AN ORDINANCE AMENDING THE CITY OF HIGH POINT DEVELOPMENT ORDINANCE

WHEREAS, the City of High Point adopted the "City of High Point Development Ordinance" on May 16, 2016, with an effective date of January 1, 2017, and subsequently amended; and

WHEREAS, public hearings were held before the Planning and Zoning Commission on November 10, 2020 and before the City Council on December 7, 2020 regarding Text Amendment 20-03; and

WHEREAS, notice of the public hearings was published in the High Point Enterprise on November 3, 2020 for the Planning and Zoning Commission public hearing, and on November 25, 2020 and December 2, 2020 for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA:

SECTION 1.

That Table 2.1.2., *Summary Development Review Table*, regarding variances, is hereby amended as follows:

TABLE 2.1.2: SUMMARY DEVELOPMENT REVIEW TABLE

Pre-application Conference & Citizen Information Meeting: M = Mandatory O = Optional
Type of Action: C = Comment R = Recommendation D = Decision A = Appeal
Type of Hearing: { } = Public Hearing [ ] = Quasi-Judicial Public Hearing
Table symbols: "·" = not applicable / / = see notes

Procedure	Section Reference	Pre-application Conference	Citizen Information Meeting	Review Authorities	
				Staff	Decision-Making Bodies

				Planning and Development Director	Engineering Services Director	Technical Review Committee (TRC)	Urban Forestry Committee (UFC)	Historic Preservation Commission (HPC)	Planning & Zoning Commission (P&Z)	City Council	Board of Adjustment (BOA)
PROCEDURES SUBJECT TO DECISION-MAKING BODY REVIEW AND DECISION											
Variance	2.4.16	M	~~M~~	R **/5/**	~~R~~ **/5/**	~~R~~ **/5/**	.	.	.	.	[D]
~~Watershed Variance~~ **Reserved**	2.4.19	~~O~~	-	-	-	-	~~D /5/~~	-	-	-	~~D /5/~~	-
NOTES:											
/5/ The Technical Review Committee ~~decides minor watershed variances and~~ provides a recommendation to the ~~City Council~~ **Board of Adjustment** on ~~major~~ watershed variances**, the Engineering Services Director provides a recommendation on flood damage prevention variances, and the Planning and Development Director provides a recommendation on all other variance requests**. Major watershed variances require ~~approval by the City Council prior to~~ consideration by the North Carolina Environmental Management Commission.											

SECTION 2.

(Regarding the powers and duties of staff for the watershed protection standards)

PART A.

That Table 2.2.7., *Technical Review Committee (TRC)*, is hereby amended as follows:

TABLE 2.2.7: TECHNICAL REVIEW COMMITTEE (TRC)	
A. POWERS AND DUTIES	**1. APPLICATION REVIEW AND DECISION - TO REVIEW AND DECIDE APPLICATIONS FOR:**
	(a) Easement reconveyances;
	(b) Group developments;
	(c) Preliminary plats;
	(d) Right-of-way encroachments (below ground); **and**
	(e) Site plans**~~; and~~.**
	~~(f) Watershed variances (minor).~~
	2. RECOMMENDATION AUTHORITY - TO COMMENT OR MAKE RECOMMENDATIONS ON THE FOLLOWING APPLICATIONS:
	(a) City construction and infrastructure projects and construction that may impact city infrastructure;
	(b) Planned development;
	(c) Right-of-way encroachment (above ground);
	(d) Street abandonments;
	(e) Voluntary annexations; and
	(f) Watershed variances**~~ (major)~~**.

PART B.

That Table 2.2.11., *Engineering Services Director*, is hereby amended as follows:

TABLE 2.2.11: ENGINEERING SERVICES DIRECTOR	
A. POWERS AND DUTIES	**2. RECOMMENDATION AUTHORITY - TO COMMENT OR MAKE RECOMMENDATIONS ON THE FOLLOWING APPLICATIONS:**
	(a) Appeals; and
	(b) Flood damage prevention variance**s ~~requests~~**.

	3. OTHER POWERS AND DUTIES - THE ENGINEERING SERVICES DIRECTOR SHALL HAVE THE FOLLOWING OTHER POWERS AND DUTIES:
	(a) *(unchanged)*
	(b) *(unchanged)*
	(c) **To** ~~**i**~~**i**nvestigate violations of soil and erosion control and flood damage prevention standards in accordance with Chapter 9: Enforcement.
	(d) To ~~**i**~~**e**nsure that ~~**stormwater management devices and best management practices**~~ **stormwater control measures** for watershed protection are designed in accordance with Section 6.2, Watershed Protection, and the City's Stormwater Best Management Practices Design Manual.
	(e) To coordinate the implementation and enforcement of the surface water buffer protection program, including certification to make on-site surface water determinations.
	~~**(e)**~~**(f)** To perform any other related duties that the City Manager may direct.
	~~**(f)**~~**(g)** To exercise other powers and authority provided to them by the City Council, this Ordinance, or state law.

PART C.

That Table 2.2.12., *Public Services Director*, is hereby amended as follows:

TABLE 2.2.12: PUBLIC SERVICES DIRECTOR	
A. POWERS AND DUTIES	**1. THE PUBLIC SERVICES DIRECTOR SHALL HAVE THE FOLLOWING POWERS AND DUTIES:**
	(a) Inspect~~**ion of stormwater management devices and best management practices**~~ **stormwater control measures** constructed in accordance with Section 6.2, Watershed Protection.
	(b) Investigate violations of ~~**stormwater management devices and best management practices**~~ **stormwater control measures** in accordance with Chapter 9: Enforcement.

	(c) *(unchanged)*

SECTION 3.

(Regarding required procedural changes to process watershed variances)

PART A.

That Table 2.3.6., *Public Notification Timing Requirements*, is hereby amended as follows:

TABLE 2.3.6: PUBLIC NOTIFICATION TIMING REQUIREMENTS				
APPLICATION TYPE	**DECISION-MAKING BODY REVIEW**	**TYPES OF REQUIRED PUBLIC NOTICE**		
		PUBLISHED NOTICE	**MAILED NOTICE**	**POSTED NOTICE**
Variance **[11]**	BOA	X [1]	X [2]	X [3]
[11] For watershed variances, the City shall notify and allow a reasonable comment period for all local governments having jurisdiction in the applicable designated watershed and any entity using the water supply for consumption.				

PART B.

That Section 2.4.16., *Variance*, is hereby amended as follows:

A. **Applicability** *(unchanged)*

B. **Variances Distinguished** This section sets out the procedure and review standards for ~~**two**~~ **three** type**s** of variances.

1. *(unchanged)*
2. *(unchanged)*
3. **The watershed variance may be used to request relief from the State's watershed protection standards in Section 6.2., Watershed Protection, for two types of watershed variances:**

(a) Major Watershed Variances A major watershed variance is a variance from the minimum State watershed protection rules that results in:

(1) The relaxation of any surface water buffer width, density, built-upon area or minimum lot size requirement by a factor greater than 5 percent under the high-density option;

(2) The relaxation of any surface water buffer width, density, built-upon area or minimum lot size requirement by a factor greater than 10 percent under the low-density option;

(3) The permission to allow activities deemed allowable with exception in accordance with Section 6.2.9.C.5., New Development and Activities, impacting greater than one-third of an acre of a surface water buffer; or

(4) Any variation in the design, maintenance or operation requirements of an approved stormwater control measure.

(b) Minor Watershed Variances A minor watershed variance is a variance from the minimum State watershed protection rules that results in:

(1) The relaxation of any surface water buffer width, density, built-upon area or minimum lot size requirement by a factor of up to 5 percent under the high-density option;

(2) The relaxation of any surface water buffer width, density, built-upon area or minimum lot size requirement by a factor up to 10 percent under the low-density option; or

(3) The permission to allow activities deemed allowable with exception in accordance with Section 6.2.9.C.5., New Development and Activities, impacting equal to or less than one-third of an acre of a surface water buffer.

C. **Variance Procedure**

1. and 2. *(unchanged)*

3. **Staff Review**

(a) *(unchanged)*

(b) **Dependent upon the type of variance, ~~T~~t**he Planning and Development Director**, Engineering Services Director or TRC** shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.4.16 D, Variance Review Standards.

4. – 6. *(unchanged)*

7. ~~**Notification of Decision The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person providing notification of decision shall certify that proper notification has been made.**~~ **North Carolina Environmental Management Commission (EMC) Review**

(a) Table 2.4.16., N.C. Environmental Management Commission (EMC) Review of Watershed Variances, shows the circumstances under which a watershed variance request must be reviewed by the EMC.

(Insert the following new table)

TABLE 2.4.16.: N.C. ENVIRONMENTAL MANAGEMENT COMMISSION (EMC) REVIEW of WATERSHED VARIANCES	
A. RECOMMENDATION TO EMC	1. Major Watershed Variance to Relax Surface Water Buffer Width, Density, BUA or Minimum Lot Size Requirements
	If BOA decides in favor of granting the major variance request, then the application shall be forwarded to EMC with a watershed variance report.
	2. Major Watershed Variance to Allow Activities Impacting a Surface Water Buffer
	If BOA decides in favor of granting the major variance request, then a watershed variance report must be prepared within 60 days of receiving a complete application and forwarded to DWR.
B. FINAL DECISION MADE WITHIN 60 DAYS	1. Major Watershed Variance to Allow Activities Impacting a Surface Water Buffer
	A final decision must occur within 60 days following the watershed variance report being posted on the DWR website.

(b) If the BOA does not recommend approval of a major watershed variance, it shall be deemed denied and shall not be forwarded to the EMC.

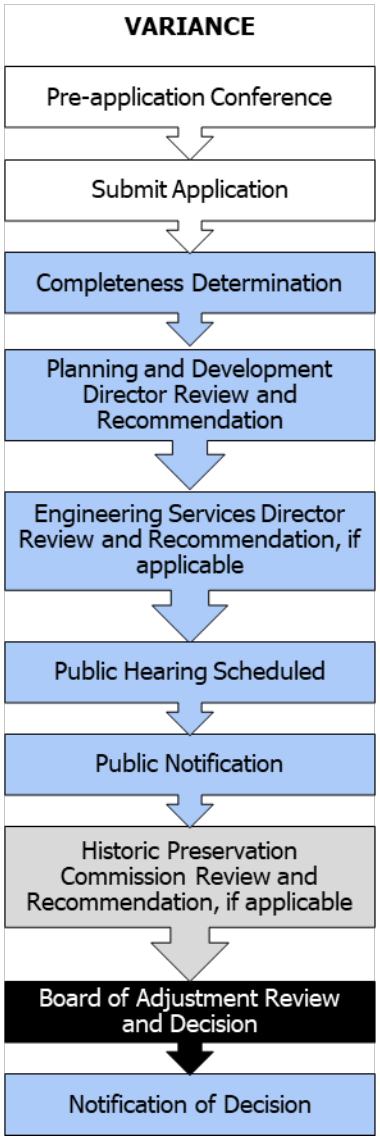
(c) If the EMC approves the major watershed variance, then it will prepare a decision that includes any conditions or stipulations added by the EMC and authorizing the BOA to issue a final decision granting the variance.

(d) If the EMC denies the major watershed variance, then it will prepare a decision authorizing the BOA to issue a final decision denying the variance.

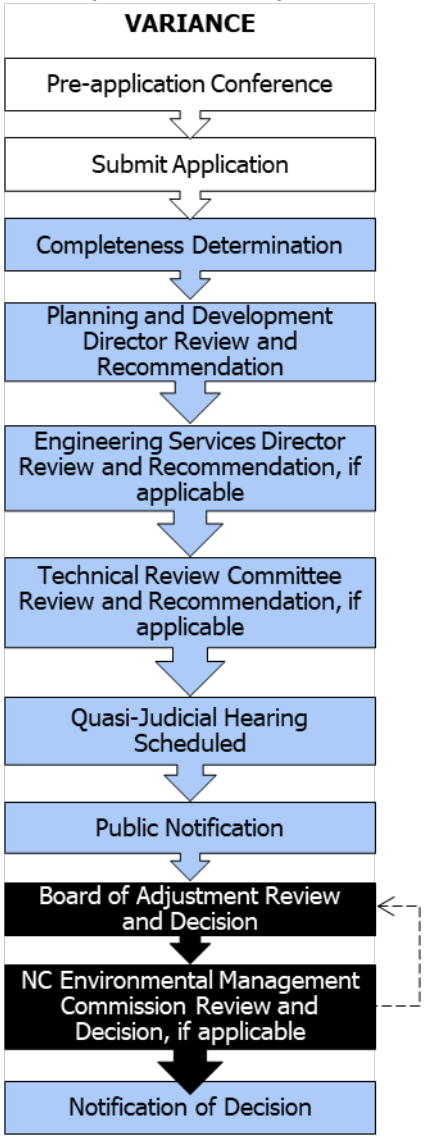
8. Notification of Decision The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person providing notification of decision shall certify that proper notification has been made.

(Replace the existing Variance Procedure flowchart with new version)

(*Existing Version*)



(New Version)



D. **Variance Review Standards**

1. *(unchanged)*
2. **Flood Damage Prevention Variance Standards** A ~~**zoning**~~ **flood damage prevention** variance shall be approved upon evidence presented that demonstrates the following requirements are met and the required findings made:
3. **Watershed Variance Standards A watershed variance (major or minor) shall be approved upon evidence presented that demonstrates the following requirements are met and the required findings are made:**
   (a) General Requirements

(1) Where the watershed protection standards in this Ordinance exceed the State's minimum watershed protection standards, then a modification to the requirements may be requested in accordance with Section 6.2.16., Watershed Modifications.

(2) The applicant shall demonstrate that the project meets all the following criteria:

- **(i) The basic project purpose cannot be practically accomplished in a manner that would avoid or better minimize disturbance, preserve aquatic life and habitat, and protect water quality;**
- **(ii) The development activity cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality;**
- **(iii) Stormwater control measures shall be used to minimize disturbance, preserve aquatic life and habitat, protect water quality, and will function in perpetuity;**
- **(iv) For requests involving the permission to allow activities deemed allowable with exception in accordance with Section 6.2.9.C.5., New Development and Activities, it shall be necessary to demonstrate that, in the absence of the variance, the applicant can secure no reasonable return from, nor make reasonable use of their property; and**
- **(v) The variance results in the minimum possible deviation from the terms of the surface buffer requirements that shall make reasonable use of the property possible.**

(3) The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship.

(4) None of the following may be used as the basis for approving a watershed variance:

- **(i) Neither the nonconforming use of lands, buildings, or structures in the same zoning district, nor the permitted use of lands, buildings, or structures in other zoning districts;**
- **(ii) Difficulties or hardships resulting from personal circumstances or resulting from conditions that are common to the neighborhood or the general public;**
- **(iii) Hardships resulting from factors other than application of the relevant standards of this Ordinance;**
- **(iv) That granting the variance would allow greater profit from the property; or**

(v) Financial hardship.

(b) Required Findings

(1) There are practical difficulties or unnecessary hardships that prevent compliance with the Ordinance.

(2) The difficulty or hardship results from conditions that are peculiar to the physical nature of the property, such as location, size, shape, or topography.

(3) The difficulty or hardship did not result from actions taken by the applicant or the property owner.

(4) The variance is consistent with the spirit, purpose, and intent of the Ordinance, such that water quality is protected, public safety and welfare is secured, and substantial justice is achieved.

(5) The variance will ensure equal or better protection of the waters of the State than the requirements of this Ordinance.

E. **Conditions of Approval** *(unchanged)*

F. **Effect**

1. **General** Approval of a ~~**zoning**~~ variance ~~**or flood damage prevention variance**~~ authorizes only the particular regulatory relief approved by the BOA. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws, and does not indicate that the development for which the variance is granted should receive other permits or development approvals under this Ordinance unless the relevant and applicable portions of this Ordinance are met.
2. *(unchanged)*
3. **Records** Upon request, the Engineering Services Director shall report all flood damage prevention variances approved in accordance with this section to the Federal Emergency Management Agency and the State of North Carolina. **The Planning and Development Director shall maintain a record of all watershed variances and provide those records to the DWR upon request in accordance with Section 6.2.17., Watershed Accounting.**

PART C.

That Section 2.4.19., *Watershed Variance*, is hereby deleted in its entirety and Section 2.4.19. is "Reserved" for future use.

PART D.

That Section 2.5.14.A., *Applicability*, is hereby amended as follows:

A. **Applicability** Site plan review is applicable to any development activity that includes constructing a building or increasing the amount of ~~**impervious surface**~~ **built-upon area** other than group development, single-family detached dwelling, duplex, including their accessory buildings.

SECTION 4.

(Regarding required changes to the watershed protection standards)

PART A.

That Sections 6.2.1., *Purpose and Intent,* 6.2.2., *Applicability,* 6.2.5., *Compliance with Previously Approved Plans*, and 6.2.7., *How to Use This Section,* are hereby amended as follows:

6.2.1. – Purpose and Intent

These watershed protection standards are established in accordance with the requirements in the North Carolina General Statutes Sections 143-214.5 ~~**through**~~ **and** 143-214.7 related to water supply watershed **and surface water** protection. They are intended to regulate residential density and impervious surface cover in water supply watershed ~~**drainage**~~ areas**,** to control non-point source water pollution**,** and protect ~~**drinking**~~ water quality.

6.2.2. – Applicability

A. **Authority** The City Council is authorized to adopt these provisions in accordance with North Carolina General Statutes Sections 143-214.5~~**, 143-214.6**~~ and 143-214.7, Section 160-A-314, the rules promulgated by the North Carolina Environmental Management Commission, and all other relevant laws of the State of North Carolina.

6.2.3. – 6.2.4. *(unchanged)*

6.2.5. – Compliance with Previously Approved Plans

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

6.2.6. *(unchanged)*

6.2.7. – How to Use This Section

D. Classify the development as high or low density as established in Table 6.2.9.C**1**, Minimum Surface Water Buffer Width Requirements;

PART B.

That Section 6.2.9., *Protection of Fragile Areas*, is hereby amended as follows:

A. **Land Disturbance Minimization** *(unchanged)*

B. **Floodplain Protection** *(unchanged)*

C. **Surface Water Buffers**

1. **Applicability**
   (a) This subsection applies to all development and activities with the exception of activities conducted under the authority of North Carolina, the United States, multiple jurisdictions or local units of government, and forest harvesting and agricultural activities**, including agricultural ponds**.
   (b) The NC Division of Water Resources shall administer the requirements of Rule 15A NCAC 02B ~~**.0250**~~ **.0724** and .0295 (Randleman Lake Water Supply Watershed: Protection and Maintenance of Existing Riparian Buffers and Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers, respectively) for these jurisdictions and activities.
2. **Perennial and Intermittent Surface Water Buffers Required**
   (a) A surface water buffer shall be maintained with a minimum width as specified in Table 6.2.9.C**1**, Minimum Surface Water Buffer Width Requirements, measured landward from the normal water level for lakes and ponds and from the top of bank of each side for perennial and intermittent streams.
   (b) Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the surface water buffer but are regulated pursuant to **applicable state and federal laws and rules** ~~**15A NCAC 02H .0506**~~.
   (c) These surface waters are indicated on any of the following maps or if there is site-specific evidence that indicates the presence of waters not shown on any of these maps:
      (1) *(unchanged)*
      (2) The ~~**hard copy Soil Survey maps developed**~~ **most recent version of the published manuscript of the soil survey map that shows stream layers prepared** by the USDA Natural Resource Conservation Service; or
      (3) *(unchanged)*

(d) Where the specific origination point of a perennial or an intermittent stream is in question, parties subject to this section shall request the Engineering Services Director to make a determination in accordance with Rule 15A NCAC 2B ~~**0250(4)(b)**~~ **.0724(4)**.

TABLE 6.2.9.C**1**: MINIMUM SURFACE WATER BUFFER WIDTH REQUIREMENTS

WATER CLASSIFICATION	MINIMUM BUFFER WIDTH				
	LOW DENSITY DEVELOPMENT [1]		HIGH DENSITY DEVELOPMENT [2]		
	ZONE 1 (FEET)	ZONE 2 (FEET)	ZONE 1 (FEET)	ZONE 2 (FEET)	ZONE 3 (FEET)
Perennial Surface Waters (Streams, Lakes and Ponds)	50		100		
	30	20 [3]	30	20 [3]	50
Intermittent Surface Waters (Streams, Lakes and Ponds)	50		50		
	30	20 [3]	30	20 [3]	n/a

NOTES: *(Municode – for text below align left instead of centered)*

[1] Low Density Development is development that is equal to or less than 2 dwelling units per acre or 24 percent built-upon area in all watersheds except Randleman Lake. Low Density Development in the Randleman Lake watershed is development that is equal to or less than 1 dwelling unit per acre or 12 percent built-upon area

[2] High Density Development is development that is greater than 2 dwelling units per acre or 24 percent built-upon area in all watersheds except Randleman Lake. High density development in the Randleman Lake watershed is development that is greater than 1 dwelling unit per acre or 12 percent built-upon area

[3] Additional buffer requirements apply where surface waters abut moderate to steep slopes in accordance with Section 6.2.9 D, Slope and Buffer Protection

3. **Exemption Based on On-site Determination**
   (a) *(unchanged)*
   (b) *(unchanged)*

(c) The Engineering Services Director may also accept the results of ~~**site assessments**~~ **a surface water determination** made by other qualified parties.

(d) On-site surface water determinations shall expire 5 years from the date of the determination.

~~**(d)**~~**(e)** Any disputes over on-site **surface water** determinations shall be referred to the Director of the ~~**N.C. Division of Water Resources (**~~DWR~~**)**~~, in writing **within 60 calendar days of written notification of the determination**.

(f) The decision by the Director of the DWR is subject to review as provided in Articles 3 and 4 of NCGS 150B.

~~**(e)**~~**(g)** ~~**A determination by the Director of the DWR as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of N.C.G.S. 150B.**~~ Surface waters that appear on the maps shall not be subject to these buffer requirements if ~~**a site evaluation**~~ **an on-site surface water determination** reveals any of the following cases:

(1) *(unchanged)*

(2) ~~**Areas mapped as intermittent streams, perennial streams, lakes, ponds or estuaries on the most recent versions of the United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographic maps, hard-copy soil survey maps, or other EMC approved stream maps where no**~~ **The absence on the ground of a corresponding** perennial water body, intermittent water body, lake, **reservoir or** pond ~~**or estuary actually exists on the ground**~~;

(3) *(unchanged)*

(4) ~~**Ponds**~~ **Manmade ponds** and lakes ~~**created for animal watering, irrigation or other agricultural uses**~~ that are not ~~**part of a natural drainage way that is classified in accordance with 15A NCAC 02B .0100. Ponds are part of the natural drainage way when they are hydrologically connected (i.e., the pond is**~~ fed by an intermittent or perennial stream~~**) or**~~ **nor** ~~**when they**~~ have a direct discharge point to an intermittent or perennial stream.

4. **Exemptions for Existing Development and Activities** Existing development that was present within a surface water buffer on the effective date the surface water buffer requirements were established is allowed to continue and is exempt

from the requirements of Section 6.2.9 C, Surface Water Buffers, to the extent specified below:

(a) *(unchanged)*

(b) *(unchanged)*

(c) Activities necessary to maintain existing development are allowed provided the site remains similarly vegetated, no ~~**impervious surface**~~ **built-upon area** is added within ~~**Zone 1 or 2 of**~~ the surface water buffer where it did not previously exist, and ~~**diffuse flow is maintained**~~ **the requirements of Section 6.2.9.C.6.(b)(2), Stormwater Runoff Through Zones 1 & 2 of Surface Water Buffers, are met**.

(d) Grading and revegetating of Zone**s** 2 **and 3** is allowed for existing development upon review and approval of the TRC provided the health of the vegetation in Zone 1 is not compromised, the ground is stabilized, and ~~**the existing diffuse flow is maintained**~~ **the requirements of section 6.2.9.C.6.(b)(2), Stormwater Runoff Through Zones 1 and 2 of Surface Water Buffers, are met**.

(e) In addition, projects or development specified in 15A NCAC 02B ~~**.250 (6)(b)**~~ **.0724(6)(a)** may be determined to be exempted in accordance with the requirements of that section.

(f) *(unchanged)*

5. **New Development and Activities** N.C. Administrative Code Section 15A NCAC 02B ~~**.0250(9)**~~ **.0724(11)** lists potential new development and activities within the buffer and categorizes them as ~~**exempt, allowable, or allowable with mitigation**~~ **deemed allowable, allowable upon authorization, or allowable with mitigation upon authorization**. All development and activities not categorized as ~~**exempt, allowable, or allowable with mitigation**~~ **deemed allowable, allowable upon authorization, or allowable with mitigation upon authorization** are considered ~~**prohibited**~~ **allowable with exception** and may not proceed within the surface water buffer**,** or outside the buffer if the development or activity would impact the buffer, unless a **watershed** variance is granted in accordance with Section ~~**2.4.19, Watershed Variance**~~ **2.4.16, Variance**. Watershed development plan approval, as provided for in Section 6.2.9 C.9, Watershed Plan Approval, is required for all new development and activity that is ~~**not prohibited**~~ **allowable**. Such an approved plan shall constitute written authorization for uses that are allowable **upon authorization** or allowable with mitigation **upon authorization** and a statement to that effect shall be included on the approved plan. The requirements for each category are as follows:

(a) **~~Exempt~~ Development Deemed Allowable ~~Development~~** Development and activities designated as **~~exempt~~ deemed allowable** are permissible without **issuance of an** authorization **certificate** by the TRC provided that they adhere to the limitations of the activity as defined in NC Administrative Code Section 15A NCAC 02B **~~.0250(9)~~ .0724(11)**. In addition, **artificial streambank and shoreline stabilization is allowable in the Uwharrie (Lake Reece) and Lake Thom-A-Lex water supply watersheds, and in any non-water supply watershed. Deemed allowable ~~exempt~~** development and activities shall be designed, constructed, and maintained to minimize **vegetation and** soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring and maintenance activities.

(b) **Development Allowable Upon Authorization ~~Development~~** Development and activities designated as allowable **upon authorization** may proceed provided that there are no practical alternatives to the requested development or activity **and an authorization certificate is issued** in accordance with Section 6.2.9 C.10, **~~Determination of No Practical Alternatives~~ Authorization Certificates**. This includes construction, monitoring, and maintenance activities. **In addition, in the Uwharrie (Lake Reece) and Lake Thom-A-Lex water supply watersheds, and in any non-water supply watershed, publicly-funded linear projects such as roads, greenways, and sidewalks; water dependent structures such as docks; and minimal footprint uses such as poles, signs, utility appurtenances, and security lights are allowed provided there are no practical alternatives for locating them elsewhere, the built-upon area is minimized and channelization of stormwater runoff is avoided.**

(c) **Development Allowable with Mitigation Upon Authorization** Development and activities designated as allowable with mitigation **upon authorization** may proceed provided that there are no practical alternatives to the requested development or activity**, an authorization certificate is issued** in accordance with Section 6.2.9 C 10, **~~Determination of No Practical Alternatives~~ Authorization Certificates**, and an appropriate mitigation strategy is approved in accordance with Section 6.2.9 C.11, Mitigation.

6. **Surface Water Buffer Zones**

(a) **Location** Required surface water buffers consist of 2 or 3 zones depending on the density of development and stream classification, as shown in Table 6.2.9.C**1**, Minimum Surface Water Buffer Width Requirements.

(1) **Zone 1** Zone 1 shall be the first 30 feet landward **on all sides** from the top of the stream bank **or** normal water level of other water bodies ~~**on all sides of the surface water**~~ measured horizontally on a line perpendicular to ~~**a vertical line marking the top of the bank**~~ **the surface water.**

(2) through (4) *(unchanged)*

(b) **Standards** Zones 1 and 2 shall be undisturbed except as allowed in this section. Zone 3 can be disturbed but must remain vegetated in accordance with these standards.

(1) **Development in Zones 1 and 2**

(i) New development or land disturbing activities shall not be allowed in Zones 1 or 2 of the surface water buffer, except as allowed in NC Administrative Code Section 15A NCAC 02B ~~**.0250(9)**~~ **.0724(10)**.

(ii) *(unchanged)*

(iii) Allowed activities shall ~~**minimize built-upon surface area, divert runoff away from surface waters**~~ **be designed, constructed and maintained to minimize vegetation and soil disturbance** and protect water quality to the maximum extent practical~~ **through the use of Best Management Practices**~~.

(iv) *(unchanged)*

(2) ~~**Diffuse Flow Requirements in Zones 1 and 2**~~ **Stormwater Runoff Through Zones 1 and 2 of Surface Water Buffers** ~~**The following diffuse flow requirements**~~ **Stormwater runoff through Zones 1 and 2 of surface water buffers shall maintain dispersed flow, or if stormwater conveyances, such as roadside and other drainage ditches, are used to carry runoff through Zones 1 and 2 of surface water buffers, they** must ~~**be met:**~~ **meet the requirements specified in Table 6.2.9.C.2, Stormwater Runoff Through Zones 1 & 2 of Surface Water Buffers.**

~~**(i) Diffuse flow must be maintained to the maximum extent practical through dispersing concentrated flow and re-establishment of vegetation to maintain the effectiveness of the surface water buffer.**~~

~~**(ii) Concentrated runoff from the new ditches or manmade conveyances must be dispersed into diffuse flow before the runoff enters Zone 2 of the surface water buffer. Existing ditches and manmade conveyances are exempt from this requirement; however, care shall be taken to minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion.**~~

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

~~**(iv) Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation in new ditches.**~~

~~**(v) Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone 2 of the riparian buffer.**~~

~~**(vi) Periodic corrective action to restore diffuse flow in new ditches or manmade conveyances shall be taken if necessary to impede the formation of erosion gullies; and**~~

~~**(vii) No new stormwater conveyances are allowed through the buffers except for those specified in NC Administrative Code Section 15A NCAC 02B .0250(9), addressing stormwater management ponds, drainage ditches, roadside ditches and stormwater conveyances.**~~

(Insert the following new table)

TABLE 6.2.9.C2: STORMWATER RUNOFF THROUGH ZONES 1 & 2 OF SURFACE WATER BUFFERS	
A. DEEMED ALLOWABLE	1. New drainage conveyances from a primary Stormwater Control Measure (SCM) when designed to treat the drainage area to the conveyance and the conveyances comply with an approved watershed development plan.

	2. New stormwater flow to existing drainage conveyances provided the addition of new flow does not result in the need to alter the conveyance.
B. DEEMED ALLOWABLE UPON AUTHORIZATION	1. New drainage conveyances from a primary Stormwater Control Measure (SCM) that are not approved under a State stormwater program or State-approved local government stormwater program.
	2. New drainage conveyances when the flow rate is less than 0.5 cubic feet per second during the peak flow from the 0.75 inch per hour storm.
	3. New stormwater runoff that has been treated through a level spreader-filter strip that complies with 15A NCAC 02H .1059.
	4. Realignment of existing roadside drainage conveyances applicable to publicly funded and maintained linear transportation facilities when retaining or improving the design dimensions provided that no additional travel lanes are added, and the minimum required roadway typical section is used based on traffic and safety considerations.
	5. Realignment of existing drainage conveyances retaining or improving the design dimensions provided that the size of the drainage area and the percent built-upon area within the drainage area remain the same.
	6. New or altered drainage conveyances applicable to publicly funded and maintained linear transportation facilities provided that SCMs or BMPs from the NCDOT Stormwater Best Management Practices Toolbox are employed.
	7. New drainage conveyances applicable to publicly funded and maintained linear transportation facilities that do not provide a stormwater management facility due to topography constraints provided other measures are employed to protect downstream water quality to the maximum extent practical.
	8. New drainage conveyances where the drainage area to the conveyance has no new built-upon area and the conveyance is necessary only for bypass of existing drainage.
NOTES:	
[1] Regardless of type, stormwater conveyances shall not erode through the buffer nor cause erosion to the receiving waterbody.	
[2] Other types of stormwater conveyances shall only be allowed upon approval of a watershed variance in accordance with Section 2.4.16., Variance.	

(3) **Zone 3**

(i) *(unchanged)*

(ii) *(unchanged)*

(iii) New development shall not be allowed in Zone 3 of the surface water buffer, except those developments and activities allowed in Zones 1 and 2 where the TRC ~~**makes a no practical alternatives determination**~~ **issues an authorization certificate**.

(iv) Allowed activities shall ~~**minimize built-upon surface area, divert runoff away from surface waters**~~ **be designed, constructed and maintained to minimize vegetation and soil disturbance** and protect water quality to the maximum extent practical ~~**through the use of Best Management Practices**~~.

7. **Channelization** *(unchanged)*
8. **New Lots in the Surface Water Buffer** To the extent practical, no new single-family ~~**detached**~~ or duplex residential lots shall be created which are entirely or partly contained within the surface water buffer.
9. **Watershed Plan Approval** The TRC shall approve a watershed development plan only if the plan proposes to avoid impacts to surface water buffers defined in Section 6.2.9.C, Surface Water Buffers, or where the plan proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:
   (a) *(unchanged)*
   (b) Received ~~**a determination of no practical alternatives**~~ **an authorization certificate** for activities in Zone**s** ~~**3**~~ **1 & 2 of the surface water buffers** ~~**on**~~ **for** the approved watershed development plan from the TRC pursuant to Section 6.2.9 C.10, ~~**Determination of No Practical Alternatives**~~ **Authorization Certificates**;
   (c) *(unchanged)*
   (d) Received a variance pursuant to Section ~~**2.4.19, Watershed Variance**~~ **2.4.16, Variance**.
10. ~~**Determination of No Practical Alternatives**~~ **Authorization Certificates**
    (a) Applicants undertaking development or activities designated as allowable **upon authorization,** ~~**or**~~ allowable with mitigation **upon authorization, or allowable with exception** shall submit a watershed development plan with a request for ~~**a no practical alternatives determination**~~ **an authorization certificate** to the TRC. The applicant shall ~~**certify**~~

demonstrate that the project meets all the following criteria ~~**for a determination of no practical alternatives**~~:

(1) The basic project purpose cannot be practically accomplished in a manner that would **avoid or** better minimize disturbance, preserve aquatic life and habitat and protect water quality;

(2) The use cannot practically be reduced in ~~**a**~~ size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat and protect water quality; and

(3) ~~**Best management practices**~~ **Stormwater control measures** shall be used ~~**if necessary**~~ to minimize disturbance, preserve aquatic life and habitat and protect water quality.

(b) The applicant shall submit a watershed development plan ~~**containing at least the following information on a form supplied by the Planning and Development Department**~~ **and written documentation** in support of their assertion of no practical alternatives ~~**determination**~~ **that contains the following**:

(1) An explanation of why this plan for the development or activity cannot be practically accomplished, reduced**, relocated** or reconfigured to **avoid or** better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and

(2) Plans for any ~~**best management practices**~~ **stormwater control measures** proposed to be used to control the impacts associated with the development or activity.

(c) Within 60 days of a submission that addresses subsection (b) above, the TRC shall review the entire project and~~**make a finding of fact as to whether the criteria**~~ **issue an authorization certificate, deny the authorization certificate, or request additional information** ~~**in subsection (a) of this section have been met**~~. **When additional information is requested, the 60-day review period restarts upon receipt of all the additional information requested.** A ~~**determination of no practical alternatives**~~ **TRC decision that all the criteria in subsection (a) of this section are met** shall result in issuance of ~~**a certification of**~~ **an authorization certificate for** the approved watershed development plan. **Should TRC fail to take action or request additional information within the 60-day review period, then the requested authorization certificate shall be issued** ~~**Failure to act within 60 days shall be construed as a finding of no practical alternatives and**~~

~~**a certification on the watershed development plan shall be issued to the applicant**~~ unless one of the following occurs:

(1) *(unchanged)*;

(2) *(unchanged)*;

(3) The final decision is to be made pursuant to a **watershed variance decision** ~~**public hearing**~~; ~~**or**~~

(4) The applicant refuses access to its records or premises for the purpose of gathering information necessary for the TRC to make a decision**; or**~~.~~

(5) Information necessary for a decision is unavailable.

(d) The TRC may attach conditions **as provided in Section 2.3.10., Conditions of Approval,** to the ~~**determination of no practical alternatives**~~ **authorization certificate** that ~~**support the purpose, spirit and intent of**~~ **ensure compliance with** this Ordinance.

11. **Mitigation** Mitigation in accordance with the requirements of 15A NCAC 02B .0295 shall apply to persons who wish to impact a surface water buffer when one of the following applies:

(a) **An applicant** ~~**person has**~~ received ~~**authorization**~~ **an authorization certificate** pursuant to Section 6.2.9 C.10, ~~**Determination of No Practical Alternatives**~~ **Authorization Certificates**, of this section for a proposed development or activity that is ~~**designed**~~ **designated** as allowable with mitigation **upon authorization**; or

(b) **An applicant** ~~**person has**~~ received a variance pursuant to Section ~~**2.4.19, Watershed Variance**~~ **2.4.16, Variance**, of this Ordinance and is required to perform mitigation as a condition of a variance approval.

12. **Surface Water Buffer Variances** ~~**Variances pertain to prohibited uses or activities in the surface water buffer. There are 2 types of variances from the surface water buffer requirements of this section. They are:**~~

(a) ~~**A major variance, which is a variance that pertains to activities that impact any portion of Zone 1.**~~ **Variations to or exceptions in the State watershed protection surface water buffer rules contained in this section are considered watershed variances in accordance with Section 2.4.16, Variances.**

(b) ~~**A minor variance, which is a variance that pertains to activities that impact any portion of Zone 2 of a surface water buffer.**~~ **Variations to the requirements of this section that are more stringent than the State minimum requirements are considered watershed modifications in accordance with Section 6.2.16., Watershed Modifications.**

13. **Appeals**
    (a) An appeal of ~~**determinations of no practical alternatives**~~ **an authorization certificate decision of** ~~**by the**~~ TRC shall comply with Section ~~**2.4.19, Watershed Variance**~~ **2.4.3., Appeal**.
    (b) An appeal pursuant to the requirements of Section 6.2.9 C, Surface Water Buffers, which applies to activities conducted under the authority of the State, the United States, multiple jurisdictions or local units of government, forest harvesting and agricultural activities, shall be referred to the Director of the NCDWR for review, as provided for in North Carolina General Statutes Chapter 150B Articles 3 and 4.

D. **Slope and Buffer Protection** *(unchanged)*

E. **Additional Protection in Watershed Critical Areas** *(unchanged)*

PART C.

That Section 6.2.10.B.2., *Minimize Land Disturbance and Built-upon Area*, is hereby amended as follows:

2. **Minimize Land Disturbance and Built-Upon Area** Design development to provide the following:
   (a) *(unchanged)*
   (b) Shared parking and drives where possible to further reduce built-upon area; ~~**and**~~
   (c) Use of multiple ~~**best management practices**~~ **stormwater control measures** such as bio-retention cells and infiltration areas to minimize impact~~**.**~~**; and**
   (d) Step floor elevations to fit terrain and avoid slab-on-grade construction to minimize land disturbance.

PART D.

That all references to “engineered stormwater controls” in Table 6.2.11.A1, *Minimum Stormwater Controls Required in the General Watershed Area and in Non-water Supply Watersheds*, and Table 6.2.11.A2, *Minimum Stormwater Controls Required in the Watershed Critical Area*, are hereby changed to “primary stormwater control measures.”

PART E.

That Section 6.2.11.B., *Methods of Stormwater Control*, is hereby amended as follows:

B. ~~**Methods of**~~ **Stormwater Control Measures**

1. **Vegetated Conveyances for Low Density Development To the maximum extent practical, as determined by TRC, Ss**tormwater runoff shall be transported from the development **to vegetated areas as dispersed flow or** by vegetated conveyances **~~to the maximum extent practical, as determined by the TRC~~ in accordance with the following.**
   - **(a) Site-specific factors, such as topography, site layout, and protection of water quality, shall be considered.**
   - **(b) Vegetated conveyances shall be maintained in perpetuity and meet the following criteria:**
     - **(1) Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and**
     - **(2) The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.**
   - **(c) In lieu of vegetated conveyances, curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas are allowed, subject to the following requirements:**
     - **(1) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;**
     - **(2) The longitudinal slope of the swale or vegetated area shall not exceed 5 percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;**
     - **(3) The swale's cross section shall be trapezoidal with a minimum bottom width of 2 feet;**
     - **(4) The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);**
     - **(5) The minimum length of the swale or vegetated area shall be 100 feet; and**
     - **(6) Treatment swales designed in accordance with 15A NCAC 02H .1061 may be used in lieu of the requirements specified in items (1) through (5) above.**
2. **Alternate Measures** As required by Table 6.2.11.A1**: Minimum Stormwater Controls Required in the General Watershed Area and in Non-Water Supply Watersheds** and Table 6.2.11.A2**: Minimum Stormwater Controls Required in the Watershed Critical Area**, the following stormwater **control measures ~~management facilities~~** are considered alternate measures that may be allowed provided that they meet the standards of the City of High Point *Stormwater Best Management Practices Design Manual*:

(a) through (e) *(unchanged)*

(f) Any ~~**best management practices**~~ **stormwater control measures** approved by the Engineering Services Director that complies with the performance standards of control of the first ½ inch of rainfall.

3. ~~**Engineered**~~ **Primary Stormwater Control~~s~~ Measures for High Density Development** In accordance with Table 6.2.11.A1**: Minimum Stormwater Controls Required in the General Watershed Area and in Non-Water Supply Watersheds** and Table 6.2.11.A2**: Minimum Stormwater Controls Required in the Watershed Critical Area**, stormwater **control measures** ~~**management facilities, such as wet detention ponds,**~~ meeting the performance standards of control of the first 1 inch of rainfall and removal of 85 percent of total suspended solids (TSS) **or limiting annual runoff volume after development to not more than 10 percent of the annual runoff volume before development** shall be used to control stormwater runoff in compliance with the City of High Point *Stormwater Best Management Practices Design Manual*. In-lieu of an on-site engineered stormwater control, developments may participate in a regional stormwater control program in compliance with the requirements of Section 6.2.11 C, Participation in a Regional Stormwater Control Program.

PART F.

That all references to "stormwater management facility" and "stormwater management facilities" in Section 6.2.11.D., *Improvements*, are hereby changed to "stormwater control measure" and "stormwater control measures" respectively.

PART G.

That Section 6.2.11.D.5., *Operation and Maintenance Agreement*, is hereby amended as follows:

5. Operation and Maintenance Agreement

(a) *(unchanged)*

(b) The agreement must be approved by the ~~**Planning and Development Director**~~ **Public Services Director** and shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the stormwater **control measures** ~~**management facilities**~~.

(c) through (k) *(unchanged)*

PART H.

That Section 6.2.11.E.6., *Engineered Stormwater Controls and Alternate Measures*, is hereby amended as follows:

6. ~~**Engineered**~~ **Stormwater Control~~s~~** ~~**and Alternate**~~ **Measures** When ~~**a permanent engineered**~~ stormwater control ~~**structure or alternate**~~ measure**s**, including participation in a regional stormwater control program, is

required for a development to comply with the requirements of this section, a North Carolina registered professional engineer shall prepare the plan with the Engineer's Certification of Runoff Control as set out in the City's *Development Guide* affixed, signed, sealed, and dated.

PART I.

That Section 6.2.13.B.3., *Limits in the Uwharrie (Lake Reese) and Lake Thom-A-Lex Watersheds*, is hereby amended as follows:

3. **Limits in the Uwharrie (Lake Reese) and Lake Thom-A-Lex Watersheds** Uwharrie (Lake Reece) and Lake Thom-A-Lex are classified as WS III water supply watersheds, and development in the GWA shall not exceed 50 percent built-upon area, except as otherwise as provided below:
   (a) *(unchanged)*
   (b) *(unchanged)*
   (c) Development under this provision requires primary stormwater control measures and low-density development must meet the surface water buffer width requirements for high-density development.

PART J.

That Section 6.2.14.F., *Drainage*, is hereby amended as follows:

F. **Drainage**
   1. and 2. *(unchanged)*
   3. No new development shall be allowed in a drainageway except that water dependent structures and public projects such as greenways may be allowed where no practicable alternative exists. Where these activities are allowed, they shall minimize built-upon surface area and maximize the utilization of ~~**Best Management Practices (BMP's)**~~ **stormwater control measures**.
   4. *(unchanged)*

PART K.

That Section 6.2.15.E., *Uwharrie (Lake Reece)*, and Section 6.2.15.F., *Lake Thom-A-Lex*, are hereby amended as follows:

E. **Uwharrie (Lake Reece)** Development in a WS-III GWA shall not exceed 50 percent built-upon area, except as otherwise provided below:
   1. *(unchanged)*
   2. *(unchanged)*

3. Development under this provision requires primary stormwater control measures and low-density development must meet the surface water buffer width requirements for high-density development.

F. **Lake Thom-A-Lex** Development in a WS-III GWA shall not exceed 50 percent built-upon area, except as otherwise provided below:
1. *(unchanged)*
2. *(unchanged)*
3. Development under this provision requires primary stormwater control measures and low-density development must meet the surface water buffer width requirements for high-density development.

PART L.

That Section 6.2.16.A., *General*, is hereby amended as follows:

A. **General**
1. *(unchanged)*
2. Where such watershed requirements are State minimum requirements, then a departure from those requirements shall only be considered in accordance with Section ~~**2.4.19, Watershed Variance**~~ **2.4.16, Variance**.

PART M.

That Section 6.2.17., *Watershed Accounting*, is hereby amended as follows:

6.2.17. – Watershed Accounting

A. and B. *(unchanged)*

C. **10/70 Provision**
1. *(unchanged)*
~~**2. Development under this provision requires engineered stormwater controls.**~~

D. **Record Keeping** ~~**The Planning and Development Director shall keep a**~~ **In accordance with State requirements,** record**s** of ~~**all**~~ watershed variances **and authorization certificates shall be maintained by the Planning and Development Director;~~,~~ records of on-site surface water** ~~**stream**~~ determinations ~~**and determinations of no practical alternatives**~~ **shall be maintained by the Engineering Services Director; and records of stormwater control violations shall be maintained by the Public Services**

Director. ~~**This record shall be submitted for each calendar year to the North Carolina Division of Water Resources on or before January 1 of the following year and shall provide a description of each project receiving a variance, stream determination or determination of no practical alternatives and the reasons for granting them.**~~

SECTION 5.

That Section 7.1.6.B.5., *Lots Adjoining Dedicated Public Open Space or Required Watershed Stream Buffer Areas*, is hereby amended as follows:

5. **Lots Adjoining Dedicated Public Open Space or Required Watershed Stream Buffer Areas** ~~**Single-family l**~~**L**ots with public water and sewer service **for single-family detached dwellings** that abut a dedicated public open drainageway, dedicated public open space areas, or a required watershed stream buffer when such buffer is in a common area, may have less area than the minimum lot size required **and reduced minimum rear setbacks**, provided the following standards are met:
   (a) No lot area shall be less than 60 percent of the minimum lot size for the zoning district or less than 4,000 square feet.
   (b) Minimum rear setbacks may be reduced to 15 feet only where rear lot lines abut such dedicated public or common area.
   ~~**(b)**~~**(c)** A note shall be placed on the Final Plat stating:

   "The required area of Lots (*insert lot #*) through (*insert lot #*) has been reduced in accordance with Section 7.1.6**.** ~~**-**~~B.5**.,** Lots Adjoining Dedicated Public Space or Required Watershed Stream Buffer Areas**, and minimum rear setbacks may be reduced to 15 feet**. All other dimensional standards of the Development Ordinance shall apply."

SECTION 6.

That Section 9.5.1.A., *Engineering Services Director*, is hereby amended as follows:

A. **Engineering Services Director** The Engineering Services Director is responsible for enforcing the provisions of this Ordinance pertaining to **surface water buffer protection,** land disturbance, flood damage prevention, and the construction of public infrastructure.

SECTION 7.

That Section 10.2., *Rules of Measurement*, is hereby amended to add a new subsection 10.2.13. entitled *Surface Water Buffers*.

10.2.13. - Surface Water Buffers

A. Measuring at Beginning or Ending of a Stream Where a stream begins or ends, including when it goes underground, or enters or exits a culvert or wetland, the required surface water buffer width shall be measured as a radius around the beginning or end.

B. Percent Variation for Watershed Variance For variances involving relaxation of the surface water buffer width, the percent variation shall be calculated using the footprint of built-upon area proposed to encroach within the surface water buffer divided by the total area of surface water buffer within the project.

SECTION 8.

That Section 10.3., *Abbreviations*, is hereby amended as follows:

TABLE 10.3: ABBREVIATIONS	
ABBREVIATION	ASSOCIATED TERM
~~**BMP**~~	~~**Best Management Practice**~~
~~**bua**~~ **BUA**	Built-upon Area
EMC	**North Carolina Environmental Management Commission**
~~**HQW**~~	~~**High Quality Water**~~
SCM	**Stormwater Control Measure**

SECTION 9.

That Section 10.4., *Definitions*, is hereby amended as follows:

ACCELERATED EROSION	**Any increase over the rate of natural erosion as a result of land-disturbing activities.**
~~**BEST MANAGEMENT PRACTICE**~~	~~**A structural or non-structural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.**~~

BUILT-UPON AREA	**That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel (for pedestrian or vehicular use), recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool are not considered built-upon area.)**
DISPERSED FLOW	**Uniform shallow water flow that is conveyed to a vegetated filter strip meeting the State's device specific Minimum Design Criteria (MDC), another vegetated area, or stormwater control measure. The purpose of dispersed flow is to remove pollutants through infiltration and settling, as well as to reduce erosion prior to stormwater reaching surface waters.**
EPHEMERAL STREAM	**A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological and physical characteristics commonly associated with the continuous or intermittent conveyance of water.**
EXISTING DEVELOPMENT	**Those projects that are built or those projects that have established a vested right under North Carolina law or this Ordinance**
FLOOD PROTECTION ELEVATION	**The elevation to which structures and uses regulated by Section 6.4, Flood Damage Prevention, are required to be elevated or flood proofed.**
INTERMITTENT STREAM	**A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by storm water runoff. An**

	intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.
MAJOR WATERSHED VARIANCE	**A variance from the minimum statewide watershed protection rules that results in the relaxation of any buffer, density, built-upon area or minimum lot size requirement by a factor greater than 5 percent under the high density option; the relaxation of any buffer, density, built-upon area or minimum lot size requirement by a factor greater than 10 percent under the low density option; any variance that pertains to activities proposed to impact greater than one-third of an acre of a surface water buffer; or any variation in the design, maintenance or operation requirements of an approved stormwater control measure.**
MINOR WATERSHED VARIANCE	**A variance from the minimum statewide watershed protection rules that results in the relaxation of any buffer, density, built-upon area or minimum lot size requirement by a factor of up to 5 percent under the high density option; or relaxation of any buffer, density, built-upon area or minimum lot size requirement by a factor up to 10 percent under the low density option; or any variance that pertains to activities proposed to impact less than one-third of an acre of a surface water buffer.**
PERENNIAL STREAM	**A well-defined channel that contains water year-round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological and physical characteristics commonly associated with the continuous conveyance of water.**

PRIMARY STORMWATER CONTROL MEASURE	**Means a wet pond, stormwater wetland, infiltration system, sand filter, bioretention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed and maintained in accordance with the State's Minimum Design Criteria (MDC).**
STORMWATER CONTROL MEASURE	**A permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.**
SURFACE WATERS	**All waters of the state as defined in G.S. 143-212 except underground waters and wetlands.**

SECTION 10.

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 11.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 12.
This ordinance shall become effective upon adoption.

Adopted by the City Council
City of High Point, North Carolina
The 9th day of December, 2020
Lisa B. Vierling, City Clerk

By: _____
Jay W. Wagner, Mayor

ATTEST:

_____
Lisa B. Vierling, City Clerk