creek cleanup, etc.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-355. - Suspension of MS4 discharge access.

- (a) *Emergency cease and desist orders.* When the director finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the director may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

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- (1) Immediately comply with all ordinance requirements.
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the town may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including issuance of an emergency suspension order or immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The town may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the director within 30 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

- (b) *Suspension due to illicit discharges in emergency situations.* The director may, without prior notice, issue an emergency suspension order to suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the town may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.
- (c) *Suspension due to the detection of illicit discharge (nonemergency).* Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The town will notify a violator of the proposed termination of its MS4 access with the issuance of a suspension order. The violator may petition the director for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the town.

- (d) *Civil penalties.*
 - (1) *Illicit discharges:* Any user or other person, including, but not limited to, a designer, contractor, agent or engineer, who, either directly or indirectly, allows, participates in, or directs an illicit discharge shall be subject to civil penalties as follows:
 - a. *Yard waste and household products less than five gallons:* except as permitted under section 8-06, first time offenders who discharge into the MS4 yard waste of five gallons or less of domestic or household products, where the quantity actually discharged is considered ordinary for household purposes shall be assessed a Category I civil penalty in an amount set forth in the schedule of civil penalties. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.
 - b. *Household products greater than five gallons and nonhousehold products:* First time offenders who discharge into the MS4 more than five gallons of domestic or household products, who discharge substances generally not used in a home, including but not limited to process waste water, or who cannot provide clear and convincing evidence of the volume and nature of the substance discharged, shall be assessed a Category II civil

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penalty. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.

- c. *Waste products, bulk sales, and unknown volume:* First time offenders who discharge into the MS4 any substance that is a byproduct of a commercial or industrial process, any substance that was purchased at a bulk sales location, or a discharge of an unknown volume and nature shall be assessed a Category III civil penalty. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.
- d. *Repeat offenders:* A user who discharges into the MS4 in violation of this article more than once within a 12-month period, shall be assessed a civil penalty at one category level higher than the category assessed for a first time offender of the substance discharged. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.

(2) Illicit connections: Any user found with an illicit connection and any other person, including, but not limited to, a designer, engineer, contractor, or agent who allows, acts, participates, directs or assists directly or indirectly in the establishment of an illicit connection shall be subject to civil penalties as follows:

- a. First time offenders shall be assessed a Category II civil penalty in an amount set forth in the schedule of civil penalties. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.
- b. A user or person who is found to have violated subsection (2)a. more than once within a 12-month period shall be assessed a Category III civil penalty in an amount set forth in the schedule of civil penalties. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.

(3) In the event the town is fined by the state or federal governments resulting from an illicit discharge or connection made by a user or other person, the user or other person at fault shall reimburse the town for the full amount of the civil penalty assessed by the state and/or federal governments as well as for the abatement costs incurred by the director during the investigation and restoration process pursuant to subsection c. below.

(4) Civil penalties collected pursuant to this article shall be used or disbursed as directed by law.

(5) Any civil penalty assessed above shall be increased by 25 percent if the violation of this article occurs within the primary watershed protection overlay district.

(6) Schedule of civil penalties. The following civil penalties shall be imposed, up to the amount shown for each category, upon the user or person found to have violated this article. In determining the amount of the penalty, the director shall consider:

- a. The degree and extent of harm to the environment, public health and public and private property.
- b. The cost of remedying the damage.
- c. The duration of the violation.
- d. Whether the violation was willful.
- e. The prior record of the person responsible for the violation in complying with this article.
- f. The town's enforcement costs and the amount of money saved by the violator through his, her or its noncompliance.

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1. Category I: Civil penalty to not exceed \$100.00 per day per violation.

Note: In lieu of a civil penalty for first time offenders, the director may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, creek cleanup, etc.

2. Category II: Civil penalty not to exceed \$500.00 per day per violation.

3. Category III violation: Civil penalty not to exceed \$1,000.00 per day per violation.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-356. - Criminal prosecution.

Any person that has violated or continues to violate this article shall be liable for criminal prosecution as a Class 1 Misdemeanor pursuant to N.C.G.S. §§ 160A-175 and 14-3 to the maximum extent.

The town may recover all attorneys' fees court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-357. - Appeal of notice of violation or order.

Any person receiving a notice of violation or civil penalty may appeal the order, violation, or penalty within ten days from notification by filing a petition for appeal as outlined in [Chapter 8](#), Article VII of the Town's Code of Ordinances. In the absence of an appeal within ten working days from notification, the order, violation, or penalty of the engineering department shall be final.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008; Ord. No. 10-03, pt. 7, 5-4-2010)

Sec. 8-358. - Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 30 days of the decision of the municipal authority upholding the decision of the director, then representatives of the director shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the town or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-359. - Recovery of costs and fines.

As authorized by N.C.G.S. 160A-193, the offender shall be liable to the director for the civil penalty. All costs incurred by the town while enforcing this article, including but not limited to abatement costs, remedying the damage caused by the illicit discharge, restoring the facility, sampling, clean-up, the department's administrative costs, costs of court, and costs of litigation, to include reasonable attorney's fees. Within 30 days after the department has completed its abatement of the violation, restoration of the facility and/or its investigation and inspection, the violating user or person will be notified of the department total costs and the civil penalty, if any. The total amount due shall be paid within 30 days of

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the date of notice. If the amount due is not paid within 30 days, the charges shall constitute a lien on the land or premises where the nuisance occurred. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes. The total amount due is also a lien on any other real property owned by the user within the town limits or within one mile of the town limits, except for the person's primary residence. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. The user may avoid the lien on any other real property owned by the user within the town limits or within one mile of the town limits only if the user can show that the actual or threatened discharge was created solely by another person. In the event that the user is able to pass the liability onto another person, the other person shall be liable to the town pursuant to this section.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-360. - Public nuisance and injunctive relief.

The violation of this article is a public nuisance in that it is a threat to the public health, safety, and welfare. If a person has violated or continues to violate the provisions of this article, the director may petition for a preliminary injunction, permanent injunction, restraining order, or any other legal or equitable remedy available for the abatement of the nuisance and any remediation, including attorney's fees.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

Sec. 8-361. - Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the director to seek cumulative remedies.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008)

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DIVISION 4. - DEFINITIONS

DIVISION 4. - DEFINITIONS

Sec. 8-362. - Terms defined.

Secs. 8-363—8-387. - Reserved.

Sec. 8-362. - Terms defined.

When used in this article, the following words and terms shall have the meaning set forth in this section, unless other provisions of this article specifically indicate otherwise.

Authorized enforcement agency. The Town of Holly Springs or another local, state or federal agency that have the ability to permit discharges.

Authorized nonstormwater discharges. Sources of nonstormwater that are conditionally allowed into the storm drain system under the industrial activities stormwater general permit.

Best management practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction activity. Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Department. The Town of Holly Springs Department of Engineering.

Development review process. The review processes outlined in the current version of the Town of Holly Springs Development Procedures Manual.

Determination of violation. The engineering department's identification of persons in violation of the Engineering Design and Construction Standards, the approved stormwater management plan or this article.

Director. The Director of the Town of Holly Springs, Engineering Department, or his/her designee.

Discharger. A person or user that operates a facility that is discharging stormwater associated with industrial activity (including construction activities).

Facility. Any land use including, but not limited to, commercial, industrial and residential land uses, and any other source including but not limited to, motor vehicles and rolling stock that directly or indirectly contribute, cause or permit the contribution of any discharge, illicit or otherwise, to the MS4.

Hazardous materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial presence or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

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Illegal discharge. Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in section 8.345(A)(1) of this article.

Illicit connections. An illicit connection is defined as either of the following: any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the town or an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the town or an authorized enforcement agency.

Industrial activity. Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal authority. The Town of Holly Springs.

Municipal separate storm sewer system (MS4). Any pipe, ditch or gully, or system of pipes, ditches, or gullies, that is owned or operated by a governmental entity and used for collecting and conveying stormwater.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Nonstormwater discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

Notice of appeal for determination of a violation, a document sent to the attention of the director of engineering by the person to appeal the notice of violation or other order of this article.

Notice of appeal. A document sent to the attention of the director by the person to appeal the notice of violation or other order of this article.

Notice of intent (NOI). A form sent to the North Carolina Division of Water Quality to initiate the implementation of stormwater pollution prevention plan requirements as specified in the state's general industrial permit.

Notice of violation (NOV). A document which is issued by the director to notify the operator, person or user that an illegal discharge or illicit connection has been identified and that it is in violation of this article.

Operator. A person or user that operates a facility that is discharging stormwater associated with industrial activity (including construction activities).

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

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Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm drainage system. Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater pollution prevention plan (SPPP). A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Suspension order. A document which is issued by the director to suspend discharge access into the MS4 in the event of an illicit discharge caused by either an emergency situation or detection of an illicit discharge.

Town. The Town of Holly Springs.

Town council. The Town of Holly Springs Town Council.

Town. The Town of Holly Springs Town Manager.

User. Any person who owns real property on which a facility is owned.

Violator. Any person or user who is in violation of this article.

Warning notice. A document which is issued by the director requiring a person or user to investigate the possible violation of the ordinance.

Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse. Any channel, ditch, gully, swale, or stream, which sole purpose is to convey the flow of water.

Waters of the state. All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of North Carolina or any portion thereof.

Waters of the United States. All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of North Carolina or any portion thereof.

(Ord. No. 08-09, § 2(Exh. A), 12-16-2008; Ord. No. 10-03, pt. 7, 5-4-2010)

Secs. 8-363—8-387. - Reserved.

5. Open Space Dedication

- Development Ordinances (UDO Section 2.09)**
- Planned Utility Development (UDO Section 5)**
- Lot Design and Public Place Reservation (UDO Section 7.06 F)**
- Connectivity (UDO Section 7.09)**

**Section 2.09 Development Options for Residential Districts [Amended
Ordinance 06-04]***

Intent – This Section provides developers with a variety of *development options* selected by the Town to design and build residential communities which encourage: the incorporation of existing natural features such as wooded areas and slopes into the design of new development in such a manner as to preserve the site's natural character; the preservation of significant view corridors; development of out-lying areas of the Town of Holly Springs and its extra-territorial jurisdiction in a manner which retains elements of traditional agrarian land use patterns; development of pedestrian oriented communities; development of traditional style neighborhoods; development of communities that are visually and functionally connected to one another; protection of significant watershed areas in order to preserve water quality; creativity and imagination in the process of development; efficient, aesthetic and desirable use of *open space*; variety in housing types and physical development patterns; and, special considerations for property with a unique history or outstanding physical features. [Amended Ordinance #06-04]*

Variances – If a proposed *subdivision* requires a number of "blanket variances" (i.e., *variances* applicable to a majority of the proposed *lots* in the *subdivision*) for such items as *lot area*, *lot width*, *front yard setback*, *side yard setback* or any other item for which a *development option* is provided for in this Section and such items are allowed under the terms of this Section to the extent suggested by the requested "blanket variance", it is the intent of this UDO that the provisions of this Section be followed rather than petitioning for a *variance*. [Amended Ordinance #06-04]*

Traditional Neighborhood Developments – By providing the *development options* set forth in this Section, it is the intent of the Town of Holly Springs to provide a flexible mechanism that will provide for Traditional Neighborhood Developments while assuring that certain minimum *development standards* and aesthetic standards are met. For example, this Section would allow within any of the R-30, R-20, R-15, R-10 or R-8 *districts* established by this UDO the development of: (i) a small neighborhood oriented corner convenience store; (ii) a mixture of *single family dwellings*, *two family dwellings* and *multifamily townhouse dwellings*; or, (iii) *subdivisions* with reductions in *lot area*, *lot width*, *lot frontage*, *front yard setback* and *side yard setback*, where the total area of *lot area* savings (under the *development options* versus development in full compliance with the R-30, R-20, R-15, R-10 or R-8 *district development standards*) is set aside as common *open space* for the use and enjoyment of *subdivision* residents and their guests. Since each of the unfettered use of such *development options* could result in potential negative aesthetic impacts associated with the reduced lot area, the developer is given a series of design features to select from which are specific to each *development option* and are intended to mitigate the likelihood of such potential negative aesthetic impacts occurring. [Amended Ordinance #06-04]*

Section 2.09

Development Options for Residential Districts [Amended Ordinance #06-04]

A. General Procedures.

The following general procedures apply to each Residential *District* which refers to *development options*. [Amended Ordinance #06-04]*

1. Type of Subdivision Development – Within each *single family dwelling* and *two family dwelling* residential *district* (i.e., R-30, R-20, R-15, R-10 and R-8) contained in this UDO which refers to *development options*, there shall be two opportunities available for the development of a *subdivision*: [Amended Ordinance #06-04]*
 - a. Full Compliance With Base Standards – demonstrate full compliance with the *permitted use*, and *development standards* of the applicable *district* as specified for *Master Plan* or *Preliminary Plan* in Section 9.05, B. Platting, Project Constructing Drawing Approval, Recombination and Vacation Procedures of this UDO, and follow the platting procedures of Section 9.05, B. – Platting, Project Construction Drawing Approval, Recombination and Vacation Procedures, of this UDO; or, [Amended Ordinance #06-04]*
 - b. *Development Options* – obtain *development plan* approval, as specified in Section 9.09 – Decision Matrix of this UDO, to authorize compliance with the minimum *development requirements* specified below for each *district* and utilize the *development options* set forth in this Section, and follow the platting procedures of Section 9.05, B. – Platting, Project Construction Drawing Approval, Recombination and Vacation Procedures, of this UDO. [Amended Ordinance #06-04]*
2. If a *development plan* for a *Development Option Subdivision* is denied, the subject property shall not be included in any other *development petition* for a period of not less than twelve (12) months after the date of denial. [Amended Ordinance #06-04]*
3. The twelve (12) month time period specified above which prohibits the inclusion of property which has been the subject of a denied *development plan* in any other *development petition* may be reduced by the *Town Council* upon special request made in writing by the owner of such property. Such special request shall demonstrate that a substantial change in the particular circumstances which induced the prior denial has occurred.
4. To accomplish the purpose of this Section, a *development plan* for *development options* may be approved which includes *waivers* of certain *development requirements* to the extent provided for in this Section below. All *development requirements*, *development standards* and all other regulations of this UDO for which a *waiver* provision is not provided for in this Section shall remain

applicable unless a *variance* of this UDO is granted by the *Board of Adjustment* or, in the case of the regulations set forth in Section 7.06 – Lot Design and Public Place Reservation, Section 7.07 – Street Design and Right of Way Reservation, or Section 7.08 – Utility Design and Reservation, of this UDO, a *waiver* is granted by the *Town Council* in connection with the *preliminary plan* approval. [Amended Ordinance #06-04]

B. Minimum Development Requirements.

As a prerequisite to utilizing any *development options* provided for in this Section, all *subdivisions or projects* shall demonstrate compliance with the following *development requirements*. [Amended Ordinance #06-04]

1. Minimum Area.

The minimum acreage for any overall *subdivision or project* to be developed utilizing the provisions of this Section shall be five (5) acres. Minimum acreage shall not apply to any *subdivision or project* within the adopted Village District Area Plan boundary as specified in the *Comprehensive Plan*. [Amended Ordinance #08-16]*

2. Maximum Gross Density.

The maximum number of *dwelling units* within an overall *subdivision or project* to be developed pursuant to this Section shall not exceed the maximum *gross density* for the applicable *district*, subject to the provisions of Section 2.09, C., 1., a., below, regarding *permitted uses*. Maximum *gross density* shall not apply to any *subdivision or project* within the adopted Village District Area Plan boundary as specified in the *Comprehensive Plan*. [Amended Ordinance #08-16]*

3. Water and Sewer Availability.

Attachment to public water and public sanitary sewer facilities shall be mandatory for any overall *subdivision or project* to be developed pursuant to this Section.

4. Compliance with other applicable laws.

Each overall *subdivision or project* shall demonstrate compliance with all applicable *permitted use*, *development standard* and *subdivision* regulations of this UDO applicable to that *district* for which a *waiver* is not otherwise provided for in this Section as well as any other applicable federal, state or local laws, ordinances, rules or regulations.

5. Project Open Space.

The amount of permanent open space created by the development of an

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Development Options for Residential Districts [Amended Ordinance #06-04]

overall *subdivision* or *project* to be developed pursuant to this Section shall be equivalent to, or more than, ten (10) percent of the total project area. [Amended Ordinance 08-16]*

Open Space – A minimum of ten (10) percent of the total project area shall be set aside as open space and a minimum fifty (50) percent of the required open space shall be set aside as *developed recreational open space* may include, but not be limited to such facilities as: *playgrounds; parks; tot lots; swimming pools; tennis; volleyball or basketball courts and common recreational buildings*. The remaining open space can remain as passive recreational areas, but shall not be area of wetlands, floodplain, easements, and steep slopes for an example or other environmental areas.

Such permanent *open space* shall be provided in compliance with the *Open Space* Regulations set forth in Section 7.10 Open Space Regulations of this UDO. [Amended Ordinance #06-04]

Open Space requirements shall not apply to any *subdivision* or *project* within the adopted Village District Area Plan boundary as specified in the *Comprehensive Plan*. [Added Ordinance #08-16]*

6. Master Sign Plan.

See Section 7.03, A. – Master Sign Plan, of this UDO.

7. Filing Requirements.

See Section 9.05, D. – Development Plan Approvals, of this UDO.

C. Development Options in R-30, R-20, R-15, R-10 and R-8 Districts. [Amended Ordinance #06-04]*

In order to accomplish the intent of this Section, the following *development options* are available for development in the R-30, R-20, R-15, R-10 and R-8 districts. [Amended Ordinance #06-04]*

1. Waiver of Development Requirements in R-30, R-20, R-15, R-10 and R-8 Districts.

Overall *subdivisions or projects* in the R-30, R-20, R-15, R-10 and R-8 Districts which receive *development plan* approval to be developed pursuant to this Section 2.09, C., may be granted a *waiver of the development requirements* specified in this UDO to the extent permitted below:

a. *Permitted Uses – Permitted use* regulations may be *waived* in order to provide for:

(1) *Two Family and Multifamily Dwellings* – up to thirty-five percent (35%) of the total number of *dwelling units* to be included in the overall *subdivision or project* or up to fifty percent (50%) of the total number of *dwelling units* to be included in the overall *subdivision or project* in projects of less than 25 acres or within the boundary of the Village District Area Plan may be *two family dwellings or multifamily dwellings*, provided that: [Amended Ordinance #06-04]*

(a) any *multifamily dwellings* shall be:

(i) located in a *townhouse style building* designed in compliance with

<u>EXAMPLE</u>		
<u>R-10 Density / Use</u>		
100 acres		total land area
- 6 acres		perimeter R/W
- 19 acres		Open Space
- 14 acres		floodway*
= 70 acres		land area to be developed
X 70	acres	
X 3.25	du/a (in R-10)	
= 228	dwelling units	
	permitted	
X 228	dwelling units	
X 35%	maximum %	
	MF or TF	
= 80	dwelling units	
	maximum in	
	MF or TF	
	buildings	
<u>Overall Development Potential:</u>		
70 acres	residential	
148	SF Dwelling Units	
80	TF or MF Townhouse Dwelling Units	
	Open Space based upon total project area	
MF = multifamily		
TF = two family		
[Amended Ordinance #06-04]*		

Section 2.09
Development Options for Residential Districts [Amended Ordinance #06-04]

the Architectural Review standards of the R-MF-15
district;

(ii) located in compliance with the "*Minimum Yard and Building Setbacks*" and the "*Use of Minimum Yards*" *development standards* of the *District* in which it is located except *Minimum Front Yard Setbacks* shall be as follows;

	<u>Minimum</u>	<u>Maximum</u>
<i>Freeway: I-540 / US 1:</i>	100'	NA
<i>Freeway: NC 55 Bypass:</i>	50'	NA
<i>Major Thoroughfare:</i>	50'	NA
<i>Minor Thoroughfare:</i>	30'	NA
<i>Collector Street:</i>	5'	15'
<i>Local Street/Cul-de-sac Street:</i>	5'	15'

[Amended Ordinance #04-11]

(iii) in compliance with all other applicable *development standards* of the underlying *district*;

(b) unless otherwise specified in Table 2.09, C. – 1: Two Family Development Standards, any *two family dwellings* shall comply with the *development standards* of the underlying *district*, provided that a *waiver* thereof may be requested; and,

	R-30	R-20	R-15	R-10	R-8
Lot Area	45,000	30,000	20,000	15,000	13,500
Lot Width	175'	150'	105'	105'	105'
Lot Frontage	110'	100'	50'	40'	40'

(c) any *two family dwelling* or *multifamily dwellings* permitted by this Section shall be separated from the perimeter of the overall *subdivision* by either: *single family lots* developed in compliance with the *minimum lot area*, *minimum lot width* and *minimum aggregate side yard development standards* of the underlying *district*; or, a *greenbelt* of not less than twenty (20) feet in dimension around that portion of the overall *subdivision* containing the *two family dwellings* or *multifamily dwellings*;

(2) *Special Exception Uses* – approval of *special exception uses* listed in the underlying *district*, provided that:

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(a) any land area proposed for a *Special Exception* Recreation Use may be included in the *project area* for the purpose of determining the maximum number of *dwelling units*;

(b) any land area proposed for any publicly owned *Special Exception* Agricultural Use, Communication/Utilities Use, Educational Use, Government Use, Miscellaneous Use, or Public Facilities Use shall not be considered part of the *project area* for the purpose of determining the maximum number of dwelling units which may be set-aside for non-residential uses specified in Section 2.09, C., 1, a., (3), below; and, [Amended Ordinance #06-04]*

(c) any land area proposed for any privately owned *Special Exception* Agricultural Use, Communication/Utilities Use, Educational Use, Governmental Use, Miscellaneous Use, or Public Facilities Use shall be considered part of the *project area* which may be set-aside for non-residential uses specified in Section 2.09, C., 1., a., (3), below; or,

(3) *Retail Uses* – up to five percent (5%) of the total *project area* may be set-aside for: non-residential uses listed as *primary uses* in the Local Business District; or,

EXAMPLE
R-10 Density / Use

100 acres	total land area
- 6 acres	perimeter R/W
-10 acres	open space
- 14 acres	floodway
- 5 acres	retail (in two sites)
= 65 acres	land area to be developed
65 acres	acres
X 3.25	du/a (in R-10)
= 211	<i>dwelling units</i> permitted
211	<i>dwelling units</i>
X 35%	maximum %
= 74	<i>dwelling units</i> maximum in MF or TF buildings

Overall Development Potential:

5 acres Local Business retail in two sites [Amended Ordinance #04-11]
65 acres residential
137 SF Dwellings
74 MF Townhouse Dwellings
Open Space based upon total project area

SF = single family
MF = multifamily
TF = two family

[Amended Ordinance #06-04]*

Section 2.09

Development Options for Residential Districts [Amended Ordinance #06-04]

as specified in Section 2.09, C., 1., a., (2), (b), above, provided that [Amended Ordinance #04-11]:

- (a) no individual retail use or contiguous non-residential area shall exceed three (3) acres in size; [Amended Ordinance #06-04]*
- (b) the acreage set-aside for such non-residential uses shall not be included in *project area* for the purpose of determining the maximum number of *dwelling units*; and,
- (c) all non-residential uses shall be developed in compliance with the *development standards* and Architectural and Site Design Review requirements of the Local Business *District*. [Amended Ordinance #04-11]

(4) For *Subdivisions* or *Projects* over 300 Acres

- (a) Up to ten percent (10%) of the total number of single-family dwelling units to be included in the overall *subdivision* or *project*, may utilize the maximum single family lot waivers in 2.09, C-2 for the next intense district in order according to Section 1.20 except for *subdivisions* or *projects* in the R-8 *district*. [Amended Ordinance #05-04]*
- (b) A minimum of three (3) acres of the total *project area* shall be set aside for non-residential development in accordance with the *Development Standards* and Architectural and Site Design and Review requirements of the Local Business District. [Amended Ordinance #06-04]*

b. *Development Standards – Development standards* which may be *waived* for *single family* and *two family dwellings*:

- (1) The *minimum lot area*, *minimum lot width*, *minimum lot depth*, *minimum lot frontage*, *minimum front yard along streets* which are internal to the overall *subdivision* or *project*, *minimum side yard*, and *minimum aggregate side yard development standards* of the R-30, R-20, R-15, R-10 and R-8 *districts* may be *waived* to extent specified in Table 2.09, C. – 2: Maximum Single Family Lot Waivers and Table 2.09, C. – 3: Maximum Two Family Lot Waivers and subject to the additional regulations of this sub-Section (1): [Amended Ordinance #03-18]

Section 2.09
Development Options for Residential Districts [Amended Ordinance #06-04]

(a) Limitation on Waivers – Where the perimeter of the overall *subdivision* abuts any Residential *District* outside of the overall *subdivision*, the *minimum lot area*, *minimum lot width*, *minimum lot depth*, and *minimum aggregate side yard development standards* shall remain applicable to all lots: [Amended Ordinance #03-18]

(i) which abut such perimeter of the overall *subdivision*; or,

(ii) that have any portion of the *lot* located within twenty (20) feet of such perimeter of the overall *subdivision*.

Table 2.09, C. – 2: Maximum Single Family Lot Waivers

	R-30	R-20	R-15	R-10	R-8	R-8 (VDAP)
Lot Area	15,000	15,000	10,000	7,500	5,000	4,000
Lot Width	100'	85'	70'	60'	50'	40'
Lot Depth	166'	128'	131'	86'	83'	75'
Lot Frontage	45'	40'	35'	30'	25'	25'
Front Yard	20'/15'/5'	20'/15'/5'	20'/15'/5'	20'/15'/5'	20'/15'/5'	20'/10'/5'
Side Yard	5'	5'	0'	0'	0'	0'
Aggregate Side Yard	20'	20'	15'	10'	10'	10'

[Amended Ordinance #03-18, Amended Ordinance #08-16]*

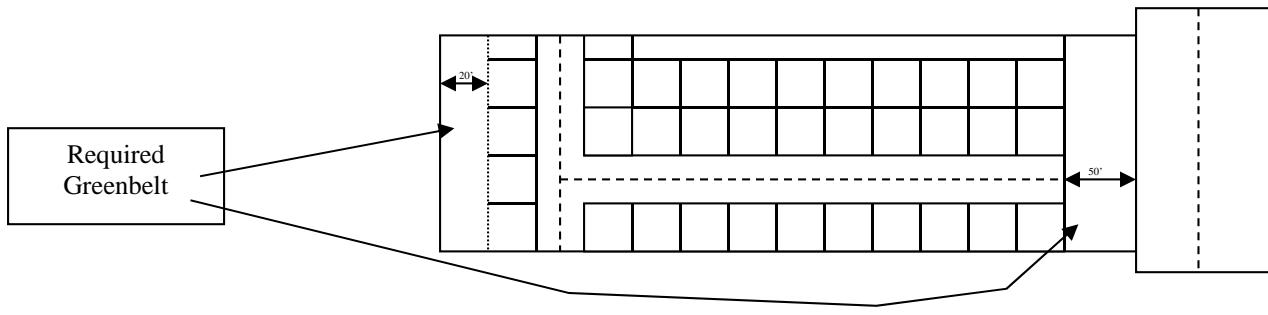
Table 2.09, C. – 3: Maximum Two Family Lot Waivers

	R-30	R-20	R-15	R-10	R-8
Lot Area	30,000	30,000	20,000	15,000	10,000
Lot Width	130'	130'	120'	105'	90'
Lot Frontage	75'	50'	45'	40'	35'
Front Yard	20'/15'/5'	20'/15'/5'	20'/15'/5'	20'/15'/5'	20'/15'/5'
Side Yard	5'	5'	5'	5'	5'
Aggregate Side Yard	20'	20'	15'	15'	15'

Section 2.09

Development Options for Residential Districts [Amended Ordinance #06-04]

(b) *Lot Area, Lot Width and Aggregate Side Yards* – When a *minimum lot area*, *minimum lot width*, *minimum lot depth*, or *minimum aggregate side yard development standard* is reduced as provided for in this Section, a provision shall be made for a *greenbelt* of not less than twenty (20) feet in dimension around that portion of the perimeter of the overall *subdivision* or *project* containing the *lots* utilizing the specified reductions, with preservation, landscaping and buffering details approved in connection with the approval of a *development plan* pursuant to this Section; except within the adopted Village District Area Plan boundary as adopted in the *Comprehensive Plan*. [Amended Ordinance #03-18, Amended Ordinance #08-16]*



[Amended Ordinance #06-04]

(c) *Side Yards* – Where a *minimum side yard* of less than five (5) feet is approved:

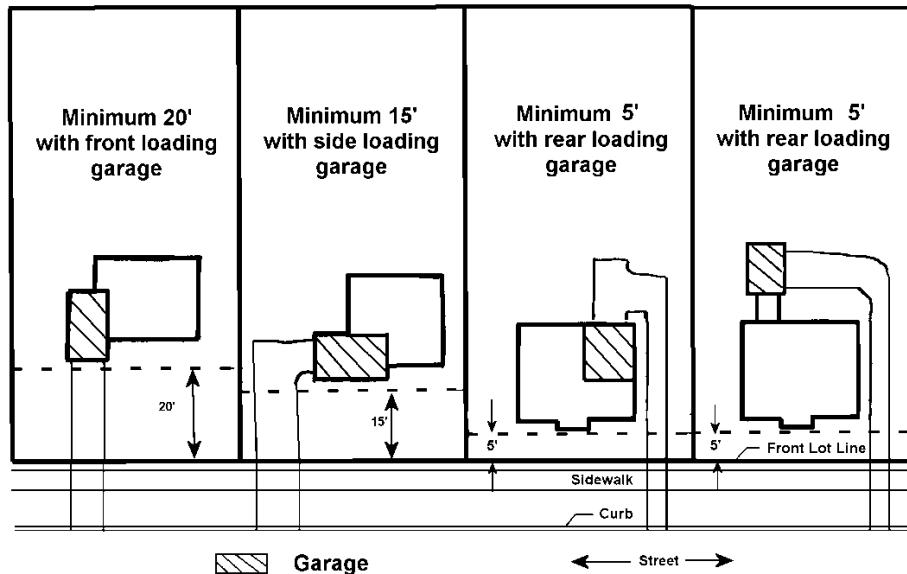
- a provision shall be recorded as part of the *final plat*, or as part of the *subdivision* declaration which is cross-referenced on the *final plat*, which establishes an area extending a minimum of five (5) feet from an exterior wall to be reserved for use in the continual maintenance of that portion of any *structure* or landscaping abutting a *structure* that is located within five (5) feet of the *side lot line*; and,
- in addition to the standard *site plan* requirements for obtaining a *UDO permit*, all *site plans* submitted for a *UDO permit* utilizing this *development option* shall depict the location and *setback* of: any existing *buildings* or *structures* on all *lots* abutting a *side lot line*; or, the location and *setback* of any proposed *buildings* or *structures* on all *lots* abutting a *side lot line* for which a valid *UDO permit* has been issued. [Amended Ordinance #06-04]

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(d) *Front Yards* – When a *minimum front yard* is reduced, the following *minimum front yard* and *setback* requirements shall apply to all portions of the building or structure, including but not limited to front stoops, porches or stairs:

- (i) Twenty (20) feet for any portion of a *primary building* containing a *dwelling unit* and a *front loading garage* or any portion of a detached *accessory front loading garage*;
- (ii) Fifteen (15) feet for any portion of a *primary building* containing a *dwelling unit* and a *side loading garage* or any portion of a detached *accessory side loading garage*, provided that the wall of the garage facing the *front lot line* shall include windows or other architectural details that mimic the *dwelling unit*; or,
- (iii) Five (5) feet for any portion of a *primary building* containing a *dwelling unit* and which contains no *garage*, has a *rear loading garage* or has a detached *accessory garage* located between the *rear lot line* and the established *rear building line* of the *primary building*.

FRONT YARD WAIVERS



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Development Options for Residential Districts [Amended Ordinance #06-04]

- (e) *Rear Yards* – The *minimum rear yard* requirements of the applicable *district* shall remain applicable to all *lots*.
- (2) *Lot Frontage* – The requirement for *lot frontage* on a *public street* and for each *lot* or *sub-lot* to gain direct *access* from said *public street* may be *waived* to allow for *frontage* and direct *access* as follows:
 - (a) a *lot* or *sub-lot* containing a *single family dwelling* or *two family dwelling* shall have *frontage* on a *public street*, but may have *access* from a *private alley*; and,
 - (b) a *lot* or *sub-lot* containing *multifamily dwellings* may have *frontage* or *access* from a *private street* or *private alley*.
- c. **Development Standards – Off-Street Parking.**

The *development standards* of any R-30, R-20, R-15, R-10 or R-8 *district* regarding the provision of *off-street parking* may be *waived* to provide for a limited amount of *on-street parking* located immediately adjacent to the *dwelling unit* served by such *on-street parking*, provided, however, that such adjacent *on-street parking* is approved by the agency having jurisdiction over *on-street parking* and the *Director of Engineering*. If *on-street parking* is provided, the amount of *off-street parking* required by this UDO for the applicable *dwelling unit* shall be deemed to be reduced by the number of *on-street parking spaces* provided immediately adjacent to such *dwelling unit*.

2. Additional Development Requirements for Development Options in the R-30, R-20, R-15, R-10 and R-8 Districts. [Amended Ordinance #06-04]

All *development plans* utilizing the *development options* in the R-30, R-20, R-15, R-10 and R-8 *districts*, shall demonstrate compliance with the following *additional development requirements*: [Amended Ordinance #06-04]

- a. *Access* – Each *lot* or *sub-lot* within an overall *subdivision* or *project* developed pursuant to this Section has direct *access* to a *public street*, *private street* or *private alley* subject to the provisions of Section 2.09,C.,1.,b.,(2); [Amended Ordinance #06-04]
- b. *Gross Density* – The maximum number of *dwelling units* within an overall *subdivision* or *project* to be developed pursuant to this Section shall not exceed the maximum *gross density* for the applicable *district*, subject to the provisions of Section 2.09, C., 1., a. regarding *permitted uses*; maximum *gross density* shall not apply to any *subdivision* or *project*

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Development Options for Residential Districts [Amended Ordinance #06-04]

within the adopted Village District Area Plan boundary as adopted in the *Comprehensive Plan*. [Amended Ordinance #08-16]*

c. Phases – If an overall *subdivision or project* is to be developed in phases, the *development plan* shall contain a proposed breakdown of phases to be contained in the overall *subdivision or project*.

The first phase to receive final plat approval shall include an amount of permanent *open space* necessary so that the calculation of *net density* for that phase does not exceed the maximum *gross density* permitted for the overall *subdivision or project*. [Amended Ordinance #06-04]

Any subsequent phase of the overall *subdivision or project* may utilize any excess permanent *open space* created and existing in all prior phases to receive final plat approval of such overall *subdivision or project* to provide for a *net density* for all phases which have received *final plat* approval that does not exceed the maximum *gross density* permitted for the overall *subdivision or project* (including the phase in question). [Amended Ordinance #06-04]

Such permanent *open space* shall be provided in compliance with the Open Space Regulations set forth in Section 7.10 – Open Space Regulations of this UDO; and,

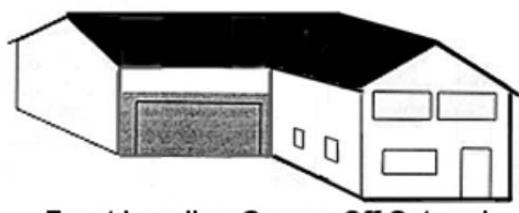
d. Design Features – The following design features shall be utilized in the overall *subdivision or project* in a manner and extent which is appropriate to the nature and extent of the waivers of *development requirements* being requested: [Amended Ordinance #06-04]

(1) All *Single Family* and *Two Family* – All *single family* and *two family subdivisions or projects* shall comply with the following additional *development requirements*:

(a) *Garages* – All *single family dwellings* and *two family dwellings* with *accessory garages*, either detached or attached, shall:

(i) Utilize at least one (1) of the following three (3) options:

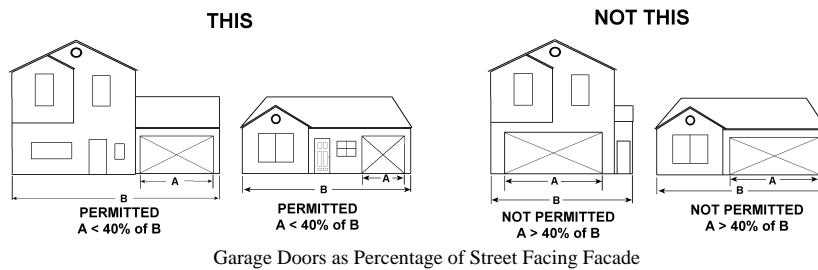
a. *Garage Off-Set* – Development of *single family dwellings* or *two family dwellings* in which the front façade of an attached or detached *front loading garage* is off-set and stepped back from the *front building line* by



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at least ten (10) feet (this design feature only applies to dwellings with *garages*);

- b. *Garage* as Percent of Facade – *Garage* doors shall not comprise more than forty (40) percent of the linear length of the ground floor, *street* facing façade of the *primary building* containing a *dwelling unit* (this design feature only applies to dwellings with *garages*); or,
- c. Side Loaded or Rear Loaded *Garages* – Utilization of a side loaded or rear loaded garage to minimize the impact of the *garage* doors on the streetscape. [Supplement #6- corrected typographical error]



- (ii) Additional Design Features for More Than Two-Car *Garages* – No more than two (2) one-car *garage* doors or one (1) two-car *garage* door may be located on the same architectural plane. Architectural planes for additional sets of *garage* doors shall be off-set by a minimum of twelve (12) inches. [Supplement #6- corrected typographical error]



Example of Garage Door Off-Set When Garage Accommodates More Than Two Cars

(b) Front Elevations – The front elevations of all *single family dwellings* and *two family dwellings* shall be in compliance with the design features selected from the options specified in Table 2.09, C. – 4: Residential Design Features for Front Facades.

Note: Other architectural embellishments or design features, in addition to those specified in Table 2.09, C-4, may be approved within each Group when such architectural embellishments or design features would provide a similar architectural impact as the items listed within each Group.

(c) Building Materials – For all *single family dwellings* and *two family dwellings* the use of vinyl siding shall be prohibited, except for accent elements of the façade, limited to 20% of the total façade area. [Added Ordinance #06-04]*

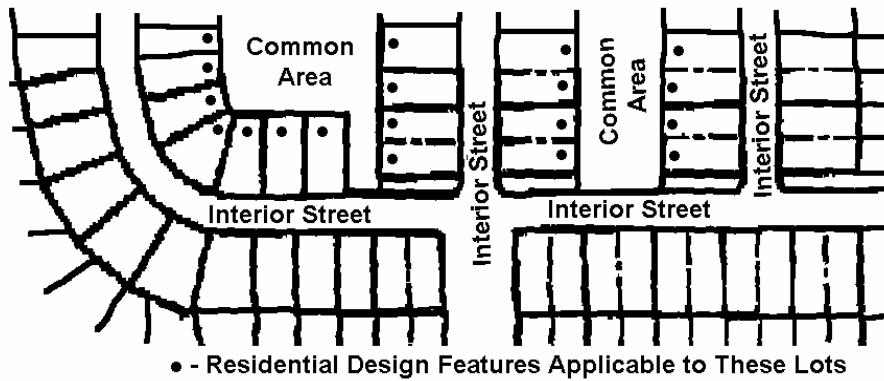
(d) Detached Garages – All detached garages shall have the same architectural elements and building materials and colors of the primary structure. [Added Ordinance #06-04]*

(e) Side or Rear Façade Architectural Treatment - *Single family dwellings* and *two family dwellings* located on *lots* or *sub-lots* adjacent to perimeter street of a *subdivision* or *project* and or a common area or other activity area of a *subdivision* or *project* and located so as to have a side or rear façade oriented to said perimeter street, common area or other activity area shall utilize design features selected from the options specified in Table 2.09, C. – 5: Residential Design Features for Side and Rear Façades. [Added Ordinance #06-04]*

Note: Other architectural embellishments or design features, in addition to those specified in Table 2.09, C-5, may be approved within each Group when such architectural embellishments or design features would provide a similar architectural impact as the items listed within each Group.

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Development Options for Residential Districts [Amended Ordinance #06-04]



Example of Lots Oriented to a Common Area and Subject to
Residential Design Features for Side and Rear Facades
[Amended Ordinance #06-04]*

(f) Streetscape - Streetscape elements shall be provided along main collector streets within the *subdivision or project* including such elements as no driveways, berms, street trees, and/or sidewalks. [Amended Ordinance #06-04]*

**Table 2.09, C. – 4: Residential Design Features
for Front Facades**

Select a minimum of seven (7) of the following design features for the front façade with at least:

- All design features from Group 1 shall be provided;
- Two (2) design feature from Group 2; and,
- The remaining three (3) design features may be selected from either Group 1, Group 2 or Group 3.

Group 1 –Must have all of the following:

Change in Elevation of Roof Ridge, or
Change in Direction of Roof Ridge , or
Roof with Dormers (minimum of two (2) dormers).
Foundation Landscape Package (minimum 2 trees; 1 tree and 4 shrubs; or 8 shrubs).
Façade Modulation (other than items listed herein; minimum of 12 inches in depth).
Roof Overhangs (minimum 12 inches in depth on all elevations).
Decorative garage door, if front loaded.

Group 2 – Pick at least two (2) of the following:

Multiple Building Materials (stone, brick, or wood siding) or Textures (shakes, board and batten, etc.) (secondary material must comprise at least 20% of front façade).**	Side Garage Bump-out (minimum size 3'X10'). Architectural Shingles. Window Transom or Door Sidelight(s), or Door Transom.
Covered Porch – a covered front porch occupying a minimum of forty (40) percent of the overall width of the <i>primary building</i> containing a <i>dwelling unit</i> .	

Group 3 – Additional Items:

Decorative Door Architrave.	Shutters (front).
Decorative Window Architrave.	Keystone (over all first floor, front façade windows and doors).
Decorative Window Cornice.	Pent Roof or Pent Roof Return.
Decorative Trim Molding (including, at a minimum, fascia, soffit & corner trim).	Architectural Elements (e.g., quoins, pilasters, soldier courses, friezes, cornices, dentils, etc.).
Decorative Front Door (min. 25% glazing).	

* Front façade wall area shall be exclusive of window or door areas and shall include all wall areas oriented to the front of a *primary building* containing a *dwelling unit* between the two side walls of such *building*.

** The use of Minimum 50% brick or stone on the front façade eliminates the choice of Multiple building material and Accent Siding from Group 2 and 3.

[Amended Ordinance #12-05]*

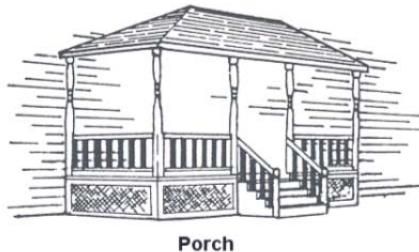
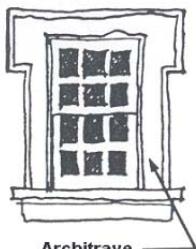
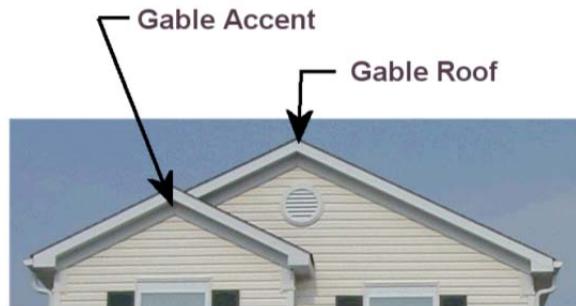
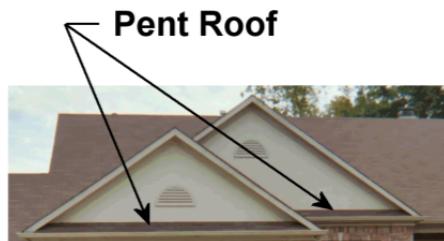
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Development Options for Residential Districts [Amended Ordinance #06-04]

Examples of Residential Design Features for Front Facades



Example of: Change in Direction of Roof Ridge; Dormers and Hip Roof.
[Amended Ordinance #06-04]*

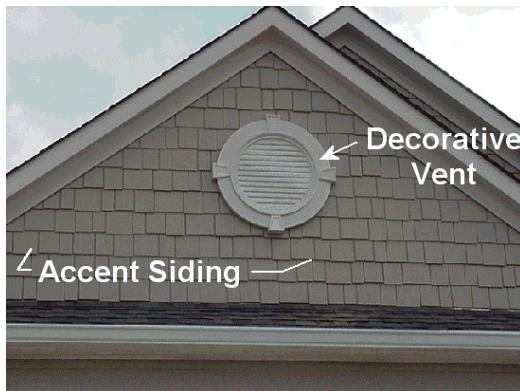


Examples of Residential Design Features for Front Facades



Portico

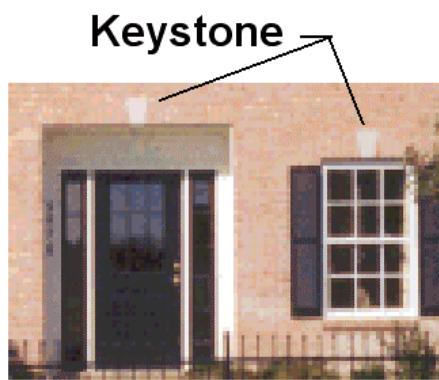
Example of: Shed Roof Accent; Door Sidelight; Door Transom; Shutters; and, Widow Grids



Example of: Accent Siding and Decorative Gable Vent



Example of: Porch; Pent Roof; Window Grids. [Amended Ordinance #06-04]*



Example of Keystones

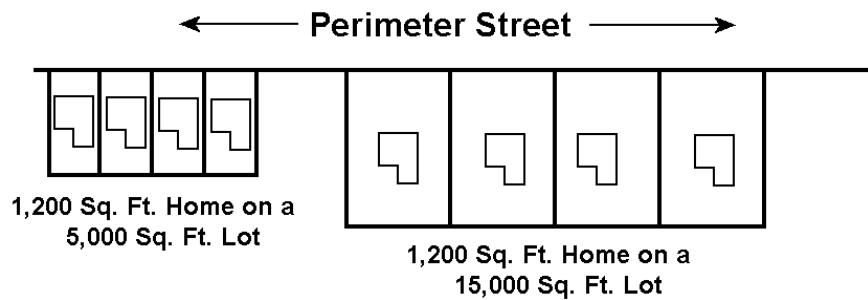


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Development Options for Residential Districts [Amended Ordinance #06-04]

(2) Additional Development Requirements for *Single Family Dwelling Lots* of 10,000 Square Feet in *Lot Area* or Less; and, *Two Family Dwelling Lots* of 20,000 Square Feet in *Lot Area* or Less.

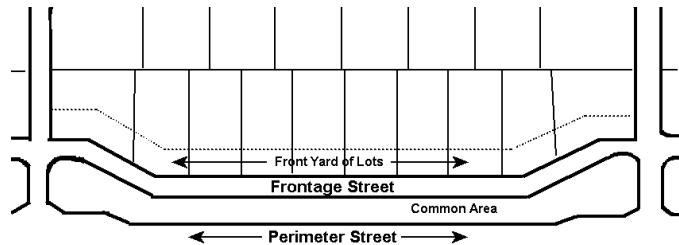
In order to minimize the potential negative impact of higher intensity development, the following additional development requirements shall apply to all *single family dwelling lots* of 10,000 square feet in *lot area* or less, and all *two family dwelling lots* of 20,000 square feet in *lot area* or less.



Example of Relative Visual Impact of Lot Size

(a) Perimeter Streetscapes – For all perimeter streetscapes of the overall *subdivision* or *project*, at least one (1) of the following three (3) design features shall be utilized:

(i) *Frontage Street* – All *lots*, *sub-lots* and *streets* shall be laid out so that *single family dwellings* and *two family dwellings* located on *lots* which abut a perimeter street of a *subdivision* or *project* shall be oriented with the front façade of the *dwelling* oriented toward the perimeter street of the *subdivision* or *project*. This design feature may be accomplished through the utilization of *frontage street*.



Example of a Frontage Street

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(ii) A *greenbelt* of not less than fifty (50) feet in dimension along all perimeter *streets* of the overall *subdivision or project*, with preservation, landscaping and buffering details in compliance with the requirements for a Type C -225 landscape screen. *Greenbelts* shall not be included as part of a *lot* and shall be deeded to the Home Owners Association. A *greenbelt* is not required for a *subdivision or project* within the adopted Village District Area Plan boundary as adopted in the *Comprehensive Plan*.
[Amended Ordinance #06-04, Amended Ordinance # 08-16]*

Section 2.09**Development Options for Residential Districts [Amended Ordinance #06-04]**

**Table 2.09, C. – 5: Residential Design Features
for Side and Rear Facades**

Select from the following design features based upon the location and orientation of the side or rear façade:

- Street Orientation – a minimum of five (5) of the following design features, with at least two (2) features selected from Group 1, for any side or rear façade oriented toward a *street*; or,
- Open Space Orientation – a minimum of four (4) of the following design features, with at least two (2) features selected from Group 1, for any side or rear façade oriented toward an open space common area.

Group 1:

- Change in Direction of Roof Ridge.
- Finished Space "pop-out" (minimum size 3' X 10').
- Façade Modulation (minimum variation eighteen (18) inches in depth and four (4) feet in width).
- Open or Screened in Porch (minimum size 10' X 10').
- Bay or Oriel Window.
- Roof with Dormers (minimum of two (2) dormers).
- Roof Overhangs (minimum 12" on all elevations).
- Minimum 50% brick or stone on rear façade*.
- Brick or stone chimney.

* Note: Rear façade wall area shall be exclusive of window or door areas and shall include all wall areas oriented to the rear of a *primary building* containing a *dwelling unit* between the two side walls of such *building*.

Group 2:

Multiple Building Materials (secondary material must comprise at least 20% of the applicable façade).	Accent Siding.
Hip Roof.	Elevated Deck with Decorative Rail.Patio Doors – Double Width (not sliding glass doors).
Roof Overhang (subject elevation only).	Integrated Covered Storage Area (<u>not</u> the same as a side garage bump-out; minimum size 3' X 10').Shutters (all sides).
Decorative Door Architrave.	Door Transom.
Decorative Window Architrave.	Window Transom.
Decorative Window Cornice.	Window Grids (permanent).
Decorative Trim Molding (including, at a minimum, fascia, soffit and corner trim).	Patio Doors (double width, not sliding).
Architectural Elements (e.g., quoins, pilasters, soldier courses, friezes, cornices, dentils, etc.).	

[Amended Ordinance #06-04]*

Examples of Residential Design Features for Side and Rear Facades



Example of: Shutters, Patio Doors and Retractable Awning



Example of: Screened Porch & Elevated Deck with Decorative Rail



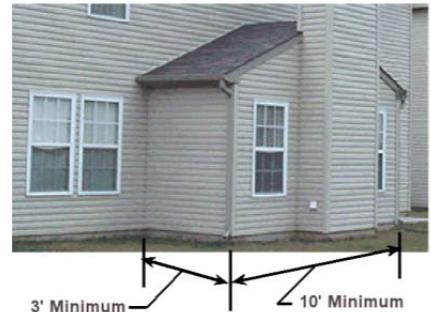
Example of Bay Door



Example of: Direction of Roof Ridge, Patio Doors, and Façade Modulation [Amended Ordinance #06-04]*



Example of: Window Grids and Patio Doors [Amended Ordinance #06-04]*



Finished Space Pop-Out

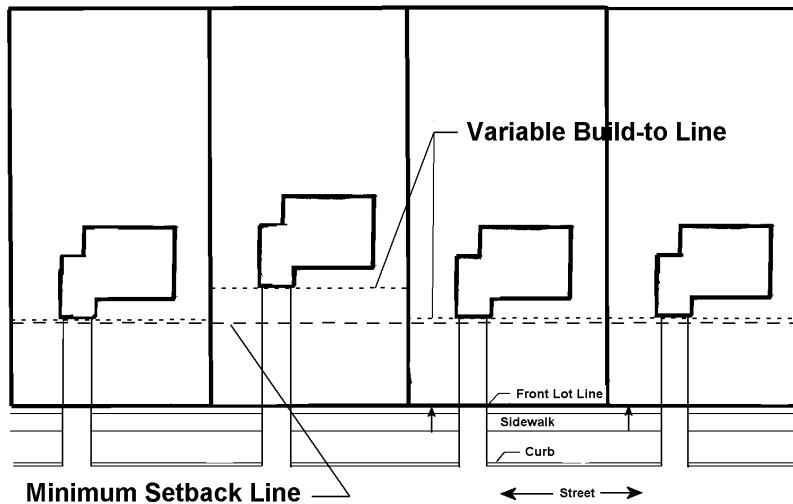
Section 2.09

Development Options for Residential Districts [Amended Ordinance #06-04]

(b) Interior Streetscapes – For all interior streetscapes of the overall *subdivision or project*, at least one (1) of the following two (2) design features shall be utilized:

(i) Establishment of a variable *build to line* by *plat* to vary the placement of adjacent *primary buildings* containing a *dwelling unit* by a minimum of:

- *Single Family Dwellings* – a five (5) foot or more variation applicable to at least one (1) of every four (4) *lots* along a *block face*; or,



Example of Variable Build-to Line

- *Two Family Dwellings* – either: a two (2) foot off-set or more for each *dwelling unit* in a *two family dwelling building*; or, a five (5) foot or more variation applicable to at least one (1) of every four (4) *lots* along a *block face*; or,

(ii) Provide documentary assurances that sufficient variation shall exist in the design and appearance of adjacent *dwelling units* necessary to avoid a monotonous *building design and streetscape*.

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Development Options for Residential Districts [Amended Ordinance #06-04]

(c) Open Space – *Single Family dwellings* located on *lots* that are utilizing the reduced *lot* size option specified in 2.09, 1., a., (4) shall be located within 1320 feet or quarter of a mile from a developed recreational area as specified in 2.09, B., 5. *Open Space* requirements shall not apply to any *subdivision or project* within the adopted Village District Area Plan boundary as adopted in the *Comprehensive Plan*. [Added Ordinance #06-04, Amended Ordinance # 08-16]*

(3) *Multifamily* – for *multifamily townhouse* portions of the overall *subdivision or project*, at least three (3) of the following four (4) design features shall be provided for each *multifamily townhouse building*: [Amended Ordinance #06-04]

(a) The roof of each *dwelling unit* shall be distinct from the roof of adjacent *dwelling units* either through: separation of roof pitches; varying the direction of roof pitches; inclusion of dormers; or, other variation in roof design;



Multifamily Townhouses with Roof Line Changes

(b) Each *dwelling unit* with a rear loaded garage, or without a garage shall utilize at least one (1) of the following two (2) features: [Amended Ordinance #06-04]

(1) A covered front porch occupying a minimum of fifty (50) percent of the overall width of the *dwelling unit*.



Front Porch - Minimum 50%

(2) A 2nd floor decorative balcony; or, [Amended Ordinance #06-04]

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Development Options for Residential Districts [Amended Ordinance #06-04]

(c) All *garages*, carports or other *off-street parking areas* reserved for the owners or occupants of the *dwelling unit*, whether attached or detached, shall be provided with rear access from an adjoining *public* or *private alley*;



Alley Access to Garages

(d) If a front loaded garage is provided it must utilize at least three (3) of the following six (6) design features: [Amended Ordinance #06-04]

- (1) Provide decorative or carriage style garage doors, or a decorative garage opening; or
- (2) Garage shall extend no further than ten (10) feet from the front façade of the dwelling unit associated with the garage; or [Amended Ordinance #06-04]
- (3) Dwelling Units shall vary between units offering front loaded garages and units without front loaded garages; or
- (4) One car garages must be setback a minimum of 25' from the right-of-way; or [Amended Ordinance #06-04, Supplement # 6 corrected typographical error]*
- (5) Provide a decorative driveway (brick, stone, stamped concrete, Hollywood style, etc.); or [Amended Ordinance #06-04]
- (6) Two car garages must be setback a minimum of 30' front the right-of-way. [Amended Ordinance #06-04]

Examples of Multifamily Design Features for Units with Front Loaded Garages



Examples of Decorative Garage Doors and Decorative Garage Openings [Amended Ordinance #06-04]



Examples of Varying Units with Garages and Units without Garages [Supplement #6 corrected typographical error]*



Examples of: Changes in Elevation and Direction of Roof Ridge



Examples of: Front porch occupying a minimum of fifty (50) percent of dwelling width

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Development Options for Residential Districts [Amended Ordinance #06-04]

(4) Vehicular Design and Pedestrian Connectivity – the *street, sidewalk, walkway* and pedestrian/bikeway systems of any overall *subdivision or project* shall be designed in compliance with the provisions of Section 7.09, A., 3. – Development Options, of this UDO and shall provide additional pedestrian circulation enhancements in a manner and extent appropriate to the proposed *subdivision or project*, including but not limited to: [Amended Ordinance #06-04]

(a) sidewalks on both side of all *local streets* within the overall *subdivision or project*;

(b) variation in street pavement texture or markings to delineate pedestrian cross-walks;

(c) the provision of transit stops, bike racks, benches, shelters or other features to facilitate the convenience of pedestrian or alternative means of transportation within the overall *subdivision or project*; and,

(d) include a *sidewalk, walkway* or pedestrian/bikeway system which functionally connects the various land *use* elements (single family, two family, *multifamily*, commercial or *open space*) of the overall *subdivision or project*.

(e) If *private streets* or *private alleys* are approved, each such *private street* or *private alley* shall be: [Supplement #6 corrected typographical error]*

(1) designed and built to the Town of Holly Springs' Engineering Design and Construction Standards for depth and materials;

(2) designed so as to provide adequate maneuverability and *access* for school busses, fire trucks and other emergency vehicle *access*; and,

(3) approved by the *Town Council* as a *waiver* of the regulations of Section 7.07 – Street Design and Right-of-Way Reservation of this UDO. [Amended Ordinance #06-04]

3. Findings Required to Approve a Development Plan Utilizing Development Options in the R-30, R-20, R-15, R-10 and R-8 Districts. [Amended Ordinance #06-04]*

A *development plan* which incorporates *development incentives* for development in the R-30, R-20, R-15, R-10 and R-8 *Districts* (and thereby grant the *waivers* requested by the Petitioner) indicating compliance with this Section may only be granted upon finding that:

- a. The use of area properties will not be adversely affected;
- b. The proposed development is appropriate to the site and its surroundings;
- c. The proposed development is consistent with the policy statements of the *Comprehensive Plan*;
- d. The proposed development is consistent with the intent and purpose of this UDO;
- e. The proposed development will enhance or preserve the natural and/or environmental features on the property; and
- f. The proposed development will reduce the amount of tree cutting or mass grading of the property as a result of using *Development Options*. [Amended Ordinance #06-04]*

All findings specified above for the granting of a *waiver for development options* shall be reduced to writing and signed by the *Director* and retained as a part of the permanent record of the determination. [Amended Ordinance #06-04]*

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Development Options for Residential Districts [Amended Ordinance #06-04]

D. Requirements and Services for Private Streets, Private Alleys, Interior Access Driveways, and Interior Access Drives.

See Section 2.08, G. – Requirements for Services for Private Street, Private Alleys, Interior Access Driveways and Interior Access Drives.

5.01 Purpose and Intent

The Planned Unit Development (PUD) *District* is designed to: encourage the master planning of development for larger tracts of land and to coordinate such development so as to manage the impacts of the development on the provision of Town services and infrastructure; encourage creativity and innovation in the design of developments, including the layout of land uses and open space that promote high standards in design and construction, and further the purposes of the *Comprehensive Plan*; provide for more efficient use of land including the reduction of land area disturbed for utility lines and motor vehicle *access*; permit special consideration of property with outstanding natural or topographical features such as rock outcroppings, areas of special flood hazard, slopes, major tree groupings, significant vegetation, or important view corridors and scenic vistas; facilitate use of the most appropriate construction techniques in the development of land; and, to provide for any individual land use not otherwise specified elsewhere in this UDO.

The PUD *District* is not intended for use with *subdivisions* or *projects* which can be developed under the *General Use Districts* of this UDO, other than the PUD *District*, as a matter of right or by requesting approval of a *development plan* or a *special exception use*.

5.02 Permitted Uses, Development Standards and Minimum Requirements

A. *Permitted Uses.*

Permitted uses, including *primary uses* and *special exception uses*, in the PUD District shall be any *use* or range of *uses* specified in the *PUD Master Plan* filed with the petition for zoning map change. *Permitted uses*, by way of example, may include any residential, commercial / mixed *use* or industrial *use*, or any individual *use* or combination of *uses* deemed appropriate for the real estate.

Accessory uses, home occupations or temporary uses, unless otherwise specified in the *PUD Master Plan*, shall be permitted consistent with the General Regulations applicable to the residential, commercial / mixed use or industrial *districts*, based upon which *district* the *permitted use* is first permitted as a *primary use* according to the intensity of the *districts* listed in Section 1.20 – *Zoning Districts* and *Zoning Maps* of this UDO.

Residential *accessory structures*, unless specified in the PUD Master Plan, shall be permitted consistent with the *Accessory Building or Structure Development Standards* as specified in Section 2.04 – R-10: Residential District. [Added Ordinance #09-20]*

B. *Development Standards.*

Every *PUD Master Plan* shall specify *development standards* applicable to each permitted use in the PUD. *Development standards* applicable to a PUD shall be either:

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1. Those *development standards* specified in the *PUD Master Plan* filed with the petition for zoning map change; or,
2. If a *development standard* has not been specified in the *PUD Master Plan*, the applicable *development standard* shall be that which is specified in the *district* in which the *use* is first permitted as a *primary use*, according to the intensity of *districts* listed in Section 1.20 – Zoning Districts and Zoning Maps of this UDO.

If the petitioner does not want a *development standard* from the first *district* in which a *use* is permitted to be applicable, then the *PUD Master Plan* shall contain a statement to such effect.

C. Minimum Requirements.

1. *Open Space.*

Each PUD shall include a minimum of ten (10) percent of the total acreage of the *project* as *playground, plaza, close, square, park or parkway open space* developed in compliance with Section 7.10 – Open Space Regulations and Section 5.06 – Dedication and Maintenance of Common Open Space.

2. Landscape Buffer or Stream Buffers.

No portion of a *greenbelt*, landscape buffer or stream buffer required as part of a PUD shall be included as part of any *lot* or used to comply with the *open space* requirements of Section 5.02, C., 1., above. Such *greenbelt*, landscape buffer or stream buffer shall be indicated on the *final plat*, which shall include information regarding ownership, maintenance and use limitations.

3. PUD Criteria.

Each PUD shall represent a *use* or development pattern which is not available under any individual *district* as a matter of right or by requesting approval of a *development plan* or a *special exception use*.

By way of example, a PUD shall represent a *use* or development pattern not attainable under the provisions of: Section 2.09 - Development Options for Residential Districts by approval of a *development plan*; or, Section 3.04: OR – Office, Research and Development Park District by approval of a *Special Exception Use* or an *Accessory Use*. [Amended Ordinance #10-11]*

5.03 Procedure for Approval of a Planned Unit Development

The general review and approval process for a PUD consists of the following elements:

- Pre-Application *Concept Plan* Meeting; and,
- Zoning Map Change to a PUD District and *PUD Master Plan* Approval.

A. Pre-Application Concept Plan Review

Before filing a petition for a zoning map change to a *PUD District* accompanied by a *PUD Master Plan*, the Petitioner shall contact *Staff* and schedule a pre-application conference to discuss the proposed planned unit development. The Petitioner shall provide the following information for the proposed planned unit development at the pre-application conference:

- Site and location of the parcel proposed for development.
- Proposed *gross density* of the planned unit development and net density of the individual parcels within the planned unit development.
- A concept plan showing the general land uses proposed, including approximate location and acreage.
- A schematic description of utility and transportation related improvements.

At the pre-filing conference, *Staff* will outline the applicable requirements and approval procedures of the Town.

After meeting with *Staff* and obtaining any comments *Staff* may have to offer, the Petitioner may modify the proposed *Concept Plan* and either schedule a second pre-application meeting with *Staff*, or file a petition for zoning map change accompanied by a *PUD Master Plan*.

Notwithstanding anything contained in this UDO to the contrary, neither the *Staff's* review of the proposed *Concept Plan* submitted for review nor *Staff's* comments to the Petitioner relating thereto shall be considered a denial, approval or decision concerning the proposed *Concept Plan*.

B. Filing Petition for Zoning Map Change and PUD Master Plan

All petitions for zoning map change to the PUD District shall contain a *PUD Master Plan* that satisfies the requirements set forth in the Town of Holly Springs Development Procedures Manual, and shall specify the *development standards* that will apply to the real property that is included in the petition.

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The review procedure for a PUD *District* zoning map change request consist of:

1. File a petition for zoning map change to a PUD *District* along with a *PUD Master Plan*.
2. Initial review by *staff*.
3. Developers conference with *staff* at which time basic comment will be shared with the developer and a review schedule will be established.
4. Additional review and comment by *staff*.
5. Review, recommendation and determination as set forth in Section 9.09 – Decision Matrix.

C. Review Procedures and Recommendation by the *Planning Board*.

1. Procedures.

Except as supplemented by this Section 5 – Planned Unit Development District, the procedures to be followed for the review, recommendation and approval or disapproval of a zoning map change to the PUD *District* and the approval or disapproval of a *PUD Master Plan* shall be the same as those specified in Section 9 – Adminstration and Decision Making Bodies of this UDO for the filing of a zoning map change.

2. Special PUD *District* Zoning Map Change Procedures.

Prior to a PUD *District* zoning map change and *PUD Master Plan* approval request being forwarded to the *Planning Board* for review and recommendation, a joint public hearing shall be held between the *Planning Board* and *Board of Commissioners* at which time the petitioner shall make the initial presentation of the PUD *District* zoning map change and *PUD Master Plan* approval request.

After the conclusion of the joint public hearing before the *Planning Board* and *Board of Commissioners*, the PUD *District* zoning map change and *PUD Master Plan* approval request shall be forwarded to the *Planning Board* for review and recommendation consistent with the procedures for other requests for a zoning map change.

3. Recommendation.

In its determination of the appropriateness of the proposed PUD and whether to recommend approval or disapproval of the PUD *District* zoning map change and *PUD Master Plan* to the *Board of Commissioners*, the *Planning Board* shall be guided by the extent to which the proposal:

- a. accomplishes the intent of the Planned Unit Development *District* set forth in Section 5.01, above; and,
- b. provides for the protection or provision of the following site features and amenities:
 - (1) Protection and preservation of natural site features, including, but not limited to, slopes, streams, natural water features, wetlands and areas of special flood hazard;
 - (2) Protection and preservation of wooded areas, individual trees of significant size, or other environmentally sensitive features;
 - (3) Development of common *open space* and recreational areas (passive or active) accessible to the residents or users of the PUD by way of sidewalks, footpaths, *walkways* or bikeways;
 - (4) Efficient utilization of the land, including the reduction of land area disturbed for utility lines and motor vehicle *access*;
 - (5) Creation of innovative residential and business environments;
 - (6) Protection and preservation of important view corridors, and scenic vistas;
 - (7) Diversity and originality in *lot* layout or site design;
 - (8) Utilization of individual *building* designs which achieve an enhanced relationship between the development and the land;
 - (9) Relationship to surrounding properties;
 - (10) Conformance with the *Comprehensive Plan*; and,
 - (11) Extent to which the development proposed by the PUD can be developed under the *general use districts* of this UDO, other than the PUD *District*, as a matter of right.

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D. Preliminary Plan Approval

A Petitioner may file for *preliminary plan* approval of a plat in the manner set forth in Section 9.05, B. – Platting, Project Constructions Drawing Approval, Recombination and Vacation Procedures, of this UDO simultaneously with the petition for zoning map change and *PUD Master Plan* approval. Any *preliminary plan* application so filed may be considered by the *Board of Commissioners* on the same agenda as the petition for zoning map change and *PUD Master Plan*, provided, however, such *preliminary plan* shall only be considered if the *Board of Commissioners* adopts the zoning map change to the *PUD District* and approves the *PUD Master Plan*. In the event that a *PUD District* and *PUD Master Plan* is denied, the *preliminary plan* shall be deemed withdrawn from consideration.

E. Architectural and Site Design Review

If the *PUD Master Plan* for any *multifamily*, commercial / mixed *use* or industrial *project* does not contain sufficient information and detail for the issuance of a *UDO permit*, any grant shall be conditioned upon the petitioner filing for and obtaining final Architectural and Site Design Review approval of the *project*, or phase of the *project*, as set forth in Section 2.06, C. – Architectural and Site Design Review in the R-MF-8 District, Section 2.07, D. – Architectural and Site Design Review in the R-MF-15 District, Section 3.08 – Architectural and Sign Design Requirements for Commercial / Mixed-Use Districts or Section 4.05 – Architectural and Sign Design Requirements for Industrial Districts, whichever is most applicable to the *use* proposed for construction.

F. Effect of PUD District and PUD Master Plan

Upon approval of a zoning map change for a PUD and a *PUD Master Plan*, the *PUD Master Plan* shall be the *general use district* for the subject real estate and shall have the same regulatory impact on the development of the real estate as any other *general use district* of this UDO would have on any other parcel of real estate, provided, however, if commitments have been made, the approval of a zoning map change for a PUD and a *PUD Master Plan* shall be considered a *conditional use district* for the subject real estate and shall have the same regulatory impact on the development of the real estate as any other *conditional use district* of this UDO would have on any other parcel of real estate.

G. Retention of PUD Master Plan

Upon approval of a zoning map change for a PUD and a *PUD Master Plan*, the *Director* shall mark and sign the *PUD Master Plan* as approved. The *Director* shall retain one (1) copy of the approved *PUD Master Plan* in the offices of the Department of Planning and Zoning for use in the administration of the PUD, and return one (1) copy of the approved *PUD Master Plan* to the Petitioner and all owners.

5.04 Modification of PUD Master Plan

A. Procedure for Modification of PUD Master Plan.

A Petitioner desiring to make a modification to a *PUD Master Plan* which has already received approval from the *Town Council* shall submit a request to the *Director*, in writing, which shall: [Amended Ordinance #04-06]*

1. identify the proposed modification to the *PUD Master Plan*;
2. detail the reasons for making the proposed modification to the *PUD Master Plan*; and,
3. include a copy of all portions of the *PUD Master Plan* elements proposed to be modified.

The *Director* shall have a period of up to ten (10) business days in which to review the proposed modification to the *PUD Master Plan*, consult with the *Director of Engineering* and the *Director of Parks and Recreation*, and provide a determination, in writing, to the Petitioner. Any determination shall be made in accordance with the regulations set forth below.

B. Minor Modifications to a PUD Master Plan Which May Be Approved By The Director.

Minor amendments to a *PUD Master Plan* which has already received approval from the *Board of Commissioners* and which do not involve:

1. an increase in height, area, bulk, *gross density* or intensity of land *uses*;
2. the designation of additional land *uses*;
3. the reduction in the depth of *perimeter yards* or reduction in the *Plant Unit Value* of landscape buffers or screening;
4. the addition of *driveways* or *access* points to the proposed PUD; or,
5. reduction in the amount of *parking spaces* for any *use* below the minimum number required by this UDO,

may be authorized by the *Director* without a public hearing in its continuing administration of the PUD if, in the determination of the *Director*, the requested minor amendments do not adversely impact the purpose or intent of the PUD.

Such minor modifications authorized by the *Director* shall be reported, in writing, to both the *Planning Board* and *Board of Commissioners*.

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C. Disapproval of Modifications to a PUD Master Plan by the Director.

If the *Director* determines that the proposed modification to a *PUD Master Plan* is of such a nature as to:

1. adversely impact adjacent properties;
2. adversely impact the purpose or intent of the PUD; or,
3. if the proposed modification includes:
 - a. an increase in *gross density* of a residential land *use*;
 - b. an increase in height, area, bulk of any land *use*;
 - c. an increase in intensity of a non-residential land *use*;
 - d. the designation of additional land *uses*;
 - e. the reduction in the depth of *perimeter yards* or the *Plant Unit Value* of landscape buffers or screening;
 - f. the addition of *driveways* or *access points*; or,
 - g. reduction in the amount of *parking spaces* for any *use* below the minimum number required by this UDO

the Petitioner shall be required to file a new petition for zoning map change, including a modified *PUD Master Plan* in the manner described in Section 5.03 – Procedure for Approval of a Planned Unit Development of this UDO.

D. Appeal of Director's Determination.

In the case of a minor modification disapproved by the *Director*, the Petitioner may appeal such disapproval, in writing, by submitting a letter to the *Director* within thirty (30) days of being notified of such determination. Such appeal shall be determined as set forth in Table 9.09 – A: Decision Matrix.

All appeals of a minor modification determination by the *Director* shall be set for consideration at the next available regularly scheduled meeting of the Board authorized to hear such appeals as set forth in Table 9.09 – A: Decision Matrix. Consideration of such an appeal need not be conducted at a public hearing.

5.05 Phasing of Development.

The development of a planned unit development shall be phased so as to minimize any potential detrimental impact from the development of the secondary *uses* proposed in the planned unit development on the development of the remaining portions of the planned unit development in conformance with the approved *PUD Master Plan* or surrounding properties in conformance with the *Comprehensive Plan*. Detrimental impacts may include, but are not limited to visual impacts or the perceptions of the area resulting from the secondary *uses*.

In a primarily residential planned unit development, development of the non-residential portions of the planned unit development shall be designed and phased to ensure that the impacts of the non-residential development do not interfere with the development of the remaining residential portions of the planned unit development in conformance with the approved *PUD Master Plan* or surrounding properties in conformance with the *Comprehensive Plan*.

In a primarily commercial / mixed *use* or industrial planned unit development, development of the residential portions of the planned unit development shall be designed and phased to ensure that the impacts of the residential development do not interfere with the development of the remaining commercial / mixed *use* or industrial portions of the planned unit development in conformance with the approved *PUD Master Plan* or surrounding properties in conformance with the *Comprehensive Plan*.

5.06 Dedication and Maintenance of Common Open Space

A. Dedication of Common Open Space.

All *open space* proposed as part of a *PUD Master Plan* shall be dedicated on a recorded *final plat*, or other legally binding perpetual agreements, and completed prior to the issuance of a *certificate of UDO compliance* for:

1. A residential PUD, or portion thereof – more than fifty (50) percent of the *dwelling units* included in the *PUD District*;
2. A commercial / mixed *use* or industrial PUD, or portion thereof – more than fifty (50) percent of the total land area designated for commercial / mixed *use* or industrial *uses* in the *PUD District*; or,
3. If the approved *PUD Master Plan* divides the planned unit development into phases, more than fifty (50) percent of the *dwelling units* or the total land area designated for commercial / mixed *use* or industrial *uses* in the phase of the planned unit development in which the *open space* is located.

B. Maintenance of Common Open Space.

Petitioner shall file documentary assurances with the *Board of Commissioners* that the permanent dedication and continuous maintenance of *open space*, common areas or recreation areas shall be made in accordance with the *PUD Master Plan* approved by the *Board of Commissioners*, and that the *open space*, common areas and recreation areas shall be made available to the residents and users of the overall *subdivision* or *project* in the PUD at a reasonable and non-discriminatory rate of charge, prior to obtaining *final plat* approval. Such documentary assurances shall be incorporated into the *final plat* that is recorded in the Office of the Registrar of Deeds of Wake County or otherwise provided for through legally binding perpetual agreements as approved by the *Board of Commissioners*. Such *open space* shall perpetually run with the PUD and shall not be developed or separated from the overall *subdivision* or *project* in the PUD at a later date (unless no development of any portion of the PUD which is benefited by the *open space*, common areas or recreation areas has occurred and the entire area subject to the PUD is presented for zoning map change).

5.07 Approvals Prior to Construction

A. Approvals Required.

Preliminary plan approval pursuant to Section 9.05, B. – Platting, Project Constructors Drawing Approval, Recombination and Vacation Procedures, and UDO permit approval pursuant to Section 9.05, C. – UDO Permits, of this UDO, if applicable, shall be a prerequisite for any development or construction activity in a PUD.

B. Timeline for Obtaining Approvals.

Petitioner shall have a period of up to eighteen (18) months from the date of the approval of the petition for zoning map change and *PUD Master Plan* in which to file for *preliminary plan* approval, in total or in phases, for approval by the *Board of Commissioners*. The *Board of Commissioners* shall review the *preliminary plan* for consistency with the *PUD Master Plan* approved in connection with the petition for zoning map change. If a *preliminary plan* approval is filed for in phases, each subsequent phase shall be filed for within eighteen (18) months of the approval of the prior phase.

C. Expiration of PUD Master Plan and Subdivision Approval.

In the event that *preliminary plan* approval is not obtained for all or a portion of the PUD within the time frames outlined above, the *PUD Master Plan* shall be deemed to have expired for that portion of the PUD that has not received *preliminary plan* approval, except for the location and density of proposed land uses depicted on such *PUD Master Plan*. Once a *PUD Master Plan* has expired for any portion of the PUD, no development shall occur within the expired portions of the PUD until: (i) a new *PUD Master Plan* is approved as set forth in Table 9.09 – A: Decision Matrix; and, (ii) a *preliminary plan* approval as required by this Section has been obtained.

A *preliminary plan* approval shall expire eighteen (18) months after the date of approval unless a *final plat* has been recorded, in total or in phases, for the use or development of the property. Once a *preliminary plan* has expired for any portion of the PUD, no development shall occur within the expired portions of the PUD until a new *preliminary plan*, as required by this Section, has been approved. If *final plats* are approved in phases, each subsequent *final plat* shall be filed for within eighteen (18) months of the approval of the *final plat* for the immediately previous phase.

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D. Extensions of Time.

Extensions of time, in six (6) month increments not to exceed a total of eighteen (18) months, for obtaining *preliminary plan* approval or *final plat* approval may be granted by the *Director* if requested in writing on or before the eighteen (18) month anniversary of approval of the *PUD Master Plan* and for good cause shown. In the event that the *Director* disallows a requested extension, the Petitioner may appeal said determination regarding an extension of time to the *Board of Commissioners* within thirty (30) days of being notified of such determination.

F. Recreational Facilities and Open Space.

1. Dedication, Generally; Fee-In-Lieu of Dedication, Generally.

In order to provide park, recreation, *open space* or greenway sites to serve the future residents of the Town of Holly Springs and its extraterritorial jurisdiction, in conformance with any adopted plans of the Town of Holly Springs, every residential *subdivision* shall, at the time of *final plat*, include:

- a. the dedication of a portion of such land, as set forth in this Section, below;
- b. an equitable amount of land in another location; or,
- c. pay to the Town of Holly Springs a fee-in-lieu of dedication at the time of approval of the final plat in the amount per dwelling unit as specified in the current Town of Holly Springs Fee Schedule, as set forth in this Section, below. [Amended Ordinance #12-11]

2. Criteria for Dedication.

All land dedicated to the public for recreation and park development shall substantially meet the following criteria:

- a. Unit – The dedicated land shall form a single parcel of land except where the *Town Council* determines that two (2) parcels or more would be in the public interest. If two or more parcels are determined to be in the public interest, a path or *walkway*, developed in compliance with the provisions of sub-Section 7.07, C., 2., sub-Section 7.07, C., 3., and sub-Section 7.07, C., 4., regarding *sidewalks*, *walkways*, pedestrian / bike paths and pedestrian access easements. [Amended Ordinance #04-06]
- b. Shape – The shape of the dedicated land shall be sufficiently square or round to be usable for recreational activities such as softball, tennis, croquet, etc.
- c. Location – The dedicated land shall be located so as to reasonably serve the recreation and *open space* needs of the *subdivision* for which the dedication was made and shall bear a reasonable relationship to the *use* of the area by the future inhabitants of the *subdivision* or residential development.
- d. Access – Public access to the dedicated land shall be provided either by direct *street frontage* or public easement at least twenty (20) feet in width.
- e. Topography – Generally, dedicated land reserved for recreational purposes shall not exceed a five (5) percent slope.

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- f. Usableness – The dedicated land shall be usable for recreation. Lakes and wetlands may not be included in computed dedicated land area. Where the *Parks and Recreation Advisory Board* determines that recreational needs are being adequately met, either by other dedicated parcels of land or existing recreational facilities, then land that is not usable for recreation may be dedicated as *open space*.
- g. Plans – Municipal and County plans shall be taken into consideration when evaluating proposals for the dedication of land for recreational purposes.

3. Criteria for Choice Between Dedication and Fee-in-Lieu.
 - a. Whether the *Town Council* accepts the dedication of land or elects to require payment of a fee-in-lieu thereof, or a combination of both, shall be determined by but not limited to the following: [Amended Ordinance #04-06, #12-11]*
 - (1) An adopted plan of the Town of Holly Springs;
 - (2) The recommendations of the *Planning Board*;
 - (3) Topography, geology, access and location of land in the *subdivision* available for dedication; and,
 - (4) Size and shape of the *subdivision* and land available for dedication.
 - b. The determination of the *Town Council* as to whether land shall be dedicated or whether a fee-in-lieu should be charged, or a combination of both, shall be final and conclusive. On *subdivisions* involving fewer than thirty-five (35) *lots* or *dwelling units*, only the payment of fees-in-lieu shall be required. [Amended Ordinance #04-06]
4. Procedure for Determination Among Dedication, Fee-in-Lieu, or Combination.

The procedure for determining whether the *subdivider* is to dedicate land, pay a fee-in-lieu, or both, shall be as follows:

 - a. *Subdivider* – At the time of filing a *master plan* or *preliminary plan* for *subdivision* approval, the owner of the property shall, as part of such filing, indicate whether such owner proposes to dedicate property for park and recreational purposes, or whether such owner desires to pay a fee-in-lieu thereof. If *subdivider* desires to dedicate land for this purpose, the *subdivider* shall designate the area thereof on the *master plan* or *preliminary plan* as submitted.

- b. Action of Town – At the time of the *master plan* or *preliminary plan* approval, as specified in Section 9.09 – Decision Matrix, the Town shall determine as a part of such approval, whether to require a dedication of land within the *subdivision*, payment of a fee-in-lieu at the time of approval of the final plat, or a combination of both. [Amended Ordinance #12-11]
 - c. Prerequisites for Approval of *Final Plat* – Where dedication is required, such dedication shall be shown upon the *final plat* submitted for approval. Where fees are required, the same shall be deposited with the Town prior to the recording of the *final plat*. *Open space* covenants for park or recreational facilities shall be submitted to the Town for review and approval prior to approval of the *final plat* and shall be recorded with the *final plat*.
 - d. Changes in *Master Plan* or *Preliminary Plan* Densities – In *subdivisions* where phases exist and changes in unit densities are possible the Town reserves the right to recalculate the area required for land dedication or fee-in-lieu charges should the number of *dwelling units* increase from the approved original *master plan* or *preliminary plan*.
5. Computation of Size of Area Required for Dedication.

The amount of land required to be dedicated is to be computed on the basis of the following formula:

 - a. The area (in acres) of land to be dedicated shall not be less than one thirty-fifth (1/35) of an acre times the number of *dwelling units* or *lots*, whichever is greater, provided that for any land so dedicated which also:
 - (1) lies within an area within the one hundred year floodplain;
 - (2) has slopes greater than fifteen (15) percent; or,
 - (3) is included within overhead utility easements,shall be dedicated at a rate of one twentieth (1/20) of an acre.
 - b. Where a fee-in-lieu is paid instead of dedication, the amount of such fee for the *subdivision* shall be determined in accordance with the provisions of the Town of Holly Springs Fee Schedule. Each July 1st, starting on July 1, 2013, the fee schedule shall be adjusted in correlation with the inflation rate in the previous calendar year as reported by the United States Department of Commerce Consumer Price Index. [Amended Ordinance #12-11]
 - c. Notwithstanding any other provision in the Town of Holly Springs' Town Code, the total fee-in-lieu of dedication charged for a *subdivision* shall not

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exceed the fair market value of the land area that would have otherwise been required to be dedicated by the *subdivision*. For the purpose of this Section, fair market value is to be determined with respect to a *subdivision*, at the time the initial application submittal is made to the Town of Holly Springs. Fair market value shall be determined by the *Director*. In the event of a disagreement about fair market value, such value shall be determined by the procedure provided in Section 7.06, F., 7., b., below.

6. Use of Land by Town; Use of Funds Received in Lieu of Dedication.
 - a. The land received by the Town of Holly Springs under this Section shall be used only for the purpose of providing neighborhood *open space*, park and recreational areas, but shall not be so restricted should the Town decide to sell such land as provided by the following paragraph.
 - b. The Town of Holly Springs shall have the right to sell any land dedicated to the Town for neighborhood park and recreation purposes on finding by the *Town Council* and the *Director of Parks and Recreation* that a particular piece of property is not feasible or compatible with adopted plans of the Town. [Amended Ordinance #04-06]
 - c. Fees collected in lieu of dedications and any proceeds from such transactions or sales shall be held in a special fund by the Town, and the funds shall be used by the Town for the purpose of acquiring and developing public recreation areas as shown on the *Comprehensive Plan* and for no other purpose. The depository for such funds may be the same as permitted for other funds of the Town and, pending their expenditure in accordance with the terms of this Section, such funds may be invested as other funds of the Town. The Town may, at its discretion, add additional monies to the fund for the purpose of purchasing public recreational land to be used for public recreational purposes. On all matters not specifically provided for in this Section, the Local Government Budget and Fiscal Control Act shall be controlling.
7. Special Committee to Settle Disagreements Between Town and *Subdivider*.
 - a. In the event that the Town and the *subdivider* of land cannot agree upon the location, terrain, size or shape of the land necessary to be dedicated for a neighborhood recreation area, or cannot agree upon the details of provisions for an equitable amount of land in another location or where there is disagreement between the Town and the subdivider, such disagreement shall be determined by a special committee.
 - b. Such special committee shall consist of three members appointed as follows: one (1) member shall be a professional land appraiser appointed

by the *Town Council*; one (1) member shall be a professional land appraiser appointed by the *subdivider*; and, one (1) member shall be a professional land appraiser appointed by the two appointed members. The special committee shall view the land and hear the contentions of both the *Town* and the *subdivider*. The findings of the special committee shall be by majority vote and shall be certified to the *Town Council* within forty-five (45) days of the time of appointment of the third member of the special committee. The costs of the professional land appraiser appointed by the *subdivider* and one-half (1/2) the cost of the professional land appraiser appointed by the appraisers shall be borne by the *subdivider*. The costs of the professional land appraiser appointed by the *Town Council* and one-half (1/2) the cost of the professional land appraiser appointed by the appraisers shall be borne by the *Town Council*. [Amended Ordinance #04-06]

8. Privately Owned Park, Recreational, *Open Space* or Greenway Areas.

Private parks, club houses, swimming pools and other recreational, *open space* or greenway areas are encouraged, provided, however, private parks, club houses, swimming pools and other recreational or *open space* shall not be credited toward the requirement of this Section for the public dedication of land for such use.

[Amended Ordinance #12-11]

9. Clubhouse as an *Accessory Use*.

Notwithstanding anything in this UDO to the contrary, a clubhouse, which may or may not be accompanied by such ancillary amenities as a swimming pool, game courts, meeting room, and the like, shall be considered a permitted *accessory use* to any residential *subdivision* or *project* when such clubhouse and ancillary amenities are indicated on a *preliminary plan* or *Master Plan* and specifically approved in connection with such *preliminary plan* or *Master Plan*.

Section 7.09 **Pedestrian Circulation and Vehicular Area Design.**

Intent – The Pedestrian Circulation and Vehicular Area Design regulations are designed to promote high visual aesthetics and functional pedestrian access in and around developments. This intent is accomplished by the connectivity of *walkways* and pedestrian/bikeway systems in and around a development with the general sidewalk system and greenway system within the Town of Holly Springs and its extra-territorial jurisdiction and neighboring developments. The development of private *walkways* or pedestrian/bikeway systems is required for all new developments and additions to existing developments.

A. **Single Family Residential Districts.**

1. Single Family *Subdivisions*.

In addition to the design criteria set forth in Section 7.07 – Street Design and Right-of-Way Reservation, the *street*, *sidewalk*, *walkway* and pedestrian/bikeway systems of any *single family subdivision* shall be designed to:

- a. maximize the internal connection of local *streets* within the *subdivision*;
- b. minimize the use of *cul-de-sac streets*;
- c. maximize the connectivity of *streets* within the *subdivision* with surrounding *streets* or *subdivisions*;
- d. include a *sidewalk*, *walkway* or pedestrian/bikeway system which functionally connects the various required *open space* elements of the *subdivision* with residential areas in the *subdivision*;
- e. provide a direct linkage to any town greenway which abuts or is adjacent to the *subdivision*; and,
- f. provide a *vista termination* for all internal *streets* so that no uninterrupted *street* segment extends for more than 1,350 feet.

2. Non-Residential Uses Authorized by *Special Exception*.

Individual non-residential *uses* located within a Single Family Residential *District* (R-30, R-20, R-15, R-10 and R-8) authorized by a *special exception* shall be subject to the same regulations as a *single use site* in a Commercial / Mixed Use *District*.

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3. *Development Incentives.*

Any *single family subdivision, two family subdivision, multifamily project or commercial use* developed pursuant to *development incentives* provisions of Section 2.09 – Development Incentives for Residential Districts, shall include a *walkway* or *pedestrian/bikeway* system that, at a minimum, complies with the regulations contained in this Section and the following additional regulations:

- a. The overall *walkway* and *pedestrian/bikeway* system shall be integrally designed into the *overall subdivision or project* so as to provide direct linkages between and among the various *uses* and *open spaces* contained within the *overall subdivision or project*.
- b. *Parking areas* for non-residential *uses* shall be located, to the maximum extent feasible, so as to be screened from view from the residential areas by the non-residential *buildings*

B. **Multifamily Districts, Commercial / Mixed Use Districts and Industrial Districts.**

1. *Walkways or Pedestrian/Bikeway System Design.*

Any *multifamily project, integrated center, business park, industrial park or single use* site shall include a *walkway* or *pedestrian/bikeway* system complying with the following requirements as part of the site design:

- a. a private *walkway* or *pedestrian/bikeway* system shall functionally connect front doors, storefronts or primary *building* entries with planned or existing *public sidewalk*s on each *public street frontage* of the *multifamily project, integrated center, business park, industrial park or single use site*;
- b. a private *walkway* or *pedestrian/bikeway* system shall provide a direct linkage to any planned or existing *town greenway* which abuts or is adjacent to the *multifamily project, integrated center, business park, industrial park or single use site*.



- c. a private *walkway* or pedestrian/bikeway system shall provide a direct and functional connection from the front doors, storefronts or primary *building* entries to any on-site, *off-street parking area*; and,



- d. a private *walkway* or pedestrian/bikeway system shall provide for decorative identifiable pedestrian crossing treatments along functional pedestrian routes wherever a private *walkway* or pedestrian/bikeway system crosses an *interior access drive* or *interior access driveway*.

[Amended Ordinance # 08-15]*



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The Owner of the real estate shall be responsible for the perpetual maintenance of any private *walkways* or pedestrian/ bikeway systems. Such maintenance responsibility may be assigned through lease or other appropriate documentary assurances to a tenant, however, in the case of non-performance by such responsible tenant, the Owner shall be responsible.

2. Vehicular Area Design.

The site design for each *multifamily project, integrated center, business park, industrial park or single use site* shall, to the maximum extent practical, include an *off-street parking area* design which:

- a. locates *off-street parking areas* beside or behind the *buildings*;
- b. provides a separate *parking area* for service and all-day employee parking;
- c. maximizes the internal connection of *interior access drives* or *streets* within the *project*;
- d. minimizes the use of dead end *interior access drives* or *cul-de-sac streets*;
- e. maximizes the connectivity of *interior access drives* or *streets* within the *project* with surrounding *streets, projects or subdivisions*;
- f. includes a *sidewalk, walkway* or pedestrian/bikeway system which functionally connects the various required *open space* elements of the *project* with residential areas within, abutting or adjacent to the *project*;
- g. provides a direct linkage to any town greenway which abuts or is adjacent to the *project*;
- h. provides safe pedestrian access from the *parking spaces* to each front door, storefront, or *building* entry. Any *parking area* containing over one-hundred (100) *parking spaces* shall include a lengthwise pedestrian island including a *walkway* and landscape strip; additional lengthwise pedestrian island(s) shall be included for every additional two-hundred (200) parking spaces as follows: [Amended Ordinance #08-15]*
 - (1) minimum width of each island: [Added Ordinance #08-15]*
 - (a) The pedestrian island shall be at least ten (10) feet wide.
 - (b) The *walkway(s)* shall be at least five (5) feet in width, and such *walkway(s)* shall be designed in compliance with the regulations of Section 7.09 – Pedestrian Circulation and Vehicular Area Design;

- (c) Each landscape strip shall include deciduous trees or evergreen trees (provided, however, loblolly pines or other trees which drop branches as they grow shall be prohibited in such landscape strips) planted with a maximum spacing of not more than forty (40) feet on-center, supplemented with groupings of at least five (5) shrubs/hedge plants planted between the trees. Interior landscape islands specified in Section 7.01 - Landscape Regulations, shall not be required for those *parking spaces* adjacent to the pedestrian island;
- (d) Each landscape strip shall include ground cover consisting of grass, mulch, chipped bark, pine straw or other natural forms of ground cover; and,
- (e) When pedestrian island(s) extend for more than ten (10) *parking spaces*, such pedestrian island(s) shall be provided with a crosswise *walkway* to facilitate pedestrian and shopping cart movement.
 - i. provides a vista termination for all internal *streets* so that no uninterrupted *street* segment extends for more than 1,350 feet;
 - j. provides a widened area as a visitor drop-off zone near the *building* entrance or a *walkway* or pedestrian/bikeway which provides a direct connection to the *building* entrances; and,
 - k. includes, on both sides of an *access drive* or *driveway*, within the guidelines of Section 7.01 – Landscaping Regulations, a landscaped area which distinguishes the entry point of the site from other portions of the *front yard* and create a positive introductory statement regarding a development.

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Pedestrian Circulation and Vehicular Area Design

C. Waiver of Pedestrian Circulation and Vehicular Area Design Requirements.

In order to avoid undue hardship and to expedite the zoning approval process for developments within the Town of Holly Springs and its extraterritorial jurisdiction, a *waiver* of any of the Pedestrian Circulation and Vehicular Area Design requirements contained in Section 7.09, A., or Section 7.09, B. may be heard and determined in connection with either: (i) a petition for zoning map change; (ii) as part of a *development plan* for Architectural and Site Design Review; or, (iii) in connection with a Master Plan or Preliminary Plan review of a *subdivision*. Such request for *waiver* shall be filed in accordance with the requirements of Section 9.09 – Decision Matrix of this UDO, provided that the determination of the request for *waiver* shall be based upon the findings specified below.

A *waiver* of the Pedestrian Circulation and Vehicular Area Design requirements contained in Section 7.09, A., or 7.09, B., may only be granted upon making the following findings:

1. The proposed pedestrian circulation and vehicular area design will result in a development pattern which is equivalent to or superior to that achievable under the applicable regulations;
2. The proposed development will be compatible with and will enhance the *use* or value of area properties;
3. The proposed development is consistent with the intent of the *Comprehensive Plan*; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

All findings specified above for the granting of a *waiver* of the Pedestrian Circulation and Vehicular Area Design requirements shall be reduced to writing, signed the *Director* and retained as a part of the permanent record of the determination.