

## **ARTICLE I**

### **PURPOSE AND AUTHORITY**

#### **1-1 SHORT TITLE**

This Ordinance shall be known and may be cited as the "Jamestown Development Ordinance."

#### **1-2 REPEALS AND ENACTMENT**

##### **1-2.1 Enactment**

This Ordinance is hereby enacted and shall be the Development Ordinance for the Town of Jamestown, hereinafter "the Town" and the areas within its extraterritorial jurisdiction. This ordinance supersedes the Zoning Ordinance and the Subdivision Ordinance of the Town of Jamestown, both of which are hereby repealed. The Jamestown Watershed protection Ordinance is incorporated herein.

##### **1-2.2 Effective Date**

This Ordinance shall become effective on January 1, 2001.

#### **1-3 PURPOSE**

##### **1-3.1 General Purpose**

It is the purpose of this Ordinance to promote the health, safety, and the general welfare of the residents of the Jamestown through the stated regulations of this Ordinance which include provisions to regulate zoning, cluster development, planned unit developments, manufactured housing, development of subdivisions, signs, off-street parking and loading, planting yards, watershed protection, and flood damage prevention.

#### **1-4 JURISDICTION**

The provisions of this Ordinance shall apply to all the territory encompassed in the Town of Jamestown, North Carolina, and its extraterritorial jurisdiction. This Ordinance shall govern the development and use of land and structures as provided for by Article 19 Regulation of Development, of GS 160A Cities and Towns.

#### **1-5 AUTHORITY**

This ordinance is adopted pursuant to portions of one or more of the following authorities in NCGS: Chapter 160A (Cities and Towns), Chapter 113A (Pollution Control and Environment), Chapter 121 (Environmental Controls), Chapter 133 (Public Works), and Chapter 136 (Roads and Highways). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

## **1-6 EFFECT ON EXISTING AGREEMENTS**

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

## **1-7 INTERPRETATION OF ORDINANCE**

### **1-7.1 Minimum Requirements; Greater Restrictions Govern**

In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements. If any federal or state law or other ordinance or regulation allows lesser regulation, this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority, the regulations imposed by that authority shall govern.

## **1-8 RULES OF CONSTRUCTION**

### **1-8.1 Word Interpretation**

Words not defined in this Ordinance shall be given their ordinary and common meaning. 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 male gender include the female gender. The words "shall," "will," and "must" are mandatory in nature implying an obligation or duty to comply with the particular provision.

## **1-9 COMPLIANCE**

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

No applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments which have received staff approval, Enforcement Officer approval, or a building permit before the effective date of this Ordinance, may proceed in accordance with such approval or permit while such approval or permit remains in effect.

## **1-10 RELATION TO THE COMPREHENSIVE PLAN**

The administration, enforcement and amendment of this Ordinance shall be carried out consistently with plans and documents comprising the Guilford County Comprehensive Plan and the development plan for the Town of Jamestown.

## **1-11 ESTABLISHMENT OF OFFICIAL ZONING MAP**

### **1-11.1 Official Zoning Map**

The Town is hereby divided into zones, or districts, as established in Article V (Zoning) and as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

### **1-11.2 Map Certification and Changes**

The Official Zoning Map shall be identified by the mayor's signature, attested by the Clerk and bear the seal of the Town together with the effective date of the adoption of this Ordinance. The map shall be retained in Town Hall. If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

## **1-12 INTERPRETATION OF DISTRICT BOUNDARIES**

### **1-12.1 Boundary Interpretation**

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

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

- (C) Lot Line: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.
- (D) Town Limits: Boundaries indicated as approximately following city limits or extraterritorial boundary lines shall be construed as following the town limits or extraterritorial boundary lines.
- (E) Watercourses: Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (G) Extensions: Boundaries indicated as parallel to or extensions of street or alley rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, city limits, county lines, or extraterritorial boundaries shall be so construed.
- (H) Scaling: In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Zones, Corps of Engineering work maps, if available, shall be used for scaling.

## **1-13 SEVERABILITY**

### 1-13.1 Invalidation

Should any portion of this Ordinance be held invalid or unconstitutional by a Court of competent jurisdiction such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

## **ARTICLE II**

### **DEFINITIONS**

**ACCESSORY BUILDING.** A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot.

**ACCESSORY DWELLING UNIT.** A dwelling that exists either as part of a principal dwelling or as an accessory building that is secondary and incidental to the use of the property as single family residential.

**ADDITION (TO AN EXISTING BUILDING).** An extension or increase in the floor area or height of a building or structure.

**ADULT ESTABLISHMENT.** The definition of "adult establishment" for purposes of this ordinance shall be consistent with Chapter 14, Article 26A of the N.C. General Statutes as currently written or hereafter amended. Adult establishments include adult bookstores, adult motion picture and mini motion picture theaters, adult video sales and rentals, adult live entertainment business and massage businesses as those terms are defined by G.S.14-202.10, and adult motels and adult cabarets. "Adult motel" is defined as a hotel, motel or similar commercial establishment that: (a) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe "specified sexual activities," or "specified anatomical areas" as one of its principal business purposes; or (b) offers a sleeping room for rent for a period of time that is less than ten hours; or (c) allows a tenant or occupant of a sleeping room to subagent the room for a period of time that is less than ten hours. "Adult Cabaret" is defined as a nightclub, bar, restaurant or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes: (a) persons who appear nude or semi-nude, or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or (c) films, motion pictures, video cassettes, slides or other photographic reproductions which depict or describe "specified anatomical areas."

**ALLEY.** A roadway which affords only a secondary means of access to abutting property.

**ALONG DRAINAGE.** The area parallel to and within fifty (50) feet of the drainage channel.

**APPEAL.** A request for a review of the floodplain administrator's interpretation of any provision of this ordinance. (this definition applies to flood hazard regulations.)

**ASSEMBLY.** A joining together of completely fabricated parts to create a finished product.

**ATHLETIC FIELD.** Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football).

**AUTO WRECKING.** An activity that provides open storage, disassembling, or salvaging for more

than two (2) junked motor vehicles.

AUTOMOBILE REPAIR SERVICES, MAJOR. An establishment primarily engaged in one or more of the following activities: 1) general repair or service, 2) engine repair, 3) installation or repair of transmissions, 4) installation or repair of automotive glass, 5) installation or repair of exhaust systems, 6) repair of tops, bodies and interiors, and 7) automotive painting and refinishing.

AUTOMOTIVE REPAIR SERVICES, MINOR. An establishment primarily engaged in one or more of the following activities: 1) diagnostic service and tune-ups, 2) installation or repair of air-conditioners, brakes, carburetors, electrical systems, fuel systems, generators and starters, and radiators, 3) lubricating service, and 4) front end and wheel alignment.

BAR. An establishment primarily engaged in the retail sale of beer or wine for consumption on the premises. Such establishment must obtain a ABC license for on-premise beer or wine consumption only. The establishment may also be engaged in the retail sale of prepared food for on-premise consumption.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides. (This definition applies only with respect to flood hazard regulations.)

BASE FLOOD ELEVATION. The elevation to which structures and uses regulated by this Ordinance are required to be elevated or flood proofed.

BASE FLOOD. The flood having a one percent chance of being equalled or exceeded in any given year (100-year flood).

BERM, EROSION CONTROL. A mound of material and/or ditch the purpose of which is to divert the flow of run-off water.

BLOCK. The land lying within an area bounded on all sides by streets.

BOARD OF ADJUSTMENT. A quasi-judicial body, appointed by the Town Council, that is given certain powers under this Ordinance.

BOARDING HOUSE. A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three (3) boarders.

BOOKSTORE, ADULT. A bookstore: 1) which receives a majority of its gross income during any calendar year from the sale of publications (including books, magazines and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical area, or 2) having a preponderance of its publications, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to sexual activities or anatomical areas.

BORROW. Fill material which is required for on-site construction and is obtained from other locations.

BUFFER. An area of land planted or constructed to separate uses.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse, the width of which is measured from the edge of the water to the nearest edge of the disturbed area, with the twenty five (25%) percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

BUILDABLE OR ZONING LOT. One or more lots of record in one undivided ownership with sufficient total area, sufficient area exclusive of easement, flood hazards, well and septic tank fields, total dimensions, and street access to permit construction thereon of a principal building together with its required parking and planting yards.

BUILDING. Any structure having a roof supported by walls or columns constructed or used for residence, business, industry or other public or private purposes.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the finished grade to the topmost section of the roof.

BUILDING LINE. A line perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line excluding the outermost steps, uncovered porches, gutters, and similar fixtures.

BUILDING SEPARATION. The minimum required horizontal distance between buildings.

CALIPER INCHES. Quantity in inches of the diameter of trees measured at the height of six (6) inches above the ground for trees four (4) inches in trunk diameter and twelve (12) inches above the ground for trees over four (4) inches in trunk diameter.

CERTIFICATE OF COMPLIANCE/OCCUPANCY. A statement, signed by the Enforcement Officer, setting forth either that a building or structure complies with the provisions of this Ordinance, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

COLLECTOR STREET PLAN. A plan, adopted by the local governing body, for streets not shown on the Thoroughfare Plan and showing collector and, if appropriate, lower classification streets in the planning area.

COMMON AREA(S). All areas, including private streets, conveyed to an owners' association within a development or owned on a proportional undivided basis in a condominium development.

CONDOMINIUM. Portions of real estate which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests is the common elements are vested in the

unit owners.

CONGREGATE CARE FACILITY. A facility providing shelter and services for ambulatory individuals at least fifty-five (55) years of age who by reason of their age, functional impairment, or infirmity may require meals housekeeping and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable

COUNTY. Refers to Guilford, North Carolina.

CRITICAL ROOT ZONE. The rooting area of a tree established to limit root disturbance, generally defined as a circle with a radius extending from a tree's trunk to the furthest point of the crown dripline.

CUL-DE-SAC. A short local street having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

DENSITY CREDIT. The potential for the development or subdivision of part or all of a parcel of real property, as permitted under the terms of this Ordinance, expresses in dwelling unit equivalents or other measures or development density or intensity or a fraction or multiple of that potential that may be transferred to other portions of the same parcel or to contiguous land that is part of a common development plan.

DETENTION POND. A pond which collects stormwater runoff, filters the water and releases it slowly over a period of hours or days. It does not have a permanent pool and is sometimes referred to as a dry pond or wet weather pond.

DEVELOPER. A person engaging in development.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

DEVELOPMENT, DENSITY OF. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks shall be used for density calculations.

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

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

DRAINAGE WAY AND OPEN SPACE AREA, DEDICATED. The area designated for floodplain and open space purposes on a recorded subdivision plat and thereby dedicated to the public for such purposes.

DRIPLINE. A vertical line extending from the outermost portion of a tree's canopy to the ground.

DWELLING UNIT. One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents are not dwelling units.

EASEMENT. A grant of one or more of the property rights, such as right of access, by the property owner to, or for use by the public, a corporation, or other entity.

ELEVATED BUILDING. A non-basement building which had its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ENCHROACHMENT. The advance or infringement of uses, fills, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. (This definition applies only with respect to flood hazard regulations.)

ENFORCEMENT OFFICER. The Town Manager or his designee.

EROSION. The wearing away of land surface by the action of wind, water, gravity or any combination thereof.

EROSION, ACCELERATED. Any increase over the rate of natural (i.e. undisturbed by human intervention) erosion as a result of land-disturbing activities.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURES HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

FAMILY. One (1) or more persons occupying a dwelling unit and living as a single household.

FAMILY CARE HOME. A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six (6) or less resident handicapped persons, pursuant to NCGS 168-21.

FENCE. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

FLOOD AND FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purposed ordinances, and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOOD INSURANCE RATE MAP (FIRM). An official map of the community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the Flood Boundary/Floodway Map and the water surface elevation of the base flood.

FLOOD PLAIN. The relatively flat area or low land adjacent to the channel of a river, stream, or watercourse, lake or other body of standing water, which has been or may be covered by flood water.

FLOODWAY FRINGE. The land area located between the floodway and maximum elevation subject to inundation by the base flood as defined in these Definitions.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOD ZONE. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate map that reflects the severity or type of flooding in the area.

FLOOR AREA, GROSS. The sum of the gross horizontal areas of the several floors of a building

measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six (6) feet.

**FLOOR.** The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

**FREEBOARD.** The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

**FUNCTIONALLY DEPENDENT FACILITY.** A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**GRADE.** A reference plane representing the average of finished ground level adjacent to any structure.

**GRADING.** Any operation or occurrence by which the existing site elevations are changed, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any water course or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. The term "grading" is interchangeable with "land-disturbing activity".

**GRADING PLAN.** The graphic plan, including narrative where appropriate, required by this Ordinance as a prerequisite for a grading permit, the purpose of which is to explain existing conditions and proposed grading of land including any development and to describe the activities and measures to be undertaken to control accelerated soil erosion and sedimentation.

**GREENWAY.** Public open space owned and maintained by the local government which has been designated on an officially adopted greenway plan.

**GROUP CARE FACILITY.** A facility licensed by the State of North Carolina, (by whatever name it is called, other than "Family Care Home" as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than (30) people.

**GROUP DEVELOPMENT.** A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two (2) or more principal building sites for the purpose of building development (whether immediate or future) and occupancy by separate families, firms, businesses, or other enterprises.

**HAZARDOUS OR TOXIC SUBSTANCE.** Any solid waste as defined in NCGS 130A-290(18), or

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

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

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

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HOME OCCUPATION. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the dwelling or the neighborhood.

IMPERVIOUS SURFACE COVERAGE. That portion of a lot covered by buildings, structures, paving or other impervious surface materials.

INTEGRATED MULTIPLE USE DEVELOPMENT (IMUD): A development containing three (3) or more stores, service establishments, offices, or other permitted uses planned, organized, and managed to function as a unified whole and featuring all of the following: 1) common driveways, 2) common parking, 3) common signage plan, and 4) common landscaping plan. Examples are shopping centers and office parks having the characteristics listed above. Such integrated developments may include outparcels for lease or for sale. Any such integrated development may be organized as a condominium or in a manner analogous to that of a townhouse development (with ownership parcels beneath the building units and with parking and driveways being in common elements owned and maintained by an Owners' Association).

JUNK/SALVAGE YARD. Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or

machinery or parts thereof.

JUNKED AUTOMOBILE - See MOTOR VEHICLE, JUNKED

LAND-DISTURBING ACTIVITY. Any use of land in residential, industrial, educational, institutional, or commercial development, highway or road construction or maintenance, that results in a change in natural cover or topography that causes or contributes to sedimentation.

LANDFILL, DEMOLITION AND CONSTRUCTION DEBRIS (MAJOR). A disposal site other than minor demolition and construction debris landfill as defined in this ordinance for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of wastes must be approved by the State Division of Health Services.

LANDFILL, DEMOLITION AND CONSTRUCTION DEBRIS (MINOR). A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth which is less than three acres in size and is in operation for less than one year.

LANDFILL, SANITARY/SOLID WASTE. A site for solid waste disposal from residential, industrial or commercial activities.

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

LOT, CORNER. A lot abutting two or more streets at their intersection.

LOT, DEPTH. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

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

LOT, REVERSE FRONTAGE. A through lot which is not accessible from one of the parallel or non intersecting streets upon which it fronts.

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

LOT WIDTH. The mean width measured at right angles to its depth at the building line.

LOWEST ADJACENT GRADE (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR. Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

MANUFACTURED DWELLING (MANUFACTURED HOME or HOUSING). A dwelling that 1) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; 2) exceeds forty feet in length and eight feet in width; 3) is constructed in accordance with the National Manufactured Home Construction and Safety Standards; and 4) is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One - and Two - Family Dwellings.

- 1) Class AA: A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:
  - a) Is occupied only as a single family dwelling;
  - b) Has a minimum width of sixteen (16) feet;
  - c) Has a length not exceeding four (4) times its width, with length measured along the longest axis and width measured perpendicular to the longest axis at the narrowest part;
  - d) Has a minimum of seven hundred (700) square feet of enclosed and heated living area;
  - e) Has the towing apparatus, wheels, axles, and transporting lights removed and not included in length and width measurements;
  - f) Has the longest axis oriented parallel or within a ten (10) degree deflection of being parallel to the lot frontage, unless other orientation is permitted by the Board of Adjustment following a public hearing;
  - g) Is set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous, permanent masonry foundation or masonry curtain wall constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two- Family Dwellings, unpierced except for required ventilation and access, shall be installed under the perimeter;
  - h) Has exterior siding, comparable in composition, appearance durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: 1) vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint); 2) cedar or other wood siding; 3) wood grain, weather resistant press board siding; 4) stucco siding; or 5) brick or stone siding;
  - i) Has a roof pitch minimum vertical rise of five (5) feet for each twelve

(12) feet of horizontal run;

- j) Has a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
- k) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter; and
- l) Stairs, porches, entrance platforms, ramps and other means of entrance and exit are installed or constructed in accordance with the standards set by the North Carolina State Building Code, attached firmly to the primary structure and anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of twenty-four (24) square feet. The use of wood stairs only is prohibited at any entrance.

2) Class A: A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction and that meet or exceed criteria (a), (c), (d), (e), (g), (h), (i), (k), and (l) for Class AA manufactured dwellings above.

3) Class B: A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction, and that meet or exceed criteria (e), (g) and (h) for Class AA manufactured dwellings above.

4) Class C: Any manufactured home that does not meet the definitional criteria of a Class AA, Class A or Class B manufactured dwellings above.

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

**MARKET VALUE.** The building value, not including the land value, and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

**MEAN SEA LEVEL.** For purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as correct 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. Structures for which the “start of construction” commenced on or after the effective date of the original version of the community’s Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures. (This definition applies only with respect to flood hazard regulations.)

MIXED DEVELOPMENT. A mixture of residential and permitted office and/or commercial uses allowed by special use permit in the B-1 and B-2 districts.

MODULAR DWELLING. A dwelling constructed in accordance with the standards set forth in the N.C. State Residential Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

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

MULTI-FAMILY DWELLING. A building or portion thereof used or designed as a residence for three (3) or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartment, townhouses and condominiums.

NONCONFORMING. A lot, structure, sign, or use of land which is now prohibited under the terms of this Ordinance but was lawful at the date of enactment of this Ordinance or any amendment to it.

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

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

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

NON-ENCROACHMENT AREA. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

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

PLAN, SKETCH. A rough sketch map of a proposed subdivision or site showing streets, lots, and any

other information required by the Town of sufficient accuracy used for discussion of the street system and the proposed development pattern.

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

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

PLAT, FINAL. The final map of all or a portion of a subdivision or site plan, showing the boundaries and location of lots, streets, easements and other requirements of the Town, which is presented for approval by the Town Council and subsequent recording in the Guilford County Register of Deeds Office.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site showing lots, streets, water, sewer, storm drainage and any other requirements of the Town, which is presented for preliminary approval.

PORTABLE STORAGE UNIT (POD). A transportable unit designed and used for the temporary storage of household goods, personal items and other materials which is placed on a site of the use of occupants of a dwelling or building on a limited basis. Such containers are uniquely designed for their ease of loading to and from a transport vehicle.

POST-FIRM. Construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

PRE-FIRM. Construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate map for the area.

PRINCIPAL BUILDING. A building in which the zoning lot’s principal use is conducted or, in a group development, the building site on which it is located. Any dwelling is considered a principal building unless it is an accessory dwelling on a single family lot, a farm tenant dwelling, or a residence for a pastor or caretaker dwelling accessory to a nonresidential use.

PRINCIPALLY ABOVE GROUND. That at least 51% of the actual cash value of the structure is above ground.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily for use not as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

REFERENCE LEVEL. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, or A99.

REGULATORY FLOOD PROTECTION ELEVATION. The “Base Flood Elevation” plus the “Freeboard”. In “Special Flood hazard Areas” where Base flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

REMEDY A VIOLATION. To bring the structure or other development into compliance with State and community floodplains management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development. (This definition applies only with respect to flood hazard regulations.)

RETENTION POND. A pond that has a permanent pool.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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

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

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

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

SEDIMENTATION. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

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

SETBACK, REAR. A setback from an interior property line lying on opposite side of the lot from the front street setback.

SETBACK, SIDE. Any interior property line setback other than a rear setback.

SETBACK, STREET. Any setback from a street, road or lane.

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

SIGN. A sign is any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trade marks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used to attract attention.

SIGN, FREE-STANDING: A sign attached to, erected on, or supported by a structure whose primary function is to support a sign and which is not itself an integral part of a building or other structure and including signs attached to or painted on a motor vehicle if such motor vehicle is located on a site in such a way as to serve as a sign, as defined above.

SIGN PROJECTING. A sign attached to and supported by a building and extending beyond the building to which it is attached at a right angle.

SIGN, WALL. A sign attached to or painted on a wall of a building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a facade window.

SILTATION. Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity, and which has been deposited, or is in suspension in water.

SITE SPECIFIC DEVELOPMENT PLAN. A plan of land development submitted to the appropriate approval authority for the purpose of obtaining one of the following zoning or land use permits or approvals pursuant to NCGS 160A-385.1:

- 1) a Special Use Permit;
- 2) a conditional use zoning sketch or site plan;
- 3) a planned development (PUD, shopping center or other unified development plan);
- 4) a preliminary plat for a major subdivision;
- 5) a watershed control plan prepared in accordance with this ordinance or
- 6) a landscaping plan prepared in accordance with the landscaping provisions of this Ordinance

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a one (1%) or greater chance of being flooded in any given year, as determined in Section 12-5(B) of this ordinance.

**START OF CONSTRUCTION.** Substantial improvement, and means the date of 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 piers, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building. (This definition applies only with respect to flood hazard regulations.)

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

**STREET, LOCAL.** A street whose primary function is to provide access to abutting properties.

**STREET, MAJOR THOROUGHFARE.** Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas.

**STREET, MINOR THOROUGHFARE.** Minor thoroughfares collect traffic from collector, subcollector, and local streets and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.

**STREET, PRIVATE.** A vehicular travelway not dedicated or offered for dedication as a public street but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system.

**STREET, PUBLIC.** A dedicated public right-of-way for vehicular traffic which (1) has been accepted by NCDOT for maintenance, or (2) is not yet accepted, but in which the roadway design and construction have been approved under public standards for vehicular traffic. Alleys are specifically excluded.

**STREET, RIGHT-OF-WAY.** A strip of land occupied or intended to be occupied by a travelway for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, street name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

**STREET, SUBCOLLECTOR.** A street whose principal function is to provide access to abutting properties but which is also designed to be used or is used to connect local streets with collector or

higher classification streets.

**STRUCTURE.** A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground. (This definition applies only with respect to flood hazard regulations.)

**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 includes all division of land involving the dedication of a new street or a change in existing streets; however, the following are not included within this definition and are not subject to any subdivision approval regulations in this Ordinance:

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

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

**SUBDIVISION, MINOR.** A residential subdivision involving four or fewer lots fronting on an existing approved public street(s), not requiring any new public street(s) for access to interior property, not requiring extension of public sewage or water line and not requiring a waiver or variance from any requirement of this Ordinance.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 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 officials and which are the minimum necessary to assure safe living conditions; or,

2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.  
(This definition applies only with respect to flood hazard regulations.)

THEATER, ADULT. An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical areas.

THOROUGHFARE PLAN. A plan adopted by the governing body for the development of existing and proposed major streets that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

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

TOWNHOUSE. Single occupancy units attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks and open areas owned in common.

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

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

TREE, CANOPY. A species of tree which normally grows to a mature height of forty (40) feet or more with a minimum mature crown of thirty (30) feet.

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

VARIANCE. Official permission from the Board of Adjustment to depart from the requirements of this ordinance.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in Sections 3-3.5 and 7-5.8 is presumed to be in violation until such time as that documentation is provided. (This definition applies only with respect to flood hazard regulations.)

WATER SURFACE ELEVATION (WSE). The height, in relation to mean seal level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over

which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

WATERSHED CRITICAL AREA. That portion of the watershed within the lake basin of the water supply reservoir as delineated in Article VII (Environmental Regulations).

WATERSHED, WATER SUPPLY. The entire area contributing drainage to the Town's water supply, in this case Oak Hollow Lake, High Point City Lake, and the proposed Randleman Reservoir.

WET DETENTION POND. A pond that has a permanent pool and also collects stormwater runoff, filters the water and releases it slowly over a period of days.

WET RETENTION POND. A pond that has a permanent pool.

ZONING DISTRICTS. An area defined by this Ordinance and delineated on the Official Zoning Maps in which the requirements for the use of land and building and development standards are prescribed.

ZONING VESTED RIGHT. A right pursuant to NCGS 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan.

YARD SALE. (Garage Sale) The sale of items outdoors, or from a vehicle, or from a garage or other accessory building, belonging to one or more sponsors of the sale. Only three yard sales per calendar year are permitted on the same zoning lot, unless evidence can be presented of the sale of the lot to a new owner.

## **ARTICLE III**

### **AMENDMENTS TO DEVELOPMENT ORDINANCE AND ZONING MAP**

#### **3-1 General Requirements**

(A) Amendments and Modifications: The Town Council may, according to the procedure established by G.S.160A-384 amend or repeal any provision of this Ordinance as well as zoning boundaries on the Town's official zoning map. Amendments and modifications shall be acted upon by the Town Council, after recommendation from the Planning Board.

(B) Proposing an Amendment: The Town Council, any local board, commission, or any person who resides or owns property within the zoning jurisdiction of Jamestown may petition for an amendment to the text of this Ordinance or the Zoning map. Where site plans or additional information is required, the Town staff shall provide instructions regarding submission of the additional information.

(C) Fee: A fee set by the Town Council shall be due and payable when the application is

made.

## **3-2 Amendment Process**

### **Application Process, Planning Board Review Planning Board Conflict of Interest, and Planning Board Statement of Consistency:**

#### **3-2.1 Submission of Application**

Applications to amend the zoning map or Ordinance text shall be made to the Town Manager. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning. This statement to be prepared by applicant. (G. S. 160A-382(b))

#### **3-2.2 Planning Board Review**

All proposed amendments to the zoning ordinance or zoning map shall first be submitted to the planning board for review and comment, before consideration by the Town Council. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the Town Council may proceed in its consideration of the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board. (G.S. 160A-387)

No member of the Planning Board shall vote on a recommendation regarding any zoning map or text amendment where the outcome of the matter being considered is reasonable likely to have a direct, substantial, and readily identifiable financial impact on the member. (G.S. 160A-381(d))

The Planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the Town and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration of approval of the proposed amendment by the governing board. (G.S. 160A-383)

#### **3-2.3 Notification**

(A) Text Amendments - Whenever there is a request for a text amendment, notice of the proposed action shall be published in a newspaper of general circulation in accordance with North Carolina General Statutes (G.S.160A-364(a)) The first legal notice shall be published not less than 10 days, and not more than 25 days, before the date of the scheduled public hearing for the proposed amendment.

(B) Map Amendments and Rezoning - When a change is proposed in a zoning boundary or classification of a parcel, notice by first class mail shall be sent to the owner of that parcel, and the

owners of all parcels abutting that parcel of land as shown on the county tax listing. The person or persons mailing such notices shall certify to the Town Council that proper notice has been given.

Publication of legal notice shall also be required for zoning map amendments as provided for text amendments in 3-2.3 (A). The first class mail notice shall not be required if the zoning map amendment directly affects more than 59 property, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for above, or may as an alternative elect to publish notice of the hearing as required by G. S. 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that published the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first-class mail according to the provisions above. (G. S. 160A-384 (b))

When a zoning map amendment is proposed, the Town shall, within the same time period before the scheduled public hearing, prominently post a notice of the public hearing on the side proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested person. (G. S. 160A-384 (c ))

In addition, each site shall be posted in a conspicuous location(s) with the time, date, and notice of public hearing.

### 3-2.4 Public Hearing

The Town Council shall hold a public hearing on the proposed amendment following consideration and a recommendation from the Planning Board. The Planning Board may also conduct a public hearing in order to receive information relevant to making its recommendation to the Council.

### 3-2.5 Protest Petition

Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Town Council. Vacant positions on the council and members who are excused from voting shall not be considered members of the council for calculation of the requisite three-fourths supermajority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property

line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the ‘owners’ of potentially qualifying areas. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district. (160A-385 (a))

“No protest against any change in our amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G. S. 160A-385 unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the town clerk in sufficient time to allow the town at least two normal workdays, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The town council may by ordinance require that all protest petitions be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. A person who have signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set for in G. S. 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement. (G. S. 160A-386)

(A) Signatures - The Protest Petition must be signed by the owners of 20% or more of the area of the lots included in a proposed change, or by the owners of 20% or more of the lots immediately adjacent to the lots included in the proposed change (either in the rear, or on either side extending 100 feet from the lot, or directly opposite from the lot extending 100 feet from the street frontage of the opposite lots).

(B) Filing - Protest petitions must be filed with the Clerk in sufficient time to allow the Town at least two normal work days, before the date established for public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

(C) Not Applicable in Original Annexations - Protest petitions shall not be applied to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.

### **3 – 2.6 Action by the Town Council**

(A). Conflict of Interest – A Town Council member shall not vote on any zoning map of text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (G. S. 160A-381 (d); 160A-75)

(B) – Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considered the action taken to be reasonable and in the public interest. (G. S. 160A-383)

### **3-3 Resubmissions**

An applicant shall not file an application to rezone a parcel to the same district within one year from the date of final action on the previous rezoning request (unless the applicant withdrew the application before the public hearing). However, a second request for the same parcel for a different zoning district may be filed within a year from final action on the initial request.

## ARTICLE IV

### PERMITS AND PROCEDURES

#### Section 4-1 Permit Required

No person shall undertake any activity subject to this Ordinance without first obtaining a permit from the Town.

The permits required are:

Building permit	Application submitted to Town Manager; town issues Certificate of Clearance; then applicant takes Certificate of Clearance to Guilford County Inspections Department to obtain building permit
Development Clearance Certificate	Issued by Town to indicate compliance with local zoning and site requirements; applicant uses this to obtain Building Permit from County
Sign permit	Obtained from Town Manager
Special events permit	Obtained from Town Manager; must apply at least 3 working days before event; required for events from 3-30 days in duration; requirements include: ample off-street parking; authorization of property owner and evidence of any other necessary licenses or permits
Grading permit	Obtained from Guilford County Inspections Department
Health Department permit	Obtained from Guilford County Health Department for installation of a well or sewage disposal system
Certificate of Occupancy	County issues upon final inspection
Watershed permit	Town issues with review and approval of High Point, depending upon location of building site.

4-1.2 Fees

The Town Council may establish a Schedule of Fees, charges and expenses, and a collection procedure, for permits. No permit, certificate, variance etc. shall be issued unless or until such charges as established, have been paid in full.

**Section 4-2 Periodic Inspections**

The Enforcement Officer shall have the right, upon presentation of proper credentials to enter on any premises within the Town's jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance or other enforcement action.

**Section 4-3 Permit Expiration**

4-3.1 Building Permit Expiration

Under terms of the Town's agreement with Guilford County, the County Inspections Department may void a building permit for a project within the Town limits if the authorized work has not begun within 180 days after issuance of the permit, or work was commenced but was discontinued for a period of one year.

4-3.2 Grading Permit Expiration

Under terms of the Town's agreement with Guilford County, a grading permit issued by the County Inspections Department is valid for one year unless it is revoked by the Enforcement Officer or the grading project is completed and the appropriate certificates issued by the County.

**Section 4-4 Certificates Issued by the County**

Under terms of the Town's agreement with Guilford County, the County Inspections Department issues certificates of occupancy, temporary certificates of occupancy, certificates of erosion control performance, certificates of floor elevation/flood proofing upon completion or partial completion of a project permitted by the County.

## ARTICLE V

### ZONING

#### Section 5-1 Districts Established and Described

In order to achieve the purposes of this Ordinance as set forth, all property within the jurisdiction of the Town of Jamestown is divided into districts with the designations and purposes as listed in: 5-1.1 General Use Districts, 5-1.2 Overlay Districts and 5-1.3 Conditional Use Districts.

##### 5-1.1 General Use Districts

(A) AG Agricultural District -The AG, Agricultural District, is primarily intended to accommodate uses of an agricultural nature, including farm residences and farm tenant housing. It also accommodates scattered non-farm residences on large tracts of land. It is not intended for major residential subdivisions. The district is established to: preserve and encourage the continued use of land for agricultural, forest and open space, to discourage scattered commercial and industrial land uses, and to concentrate urban development in and around area growth centers, thereby avoiding premature conversion of farmland to urban uses.

(B) R-40 Residential District - The R-40, Residential Single-Family District is primarily intended to accommodate single-family detached dwellings on large lots in areas without access to public water and wastewater services. The district is established to promote single-family detached residences where environmental features, public service capacities or soil characteristics necessitate very low density single-family development. The overall gross density in R- 40 areas will typically be one dwelling unit per acre or less.

(C) R-20 Residential District - The R-20, Residential Single-Family District is primarily intended to accommodate low to moderate density single-family detached dwellings in suburban areas at an overall maximum density of 1.9 dwelling units per acre. Public water and sewer are required.

(D) R-15 Residential District - The R-15, Residential Single-Family District is primarily intended to accommodate moderate density single-family detached dwellings in suburban areas at a maximum overall density of 2.5 dwelling units per acre.

(E) R-12 Residential District - The R-12, Residential District is primarily intended to accommodate moderate density single-family detached dwellings in suburban or urban areas at a maximum overall density of 3.0 dwelling units per acre. Condominiums, townhouses and multi-family units are permitted by special use.

(F) R-9 Residential District - The R-9, Residential District is primarily intended to accommodate moderate to high density single-family detached dwellings in urban areas at a maximum overall density of 4.0 units per acre as well as condominiums, townhouses and multifamily residences.

(G) PI Public and Institutional District -The PI, Public and Institutional District is intended to accommodate mid- and large-sized public, semi-public and institutional uses which have a substantial land use impact or traffic generation potential. It is not intended for smaller public and institutional uses customarily found within residential areas.

(H) B-1 Business District - The B-1 Business District is solely intended for application in the central core of the Town. The district is established to encourage high intensity, compact urban development. The district is intended to accommodate a wide range of uses including office, retail, service, and institutional developments in a pedestrian-oriented setting.

(I) B1-A Business District- The B1A Business District is adjacent to the central core of the Town, beginning at Ragsdale Road, continuing to the River and intersecting with the B2 zoning district. The same uses permitted to B-1 are permitted in B-1A. The distinguishing characteristic of this district is that, unlike the B-1 district, B-1A is not exempt from the landscaping requirements of this Ordinance (See Section 13-1.1). Landscaping in this district is determined according to the requirements of Article XIII, Landscaping.

(J) B-2 Business District - The B-2 Business District is primarily intended to accommodate moderate intensity shopping and services close to residential areas. The district is established to provide locations for businesses which serve nearby neighborhoods. The district is typically located near the intersection of collectors or thoroughfares in areas which are otherwise developed with residences.

(K) LI Light Industrial District - The LI, Light Industrial District is primarily intended to accommodate limited manufacturing, wholesaling, warehousing, research and development and related commercial/service activities which, in their normal operations, have little or no adverse effect upon adjoining properties.

(L) HI Heavy Industrial District - The HI, Heavy Industrial District is primarily intended to accommodate a wide range of assembling, fabricating and manufacturing activities. The district is established for the purpose of providing appropriate locations and development regulations for uses which may have significant environmental impacts or require special measures to ensure compatibility with adjoining properties.

5-1.2 Overlay Districts - Overlay Districts make regulations applicable to certain areas which are in addition to the underlying general use, planned unit development or conditional use district.

(A) WP Watershed Protection District - The WP Overlay District is intended to set forth regulations for protection of public drinking water supplies, and are applicable to all lands which drain towards such supplies. These regulations are specified in Article X Water Supply Watershed Protection.

(B) MH Manufactured Housing District - The MH Overlay District is intended to set forth regulations governing the development of subdivisions for manufactured housing in certain areas of Jamestown. These regulations are specified in Section 5-3 (Establishments and Requirements for Overlay Districts).

5-1.3 Conditional Use Districts - Where questions exist regarding the compatibility of a proposed use with surrounding uses, a property owner may apply to have the site rezoned to a conditional use district which bears the same designation as a standard zoning district but is subject to additional conditions.

## **Section 5-2 Conditional Use Districts - Establishment and Requirements**

### 5-2.1 Purpose of Conditional Use Districts

If the regulations and restrictions of a zoning district permitting a proposed use are inadequate to ensure the compatibility of the proposed development with the immediately surrounding neighborhood, the property owner may apply for rezoning to a Conditional Use District. The Conditional Use District bears the same designation as a standard zoning district but is subject to additional conditions. The owner shall in such application specify the nature of the proposed development and shall propose conditions to ensure compatibility between the development and the surrounding neighborhood.

Property may be placed in a conditional use district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to these districts may be included. Specific conditions applicable to these districts may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a conditional use district shall be limited to those that address the conformance of the development and use of the site to Town ordinances and any officially adopted comprehensive or other plan and those that address the impacts reasonable expected to be generated by the development or use of the site (G. S. 160A-382(b))

### 5-2.2 Conditional Use Districts Established

A Conditional Use District bearing the designation CU is hereby established as a companion district for every district established in subsection 5-1.1. These districts are CU-AG, CU-R-40, CU-R-20, CU-R-15, CU-R-12, CU-R-9, CU-PI, CU-B-1, CU-B1A, CU-B-2, CU-LI, CU-HI.

### 5-2.3 General Requirements for Conditional Use Districts

(A) Other Regulations Apply - Within an approved Conditional Use District, no use shall be permitted except pursuant to the conditions imposed on the Conditional Use District in the rezoning. Within a Conditional Use District, all standards and requirements of the corresponding zoning district shall be met, except to the extent that the conditions imposed are more restrictive than those standards.

(B) Conditions - The Town Council may limit the uses permitted on the property to some one or more use(s) otherwise permitted in the zone. In addition, conditions may be specified such as location on the property of the proposed use; number of dwelling units; location and extent of supporting facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; timing of development; location and extent of right-of-ways and other areas to be dedicated for

public purposes; and other such matters as the applicant may propose as conditions upon the request.

#### 5-2.4 Application for Rezoning to Conditional Use

(A) Rezoning Process - Applications for Conditional Use Districts shall be processed, considered, and voted upon following the same procedure as that required for zoning map amendments. The Conditional Use District application shall be considered only upon request by the property owner(s).

(B) Procedures and Required Findings - An applicant may apply for a conditional use rezoning in the same manner as other rezonings, see Article III. In addition, however, the Town Council shall make the following required findings in the public hearing if the conditional use rezoning is granted:

1. that the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety;
2. that the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity; and
3. that the location and character of the development in accordance with the proposed conditions will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the County and its environs.

All evidence presented at the public hearing with regard to applications for conditional use districts and conditional use permits shall be under oath.

### **Section 5.3 Overlay Districts - Establishment and Requirements**

#### 5-3.1 Manufactured Housing Overlay District

(A) Criteria for Establishment of District - Manufactured housing may be permitted on single-family lots in any residential zone provided overlay district zoning is approved by the Town Council and that there are ten existing contiguous lots covering at least 120,000 square feet, excluding public street right-of-way.

(B) Standards for Dwelling Units - The only manufactured dwellings permitted shall be those meeting the criteria of Class AA as defined in Article II/Definitions.

(C) Rezoning - Applications for a manufactured housing overlay district shall be processed, considered and voted upon in the same manner as that required for zoning map amendments.

#### 5-3.2 Establishment of Watershed Protection District

The Watershed Protection District is hereby established as an overlay district. The

designated watersheds under this Ordinance are divided into two overlay sub-districts:

- (A) Watershed Area - The Watershed Area, hereafter referred to as "WA", consisting of the stream/river basin catchment draining into High Point's municipal water supply reservoir; and
- (B) Watershed Critical Area - The Watershed Critical Area, hereafter referred to as "WCA", consisting of the direct drainage area around the reservoir.

Land use within the Watershed Protection District must comply with all the requirements of both the underlying zoning district and the applicable watershed overlay district.

For applicable regulations, see Article X, Water Supply Watershed Protection.

## **Section 5-4 Permitted Uses**

### 5-4.1 Table of Permitted Uses

- (A) Table of Permitted Uses: Within each zoning district land, buildings, and structures shall only be used and buildings and structures shall only be erected which are intended to be used for uses listed in the Table of Permitted Uses, Table 5-4.1. In the appropriate columns of the Table, uses permitted by right in the various districts are indicated with a "P"; uses requiring a Special Use Permit are indicated by an "S"; and uses requiring a Manufactured Housing overlay zone are indicated with an "O". The column on the far right labeled "LUC" indicates the Land Use Classification of each use as it relates to Planting Yard requirements found in Article XIII Landscaping .
- (B) SIC Numbers: The Standard Industrial Classification Manual - 1987 was used in the preparation of this table and can be referred to as a guide for purposes of interpretation. Entries with 0000 in the SIC column do not correspond to any classification in the SIC Manual.

## Section 5-5 - Notes to the Table of Permitted Uses

1. **Accessory Uses** - In residential districts, residential occupancy may be an accessory use only if it is within a structure used as a garage or other similar accessory use. Outside storage as an accessory use is permitted only in the HI district, provided it is enclosed by a fence at least six feet high. See Note 17 for swimming pools as an accessory use.
2. **Athletic Fields, Auditoriums, Stadiums** - All athletic fields shall have access to a collector or higher capacity street.
3. **Automobile Repair Service** – All vehicles stored overnight must be stored every night behind the front lot line. Within two years from the date of readoption of this Ordinance, automobile repair services shall be screened from view by a six foot high opaque fence in addition to the required planting yard.
4. **Automotive Towing and Storage Service** - No more than 30 automobiles shall be stored at an automobile towing and storage service at a time. The automotive storage area must be screened with a six foot high opaque fence in addition to the required planting yard. No outdoor disassembly or salvaging is permitted.
5. **Bars (as a principle use)** - No bar shall be located within 200 feet of a church, elementary or secondary school, public park or residentially-zoned property. Where the property on which a bar is located abuts residential property, screening including a minimum six foot high opaque fence shall be erected adjacent to the property line of the abutting residence(s). The main entrance of the building shall be toward a street zoned predominantly for non-residential uses. Parking areas related to the establishment shall be located no closer than 30 feet to the property line of abutting residences.
6. **Batting Cages (outdoor); Golf Driving Ranges** - Fencing, netting, or other control measures shall be provided around the perimeter of the batting area to prevent balls from leaving the area.
7. **Building Supply Sales, Equipment Rental and Leasing (with storage yard)** - All outside storage shall be completely screened from view from all streets. Security fencing, a minimum six feet in height, shall be provided around all outside storage areas. All storage areas shall be maintained in a manner so as to limit dust from drifting onto adjoining properties.
8. **Car Wash** - Building(s) shall be at least 75 feet from any interior side or rear property line which adjoins residentially or public-institutionally zoned property. A minimum six foot high opaque fence shall be provided adjacent to all residentially-zoned property. The following operational requirements apply:
  - a) All washing operations shall be contained in a building.
  - b) Specific areas shall be provided for the manual drying, waxing, polishing and vacuuming of vehicles where these services are offered on the site. These areas shall not conflict with on-site circulation patterns.
  - c) Hours of operation shall be between 8:00 a.m. and 8:00 p.m. when adjoining

- developed residentially zoned property.
- d) Adequate provision shall be made for the safe and efficient disposal and/or recycling of waste products and runoff.
9. **Cemetery/Mausoleum** A minimum of three contiguous acres shall be required to establish a cemetery or mausoleum not located on the same tract of land as a church. Principal access must be from a collector street or higher capacity street.
10. **Church or Synagogue** - Within urban areas, church or synagogue facilities located on sites of three acres or more shall have direct access to a collector or higher capacity street.
11. **Convenience Store (with gasoline pumps)** No outside storage of materials shall be permitted.
12. **Fences** – Decorative fences (e.g. wooden rail, picket, brick, masonry) no taller than four feet are permitted in required setbacks. Protective fences (e.g. wire or chain link) cannot extend further than the front edge of the building is limited to 8 ft.
13. **Home Occupations (including renting of rooms).** Home occupations are permitted only as an incidental use inside the home and must operate within the following guidelines:
- a) A home occupation shall occupy no more than 25% percent of the gross floor area of a dwelling unit.
  - b) No outside storage or display of items associated with the home occupation is permitted.
  - c) The home occupation must be conducted entirely within a dwelling unit.
  - d) Only one person may be employed who is not an occupant of the residence.
  - e) Activities shall not generate traffic, parking, noise, odors, or electrical interference beyond what normally occurs in the zoning district.
  - (f) Instruction in music, dancing, art or similar subjects shall be limited to no more than five (5) students at one time.
  - (g) Permitted home occupations include, but are not limited to: typing services, telephone sales, barber/beauty services, doctor/dentist office, architects, accountants, family day care (5 or fewer persons), food catering, and handcrafting, etc.
14. **Market Showrooms** - Display areas shall exist within permanent buildings only.
15. **Outside Storage** - Outside storage is permitted as a principle or accessory use only in the HI district and only then if completely enclosed by opaque fencing at least six feet high.
16. **Satellite Dish (Freestanding Accessory Use)** - All supporting cables and anchors shall be contained on the property where the satellite dish or tower is located, In residential districts, structures larger than 24 inches in diameter can only be placed in a rear yard or side yard behind the building lot line. Structures less than 24 inches in diameter are not subject to these restrictions.
17. **Swimming Pools (as accessory uses)** - Pools shall be located so as to comply with the

minimum setback requirements for accessory structures for the district in which it is located. Pools which are not an integral part of the principal building shall be located a minimum of ten feet from the principal building. Security Fencing: Swimming pools located outdoors shall be protected by a fence, or equal enclosure four feet high and equipped with a self closing and positive self latching gate provided with hardware for permanent locking.

- 18. Utility Substations Including Transformer Stations, Pump and Lift Stations, etc. -**  
The entire facility shall have a security fence at least six feet high unless the structure is secured and is built of brick or concrete. If the installation abuts a residence, it must be at least 50 feet from the residence and shall be screened from the residence with a thick buffer of evergreen shrubbery or trees which will reach at least six feet in height. Equipment producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet from the nearest residence.

**19. Portable Storage Unit**

(A) *Where Required:* AG, all residential, B-1, B-1A, B-2, LI & HI Districts

(B) *General:*

- (1) Portable storage units may be up to 15 feet long, eight feet wide, and nine feet tall.
- (2) The storage unit may be placed on the site for up to thirty days.
- (3) The storage unit must be placed in a driveway, a designated parking area, or other location on the site. Unless located in a driveway or designated parking area, the storage unit must meet the location requirements and the setback requirements of Article V “Zoning”, Section 5-7 (Setback Requirements).
- (4) These standards do not apply to portable units for donating goods to a charitable organization (such as a Goodwill drop off), temporary construction trailers, dumpsters, or recycling facilities.
- (5) Violations to this Ordinance will constitute a violation of the Jamestown Development Ordinance and is subject to the enforcement remedies and penalties provided by Article XV “Enforcement” of the Jamestown Development Ordinance.

**Section 5-6 General Requirements for Zoning Lots**

**5-6.1 Principal Buildings Per Lot**

Every building hereafter erected or moved shall be located on a zoning lot and in no case

shall there be more than one principal residential building and its accessory buildings on a zoning lot with the exception of residential and nonresidential group developments such as shopping centers, cluster developments, etc. which have been approved by the Planning Board and Town Council.

#### 5-6.2 Access to Streets

- (A) Access to Public Street Required: Every zoning lot shall abut and have direct access to a publicly maintained street, except as provided in this Section. No building or structure shall be constructed, erected, or placed on a zoning lot that does not abut and have direct access to a publicly maintained street, unless provided otherwise in this Article
- (B) No Garbage Cans on Streets. Due to the method of trash collection in Jamestown, no garbage cans shall be permitted along streets. Household waste and yard waste shall be disposed of in plastic bags, not in garbage cans.
- (C) Dead-end Streets: For purposes of this Section the terminus of a dead-end street does not provide the required access to a publicly maintained street unless that terminus is a circular turnaround (cul-de-sac) approved and constructed in conformance with subdivision regulations of this Ordinance.
- (D) Single Family Detached Cluster Development: Private streets may be used in meeting access requirements for lots in single family detached cluster developments and for single family or twin home lots in planned unit developments, provided the development as a whole abuts and has direct access to a publicly maintained street.
- (E) Manufactured Dwelling Parks: Spaces in manufactured dwelling parks developed in accordance with Section 6-5(15) are not required to have access to a publicly maintained street.
- (F) Developments Built According to An Approved Unified Development Plan: Individual parcels in a unified development shall have shared rights of access along private streets and/or along private drives at least 24 feet wide leading to a publicly maintained street. Maintenance of all private streets and private drives shall be a mandatory responsibility running with the land, exercised by a single entity which shall be composed of one landowner, an Owners' Association, or all owners acting collectively pursuant to a binding agreement.
- (G) Access from Public Street Prohibited: Access from a commercial, office, industrial, or institutional zoning district shall be prohibited through a Residential Single Family or Residential Multifamily district, unless it is the sole access.

### **Section 5-7 Dimensional Requirements**

Dimensional requirements for residential districts are shown on Table 5-7.1 and for

nonresidential districts are shown on Table 5-7.2.

**TABLE 5-7.1**  
**RESIDENTIAL DISTRICTS**  
**DIMENSIONAL REQUIREMENTS**

	<b>AG</b>	<b>R-40</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12</b>	<b>R-9</b>
Lot Size (ft. <sup>2</sup> ), Single Unit	40,000	40,000	20,000	15,000	12,000	9,000
Double Unit					12,000	10,000
Condo or Townhouse					12,000 + 5000 for each unit over 2	10,000 + 4000 for each unit over 2
Multifamily						10,000 + 4000 for each unit over 2
Frontage at Bldg. Lot Line	150	150	125	100	80	60

Min. Street Setback (ft.) <sup>1</sup>	50	50	50	45	35	30
Min. Interior Setbacks (ft.)						
Side Yard <sup>2</sup>	20	20	15	12	12	10
Rear Yard	40	40	35	35	30	30
Maximum Building Height (ft.) <sup>3</sup>	35	35	35	35	35	35
Max. Bldg. Coverage (% of lot)	30	30	30	30	30	35

<sup>1</sup>Setback from property line or curblines, whichever is greater.

<sup>2</sup>Corner lots must have an additional width of 10 ft. along the side street line.

<sup>3</sup>From the highest buildable portion of the lot.

Accessory Buildings in Residential Districts

R-9 - Permitted only in a rear yard and at least 5 feet from any property line. In the case of a corner lot, the building shall be at least 30 feet from any side street or right-of-way.

R-12 - Same as R-9

R-15 - Permitted only in a rear yard and at least 10 feet from any property line. In the case of a corner lot, the building shall be set back at least 40 feet from any side street or right-of-way.

R-20 - Permitted only in rear yard and at least 10 feet from any property line. In the case of a corner lot, the building shall be set back an additional 10 feet along any side street.

Planned Unit Developments - PUDs do not have to meet minimum lot sizes

Cluster Developments - When cluster development is used, all lot size and other dimensional requirements for single-family dwellings are decreased to comply with all requirements of a smaller lot residential zone. Cluster development may be used on tracts less than 10 acres where street right-of-way is dedicated pursuant to NCGS 136-66.10, if the development lies in a watershed critical area, or if the tract is larger than 10 acres.

**TABLE 5-7.2  
NONRESIDENTIAL DISTRICT DIMENSIONAL REQUIREMENTS**

	<b>PI</b>	<b>B-1</b>	<b>B-2</b>	<b>LI</b>	<b>HI</b>
Min. Development Size (ac.)		-	5	-	-
Min. Development Width (ft)	-	-	250	-	-
Min. Lot Size (ft. <sup>2</sup> )	40,000	-	20,000	20,000	20,000
Min. Lot Width (ft.)	150	-	-	100	100
Min. Street Frontage	100	-	100	75	75
Min. Street Setback (ft.) <sup>1</sup>	50	30	30	30	50
Min. Interior Side and Rear Setbacks(ft.)					
Adj. to Non-Res. Zoning	20	0/10 <sup>3</sup>	20	0/10 <sup>3</sup>	0/103
Adj. Res. Zoning <sup>2</sup>	35	10	35	25	50
Corner lots adj. To side streets	10	10	10		
Maximum Height (ft.)	40 <sup>4</sup>	40 <sup>4</sup>	40 <sup>4</sup>	40 <sup>4</sup>	40 <sup>4</sup>
Max. Bldg. Coverage (% of Lot)	-	-	-	60	60

<sup>1</sup>Setbacks from property line or curblines whichever is greater.

<sup>2</sup>On any side or rear lot line that abuts a residential district there shall be a densely planted buffer strip at least 10 feet high. The buffer shall not extend closer to the street right-of-way line than the established building line.

<sup>3</sup>Zero setback if no setback is provided. If setback is provided it must be a minimum of ten (10) feet.

<sup>4</sup>No more than three (3) full or partial stories entirely above grade.

## Section 5-8 Notes to the Tables of Dimensional Requirements

### Note 1: Front Yard Setbacks for Structures

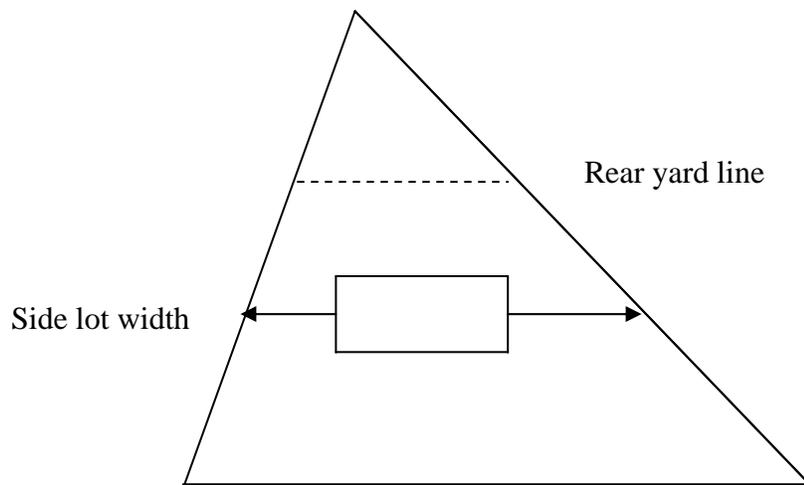
The setback requirements in this ordinance shall not apply where building within 100 feet to the left and right of a proposed building have setbacks averaging less than the required minimum front yard depth. In such cases (for example a cul-de-sac), the setback from the proposed structure may be less than the required setback, but not less than the average of existing setbacks on the aforementioned lots, or within 10 feet of the street right-of-way line, whichever is greater.

### Note 2: Rear Yard Averaging

For lots shaped either as a triangle or a trapezoid, a formula to determine the rear yard line and side yard width is described below:

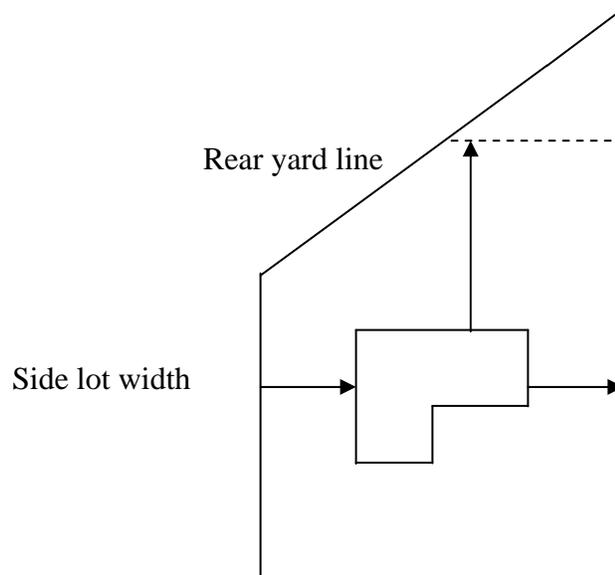
Triangle: the rear yard line is an imaginary line drawn parallel to the front lot line at a distance half-way-between the tip of the center angle and the front lot line. (A similar calculation yields the front lot line if the tip of the triangle is at the front of the lot instead of the rear.)

The side lot width is measured at the shortest distance between the corners of the structure and the side lot lines.



Trapezoid: The rear yard line is an imaginary line drawn parallel to the front lot line at a distance equal to the average of the two side lot line lengths.

The side lot width is measured at the shortest distance between the corners of the structure and the side lot lines.



#### Note 3: Height Limitations

The height limitations of this Article shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, television towers, masts, aerials, and similar structures except as otherwise provided in the vicinity of airports.

#### Note 4: Visibility at Intersections

On a corner lot in any residential district no planting, structure, fence, wall or obstruction to vision more than three feet high measured from the center line of the street shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on the right-of-way lines each of which is 25 feet from the point of intersection.

## **Section 5-9 Nonconforming Situations**

### **5-9.1 Purpose and Intent**

If, within the districts established by this ordinance, or by amendments that may later be adopted, there exist lots, structures and use of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance, it is the intent of this ordinance to permit these nonconformances to continue until they are removed but not to encourage their continuance. Such nonconformances are declared by this ordinance to be incompatible with permitted uses in the districts in which they are located.

It is further the intent of this ordinance that nonconformances shall not be enlarged upon, expanded or used as grounds for adding other structures or uses prohibited elsewhere in the same district.

### **5-9.2 Nonconforming Lots of Record**

(A) Construction on Nonconforming Lot - In any district a permitted use may be constructed by right on any lot made nonconforming by this ordinance as long as: a) approval is granted by the enforcement officer and b) the structure and accessory building do not encroach onto required front, rear and side yard setbacks. If a proposed building on a nonconforming lot is approved by the enforcement officer but would encroach into required setbacks, a variance shall be sought from the Board of Adjustment.

(B) Contiguous Nonconforming Lots - Wherever two or more nonconforming lots in single ownership with continuous frontage exist, permitted structures may be erected on each lot if all setback requirements can be met. If all setbacks cannot be met, the lands involved shall be considered to be an individual parcel for the purposes of this ordinance. No portion of the parcel shall be used or sold which does not meet the dimensional requirements of this ordinance.

### **5-9.3 Nonconforming Uses of Land**

(A) Extensions of Use. Nonconforming uses of land shall not be enlarged or extended in any way.

(B) Change of Use. When a non-conforming use of land has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.

(C) Discontinuance of Certain Uses. All nonconforming uses of land

or uses involving only minor structures such as automobile wrecking yards, billboards and outdoor advertising signs, junk yards, salvage operations or any similar to those enumerated shall be discontinued within a time period established by Town Council.

#### 5-9.4 Nonconforming Uses of Structures

This category of nonconformances consists of structure used, at the time of passage of this ordinance, for purposes not permitted in the district in which they are located.

- (A) A nonconforming use of a structure may be changed to a conforming use.
- (B) A nonconforming use of a structure shall not be changed to another nonconforming use.
- (C) When a nonconforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- (D) Normal maintenance and repair of a building occupied by a nonconforming use is permitted and encouraged provided it does not extend the non-conforming use.
- (E) A nonconforming use of a structure shall not be extended or enlarged beyond the structure in existence at the time the use became nonconforming. Extensions of the structure to accommodate expansion of a nonconforming use are not permitted.
- (F) When a nonconforming use of a structure is discontinued for a continuous period of 180 days, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this ordinance.

#### 5-9.5 Nonconforming Structures

When a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on lot coverage, height, yard size or setbacks, the structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (A) No structure may be enlarged or altered in a way that increased its nonconformity.
- (B) Normal maintenance and repair of a nonconforming structure is

permitted and encouraged provided it does not extend the nonconformity.

#### 5-9.6 Repairs and Maintenance

Buildings or structures other than single-family houses that are destroyed by any means to an extent of more than 50% of assessed value, exclusive of land value, may be reconstructed only if the new construction conforms with the provisions of this ordinance. Nonconforming single family houses that are damaged or destroyed may be rebuilt on the same lot as long as the amount of nonconformity is not increased.

Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any officials charged with protecting the public safety, upon order of such official.

#### 5-9.7 Nonconformances Created by Changes in Zoning Boundaries or Regulations

Any nonconformance created by a change in district boundaries or ordinance regulations after the date of adoption of this development ordinance shall also be governed by the provisions of this Article.

#### 5-9.8 Special Uses are Conforming

Any use for which a special use permit is issued, as provided in this ordinance shall, without further action be deemed a conforming use unless otherwise provided in this ordinance or otherwise provided as a condition of issuance of the permit. Any extension or addition to the use shall be subject to all requirements of this ordinance.

## **Section 5-10 Zoning Vested Rights**

### **5-10.1 Vested Right Conferred**

(A) Obtaining a Vested Right. A developer may obtain a vested right as provided by G.S. 160A-385.1 to commence a project at a future date. A vested right is obtained:

- (1) automatically when a conditional use permit is granted by virtue of Town Council approval of a conditional use rezoning,
- (2) automatically when a special use permit is granted by virtue of approval of a special use by the appropriate body, and
- (3) when the Town Council approves a site specific development plan submitted by a developer in conjunction with an application for a zoning permit with vested rights.

(B) Term. The right to commence a project authorized by any of the above means vests from the date the applicable permit is authorized and remains vested for two years.

(C) Zoning Permit Required.

A zoning permit is required before commencing work on any project in which a vested right exists.

- (1) The Enforcement Officer shall issue the zoning permit for a project in which the vested right has been conferred by a special use permit or a conditional use permit.
- (2) In any other case, an applicant shall apply for a zoning permit with vested rights as outlined in Section 5-10.2 below.

### **5-10.2 Application for a Zoning Permit with Vested Rights.**

(A) Submission of Site Specific Development Plan. The applicant shall submit seven copies of a site specific development plan drawn to scale describing with reasonable certainty the type and intensity of use of the specific parcel or parcels of land. The plan shall include:

- (1) boundaries of the site;
- (2) significant topographical and other natural features affecting the development of the site;

- (3) location on the site of the proposed buildings, structures and other improvements;
- (4) dimensions, including height of the proposed buildings and other structures;
- (5) location of all existing and proposed infrastructure on the site including water, sewer, roads and walkways; and
- (6) such other information as the Enforcement Officer may determine to be necessary in order to determine the specifics of the plan

(B) Public Hearing. Upon receipt of a properly prepared site specific development plan, the Enforcement Officer shall arrange to bring the plan to the Planning Board for its recommendations and then to the Town Council for a public hearing.

In considering an application for a zoning permit with vested rights, the Town Council shall give due regard to whether issuance of the permit would serve the purpose and intent of this ordinance, secure public safety and welfare and do substantial justice. If the Council should find, after public hearing, that the proposed permit should not be granted, the permit should be denied.

(C) Findings. In granting a zoning permit with vested rights the Town Council shall make the following affirmative findings:

- (1) the use requested is among those permitted in the district in which the property is located and complies with all the requirements of this and other applicable ordinances;
- (2) the requested permit is either essential or desirable for the public convenience or welfare;
- (3) the requested permit will not impair the integrity or character of the surrounding or adjoining districts and will not be detrimental to the health, safety, or welfare of the community;
- (4) adequate utilities, access roads, drainage, sanitation an/or other necessary facilities have been or are being provided.

In granting a zoning permit with vested rights, the Town Council may impose such additional restrictions and requirements upon the permit as it may deem necessary in order that the purpose and intent of this ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a

variance or modification be obtained shall not confer a vested right unless and until the necessary variance or modification is obtained. If all requirements and conditions are accepted by the applicant, the Council shall authorize the issuance of the permit; otherwise the permit shall be denied. Any permit so authorized shall remain vested for two years from the date of the action granting the Permit.

#### 5-10.3 Violations.

Any violation of a term of condition involved the granting of a zoning permit with vested rights shall be treated the same as a violation of this ordinance and shall be subject to the same remedies and penalties as any such violation. In addition, the Town Council may, after public hearing, revoke any such vested rights for failure to abide by any such term or condition.

#### 5-10.4 Other Ordinances Apply.

The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation, including, but not limited to, building, fire, mechanical, electrical and plumbing codes.

#### 5-10.5 Changes or Amendments.

No change or amendment to any zoning permit with vested rights shall be made except after public hearing and except as provided for in this ordinance for the original issuance or such permit. If, at the time of consideration of a proposed change or amendment to an existing permit, the permit or proposed change or amendment could not be lawfully made under ordinance conditions existing at that time, the proposed change or amendment shall be denied. In addition, in no case shall there be an extension of the two-year time period for which the development right is vested. Nothing herein shall exempt plans related to the permit from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approvals.

#### 5-10.6 Status at Expiration of Term.

A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S. 160A-418 and G.S. 160A-422 shall apply except that a building permit shall not expire or be revoked because of the running of time while a vested right under this Article is outstanding. Any development

constructed pursuant to a zoning permit with vested rights for which the vested term has expired and which is not in conformance with all the terms of the ordinance because of changes made in the provisions of this ordinance, including the zoning map, after the issuance of the permit shall be subject to the provisions of this ordinance relating to non-conformities the same as any other nonconformity.

#### 5-10.7 Annexation Declaration.

Any landowner who signs an annexation petition to the town pursuant to G.S. 160A-31 or G.S. 160A-58.1 shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been established, the town may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested right shall be terminated.

#### 5-11 Integrated multiple use developments (IMUD).

(A) *Parking, Landscaping, Street Access, Dimensional Requirements and Signs:* A development qualifying as an integrated multiple use development (refer to definition in Article II “Definitions”) shall be treated as a single zone lot for purposes of providing required off-street parking, required planting yards, required street access, required dimensional requirements, and signs, even if outparcels for sale are included within the development.

(1) If the entire development meets the total off-street parking requirement, it is not required that each parcel provide all the required parking for the use thereon.

(2) If required planting yards are provided along the development perimeter, including street frontages, and requirements for parking lot plantings are met, planting yards are not required along property lines and lease lines between two parcels within the integrated multiple use development.

(B) *Plat and Notice Requirements:* If the owner of a development elects to organize it as an integrated multiple use development, a plat shall be recorded displaying a prominent note identifying it as such and explaining that the property must be developed with common driveways and off-street parking and be subject to a common signage plan and a common landscaping plan. The note shall further state that should the property cease to conform to the definition of an integrated multiple use development, the property will then be in violation of this Ordinance and shall be retrofitted with conventional parking and landscaping, even if doing so requires the removal of previously installed improvements.

ARTICLE VI  
**SPECIAL USES**

**Section 6-1 Intent**

Permitting special uses adds flexibility to the zoning provisions of this ordinance. Some uses are only allowed in certain districts if a special use permit is granted according to the provisions of this Article. By means of controls exercised through special use permit procedures; property uses which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties. A detailed description of the procedures which must be followed in the issuance of a special use permit is contained in Section 6.2 of this Article. Uses specified with an "S" in the Table of Permitted Uses are permitted only upon authorization of a special use permit by the Town Council.

**Section 6-2. Procedures for Requesting Special Use Permits**

6-2.1 Application

Special use permits are granted by the Town Council following a public hearing. Before that, the application must be reviewed and recommendations received from the Planning Board.

The owner(s) of all property included in the petition for a special use permit shall submit an application to the Zoning Enforcement Officer at least 20 days before the Planning Board meeting at which it will be reviewed. The application shall include all of the requirements pertaining to it in this section and without such information cannot be processed for consideration. Applications shall include site plans and shall be prepared to provide a full and accurate description of the proposed use including its location, appearance and operational characteristic.

At the time of submission, applicants shall pay a fee established by the Town Council.

6-2.2 Planning Board Review

The Planning Board shall review the application for consistency with the provisions of this ordinance and compatibility with the surrounding area and shall make its recommendation to the Town Council.

6-2.3 Hearing by Town Council; Notice

The Council shall give notice of a public hearing on the application. Notice of the public hearing shall be posted on the property for which the special use permit is sought and run in a local newspaper at least 15 days before the public hearing. Legal notice in the newspaper shall describe the request and shall appear at least once weekly for two

consecutive weeks.

The Council, shall consider the application and comments at the public hearing and may grant or deny the special use permit requested. The Town Council shall follow quasi-judicial procedure as provided in the state enabling legislation in the granting or denying of any proposed special use permit, including the submission to public record of written findings of fact.

(A) Findings and Conditions - In granting the permit, the Council shall find:

- (1) that the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
- (2) that the use or development complies with all required regulations and standards of this ordinance and with all other applicable regulations;
- (3) that the use or development is located, designed, and proposed to be operated so as not to substantially injure the value adjoining or abutting property, or that the use or development is a public necessity; and
- (4) that the use or development will be in harmony with the area in which it is to be located and conforms with the general plans for the land use and development of Town of Jamestown and its environs.

There shall be competent, material and substantial evidence in the record to support these conclusions and the Town Council must find that all of the above exist or the application will be denied.

(B) Additional Conditions - In granting the special use permit, the Council may designate only those conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located, with the spirit of this ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered into the minutes of the meeting at which the special use permit is granted, on the special use permit itself and on the approved plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors and assigns.

(C) Reasons for Denial - If the Town Council denies a request for a special use permit, it shall enter the reasons for its action in the minutes of the meeting at which the action was taken.

(D) Voting - When voting on the applicant's request for a special use permit, no greater than a simple majority vote of the Town Council membership shall be required to grant the request. (G. S. 160A-381 (c))

### **Section 6-3 Appeal of Decisions**

No appeal may be taken from the action of the Town Council in granting or denying a special use permit, except through Superior Court of Guilford County. Any petition for review shall be filed with the Clerk of Superior Court within 30 days after the decision of the Council is filed in the office of the Town Clerk, or after a written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the clerk at the time of the hearing of the case, whichever is later. The decision of the Council may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

### **Section 6-4 Failure to Comply with Plans or Conditions**

In the event of failure to comply with the plans approved by the Town Council or with any other conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this special use permit shall be issued. If a failure to comply with conditions in a special use permit occurs after occupancy, the owner, lessee, or other responsible person shall be notified in writing of the violation. No earlier than five days after the receipt of the written notice, the body issuing the special use permit may issue a finding of fact that a violation of the requirements of this ordinance exists. If such finding of fact is made, it shall be unlawful for any person, firm or corporation to continue the special use until the responsible party makes the necessary corrections and the Town Council conducts a public hearing and finds that the violation no longer exists.

### **Section 6-5 Development Standards for Special Uses**

Development standards for individual special uses are listed in the following pages. These standards represent the minimum requirements to be followed by the applicant in preparing an application for a special use permit.

**Adult Establishments** (See Article II Definition of Adult Establishment including adult bookstore, theater, video, massage parlor)

- 1) Where Required: HI district.
- 2) Use Separation
  - a) No adult bookstore, adult theater or adult massage parlor shall be located within one thousand-two hundred (1,200) feet of any other adult bookstore, adult theater, or adult massage parlor.
  - b) No establishment shall be located within five hundred (500) feet of a church, elementary school, public park or residentially-zoned property.

### **Bed and Breakfast (Tourist Home)**

- 1) Where Required: AG, R-40, R-9, B-2
- 2) Use Separation: No such facility shall locate within four hundred (400) feet of a rooming house, boarding house or another tourist home.
- 3) Operation
  - a) The tourist home must be owned by the landowner who also resides on the property.
  - b) The use shall be located in a structure which was originally constructed as a dwelling.
  - c) Meals served on the premise shall be only for guests of the facility.
- 4) Signs: There shall be no exterior advertising except that which is permitted for a home occupation.

### **Communications Tower (as principal use – Radio, T.V., Cellular and PCS)**

- 1) Where Required: B-2, LI and HI districts.
- 2) Location: Towers shall be a minimum of 200 feet from any other commercial or industrial uses located on the same parcel. In addition, towers shall be a minimum of 200 feet from any residentially zoned property. All supporting cables and anchors for any tower shall be contained within the property.
- 3) Minimum parcel area: Three acres.
- 4) Height restrictions:

B-2 & LI	Maximum height = 50 feet
HI	Maximum height = 80 feet, except that all setbacks must be increased by one foot for every one foot in height between 50 and 80 feet.
- 5) Fencing: A protective fence of at least six feet shall be erected around the tower.
- 6) Compliance with other regulations: Towers shall comply with all applicable federal and state regulations.
- 7) Additional requirements: The Council may add additional reasonable requirements to minimize the land use impacts of the tower, and may, in

addition, permit towers attached to existing structures such as water towers, smoke stacks and steeples under conditions which become a part of the special use permit.

- 8) Abandonment: Should a communications tower cease to be used by the holder of the special use permit or its successor in title for a period of six months, the permit holder shall be responsible for dismantling the structure and removing it from the site. Failure to do so shall be a violation of this ordinance.

### **Club or Lodge**

- 1) Where Required: AG, all residential districts.
- 2) Location: Except in the AG district, clubs and lodges shall have direct access to a collector or higher capacity street.

### **Country Club with Golf Course, Golf Course, Swim & Tennis Club**

- 1) Where Required: AG, R-40,R-20,R-15, R-12 and R-9
- 2) Minimum Area: The minimum area shall be two (2) acres in addition to the golf course(s). The minimum shall be one (1) acre if located on common area within a development.
- 3) Use Separation: Fifty (50) foot minimum distance between clubhouse, swimming pool, lighted tennis court, or athletic field and any adjacent residentially-zoned property.
- 4) Security Fencing: Outdoor swimming pools shall be protected by a fence, or equal enclosure, a minimum four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

### **Day Care Center**

- 1) As a Home Occupation, Children Only
  - a) Defined: A child day care center with five (5) or fewer children shall be operated as a Home Occupation and is subject to all criteria for home occupations listed in Article II, Definitions.

**b) Where Required: AG, R-40, R-20, R-15, R-12 and R-9**

- 2) As a Principal Use: An adult or child day care center with six (6) or more attendees shall be operated as a principal use and is subject to the following development standards.
  - a) Where Required: AG, B-1, B-2, and L-I
  - b) Minimum Area: An indoor activity area shall be provided equivalent to at least twenty-five (25) square feet per attendee.
  - c) Open Space and Recreation: An outdoor activity area shall be provided equivalent to at least seventy-five (75) square feet per attendee and located outside of the street setback.
  - d) Security Fencing: Outdoor activity area(s) for children shall be enclosed by a security fence at least four (4) feet in height and located outside the street setback.
  - e) Location: Centers on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street.

Dwelling, Duplex

- 1) Where Required: R-9
- 2) Placement: A duplex shall not be placed behind and on the same lot as a single-family dwelling.
- 3) Driveways: Sufficient driveway and parking space shall be provided on the lot for both dwelling units so that on-street parking is not necessary for occupants.

**Dwelling, Multifamily (Apartments and Condominiums)**

- 1) Where Required: R-12 and R-9
- 2) Placement: A multi-family dwelling shall not be placed behind and on the same lot as a single-family dwelling.
- 3) Fire Protection: In order to permit adequate fire protection, all portions of every building shall be located within three hundred (300) feet of a public

street that furnishes direct access to the property unless the Fire Marshall determines that the fire hydrants and service drives within the development will offer adequate protection.

- 4) Driveways: All common driveways within the development shall have approved traffic circulation and shall be kept available for emergency and service use by any public vehicle.
- 5) Off-street Parking: Off-street parking spaces shall be located within two hundred (200) feet of each building in an amount proportional to the number of dwelling units in each building. No parking area with five (5) or more spaces shall be located closer than ten (10) feet to a dwelling wall with windows or doors.
- 6) Walkways: All walkways adjacent within two (2) feet of and perpendicular to parking spaces shall have a minimum width of six (6) feet. Any walkway serving only one dwelling unit, other than a handicapped unit, shall have a minimum width of three (3) feet. All other walkways shall have a minimum width of four (4) feet. Walkways shall be of dustless all-weather surfaces.
- 7) Open Space and/or Recreation Facilities:
  - a) Open space and/or recreation facilities shall be provided at the rate of ten (10%) percent of the total land area in developments of under three (3) acres.
  - b) In developments of three acres or more, open space shall be provided at the rate of one (1) acre per one hundred (100) dwelling units. Such open space and/or recreation facilities may be at more than one location, but each such area must have at least ten thousand (10,000) square feet to be counted toward this requirement.
  - c) All such areas must have a width of at least twenty-four (24) feet and be accessible to residents of the development at no charge. All such areas shall be occupied by recreational activities, grass and landscaping, or woods. Uses suggested for these areas are swimming pools, tennis courts, play areas, passive recreation, etc. Uses not permitted in such areas are parking, garbage areas, mechanical equipment, or other similar uses. Land dedicated as park land or as drainageway and open space shall count toward this requirement.
- 8) Building Length: No building shall exceed two hundred and fifty (250) feet in length unless it is designed for the elderly and has central facilities

for dining and recreation.

- 9) Trash Containers: Trash containers (dumpsters or compactors) of a number and size conforming with the requirements of the Town of Jamestown shall be provided. Each container shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or access drives and so as to allow collector trucks adequate maneuvering space to empty the containers without interference from utility lines or other structures and to leave the property without excessive backing. Concrete pads shall be located beneath and in the approach to each trash container.

Note: Developments with two (2) or fewer principal buildings and a width at all potential building locations of one hundred twenty (120) feet or less are exempt from the following requirements.

- 10) Yard Space Triangle: On the site plan an isosceles triangle (yard space triangle) shall be drawn from each building facade which, at its closest point, lies within one hundred (100) feet of a lot line other than a street right-of-way line or within one hundred (100) feet of another building in the development. Facades shall be designated so that a minimum number, normally four, results. The base of the triangle shall be a line connecting the extreme ends of the facade (ignoring one-story storage rooms and other one-story protrusions of one hundred (100) square feet or less, exterior stairways, and decks), and its altitude shall be the length of the base line multiplied by a factor related to the height of the building as shown below.

Number of Stories	Altitude Factor
1	0.4
2	0.5
3	0.6

An isosceles triangle thus established may not overlap any portion of another building, another triangle, or another property, unless that property is public parkland, dedicated drainageway and open space, or street right-of-way. See Figure 6-0.

- 11) Private Drives: Private drives shall be at least 15 feet from a dwelling.
- 12) Play Areas: Play areas and sports facilities shall not be placed within 50 feet of adjacent land used or zoned for single-family residential purposes.
- 13) Utilities: All electric, gas, communications, water, and sewer utility lines shall be installed underground.

- 14) Parallel Rows: Arrangement of buildings in parallel rows shall be avoided.

**Dwelling, Townhouse** (See criteria for multi-family developments, above)

- 1) Where Required: R-12, R-9
- 2) Placement, Facilities, Other Requirements: See Dwellings, Multifamily, above.

**Equestrian Facility**

- 1) Where Required: AG, R-40
- 2) Minimum Required Area: 25 acres
- 3) Use Separation: Minimum 100 foot distance between manure storage areas, barns or stables and any adjacent residentially zoned property
- 4) Dust: All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjoining properties.

**Funeral Home or Crematorium**

- 1) Where Required: PI
- 2) Impact on Adjoining Properties: Evidence shall be presented that:
  - a) parking is sufficient for maximum daytime use without infringing on parking areas of adjoining properties, and
  - b) noise, dust and smoke are not emitted so as to impact the neighborhood.

**Go Cart Raceway**

- 1) Where Required: HI
- 2) Impact on Adjoining Properties: Use of property for planned events involving multiple go-carts shall not be permitted during business hours on week-days.

## **Group Care Facility**

- 1) Where Required: PI
- 2) Property Separation: No Such facility shall be located within one-half (1/2) mile of an existing group care facility.
- 3) Operation: The facility shall be limited to no more than thirty (30) persons.

## **Junked Motor Vehicles (no more than one as an accessory use)**

- 1) Where Required: All districts.
- 2) Screening
  - (a) Residential and nonresidential Districts: Any vehicle meeting the definition of "motor vehicle, junked" shall be stored, or placed on the property in such a manner so as to be totally screened from view from any street and/or from any adjacent residentially or public institutionally zoned property. Total screening shall be effected by placement of the vehicle behind a building and/or by plant materials, fences, berms or a combination thereof with a minimum height of six (6) feet. Open storage of more than one such vehicle shall require classification as a junkyard, auto parts business (see below). More than one such vehicle may be stored within a completely enclosed building.

## **Junkyards, Salvage Yards, Auto Parts**

- 1) Where Required: AG and HI districts.
  - 2) Minimum Area: The minimum area required to establish a salvage yard shall be five (5) acres.
  - 3) Outside Storage: An approved opaque fence of uniform construction not less than six (6) feet in height shall be required around the perimeter of the activity. Such fencing shall be located between the salvage yard and the required planting yards.
- 4) Use Separation: No salvage yard, scrap processor, or auto wrecking shall be located within three hundred (300) feet of any residence existing or under construction at the time of installation of such operation or business.

## **Kennels or Pet Grooming with Outdoor Run**

- 1) Where Required: AG, HI
- 2) General Requirements:

An approved opaque fence of uniform construction not less than six (6) feet in height shall be required around the perimeter of the outdoor run.
- 3) Use Separation: A veterinary office, kennel or pet grooming facility with an outdoor run shall not be located within three hundred (300) feet of any residence existing or under construction at the time of installation of such operation or business.

## **Manufactured Dwelling Park (Manufactured Housing park)**

- 1) Where Required: AG district
- 2) General Requirements:
  - a) A site plan approved by the Planning Board is required.
  - b) Minimum Tract Area: Five (5) acres.
  - d) Minimum and Maximum Number of Spaces: 15 minimum - 300 maximum.
  - e) Setback: Minimum of 100 feet from all public rights-of-ways and property lines.
  - f) No more than one manufactured home or recreational vehicle, towed or self propelled, parked or set-up on any one space.
  - g) Access: (1) No space shall have direct vehicular access to a public street; (2) all spaces shall directly abut a private street in the park; (3) each space shall have adequate access, with a minimum access width of 20 feet.
  - h) Recreational Areas and Facilities: Recreational areas and facilities to serve the needs of the anticipated population within the park shall be provided and shall consist of at least: (1) a play lot for pre-school children containing a minimum size of 1,200 square feet within 500 feet of every space; and (2) one or more playgrounds for school-age children and adults, containing a minimum one acre

per 100 spaces;

These recreation areas shall not be in an area used for septic tank fields.

- i) There shall be no sales of manufactured dwelling and recreational vehicles in the park.
- j) Drainage and Grading:
  - (1) The spaces shall be located on ground with an elevation that is not susceptible to flooding and which is graded to prevent any water from ponding or accumulating on or around the park. Where storm drainage pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the park.
  - (2) Each space shall be graded and grassed to prevent erosion and provide adequate storm drainage away from the manufactured home or recreational vehicle pad.
  - (3) The surface slope of the stand or pad shall not exceed 3%.
  - (4) No banks, except along drainage ditches, shall have a slope steeper than three feet to one foot (3:1).
- k) Garbage and Refuse Disposal: All refuse shall be stored in conveniently located, leakproof containers with tight-fitting lids. Containers shall be provided in sufficient number and capacity for proper storage of all refuse. Racks or concrete platforms shall be provided on which to store containers for refuse. The containers racks or platforms shall be so designed as to prevent tipping, to minimize spillage and container deterioration and to facilitate cleaning. Dumpsters shall be required in lieu of individual containers in areas where municipal water or sewer are available. All refuse shall be collected at least twice weekly, or more often if the need is indicated.
- l) Registration: It shall be the duty of the operator to keep an accurate register containing a record of all occupants. The register shall contain the following information: (1) name, address and space number of each occupant; (2) the date the manufactured dwelling or recreational vehicle entered the park; (3) the license number of each recreational vehicle and/or car, truck, etc. with state of issuance, make and type of vehicle.

The operator shall keep the register available at all times for inspection by the Enforcement Officer, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.

- m) **Park Manager Residence:** A single-family detached dwelling may be constructed for the manager of the park.
- n) **Pre-existing Dwellings:** Pre-existing dwellings on the site may remain provided they occupy approved spaces.

(3) Specific Requirements Applicable to Manufactured Dwelling Parks: The following design requirements apply only to Manufactured Dwelling Parks:

- a) A manufactured dwelling park is considered a group development and be subject to all procedures and standards of Article IX (Subdivision: Procedures and Standards).
- b) **Minimum Manufactured Dwelling Space Size:** A manufactured dwelling space shall consist of a minimum of 6,000 square feet and shall have a width of at least 45 feet at the location of the manufactured dwelling stand. Exception: A manufactured dwelling space not served by public sewer shall consist of a minimum of 40,000 square feet and shall have a width of least 150 feet at the location of the manufactured dwelling stand. Every manufactured dwelling space shall be clearly established on the ground by permanent monuments or markers.
- c) Each Manufactured dwelling space shall contain: (1) a manufactured dwelling stand consisting of a properly graded and compacted surface no less than 13 feet by 60 feet; (2) a patio space constructed of concrete, brick, flagstone or other hard surface material a minimum of 240 square feet in area; (3) a hard surface walkway a minimum of two feet wide leading from the patio to the parking space or road.
- d) **Manufactured Dwelling Additions:** Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building Code may be added to any manufactured dwelling provided that setback within the space can be met and a building permit is obtained.
- e) **Construction and Design of Private Streets:** (1) Private entrance,

collector, and interior streets with no parking or minor or cul-de-sac streets with no parking shall meet the minimum design standards of Article IX (Subdivision: Procedures and Standards); (2) one-way minor streets with no parking (acceptable only if less than 500 feet total length and serving less than 15 manufactured dwelling stands) shall have a 20 foot minimum common area with 12 foot minimum paved surface; (3) the private streets shall be lighted at night with no less than two foot-candles of light measured at a height of five feet from the ground along the entire length of the street or drive center line.

- f) Park Access: If a manufactured dwelling park has more than one (1) direct access to a public street, such access points shall be no less than 200 feet apart and no closer than 300 feet to a public street intersection.
- g) Parking: (1) two parking spaces, 9 feet by 19 feet shall be provided within each manufactured dwelling space; (2) all parking spaces shall be paved or covered with four (4) inches of crushed stone; (3) no parking will be allowed on private entrance and collector streets.
- h) Landscaping: Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.
- i) Removal of Rubbish: All cut or fallen trees, stumps, or rubbish shall be or removed from the manufactured dwelling park.
- j) Utilities Installation: Each manufactured dwelling located within a park shall comply with the current North Carolina Regulations for manufactured dwelling in both manufacture and installation and must be inspected to assure compliance prior to occupancy.
  - (1) All utilities shall be installed underground except where extreme conditions of topography make this requirement unreasonable.
  - (2) Placement of utilities serving the manufactured dwelling stand shall comply with the NC Building Code for Plumbing.
  - (3) Minimum electrical service of 200 ampere, 120-240 volt single phase shall be provided to each manufactured dwelling stand. The service panel and location as well as all wiring shall be in accordance with the National

Electrical Code.

- (4) Each manufactured dwelling shall be required to connect to the utilities provided at each manufactured dwelling space.
  - (5) Each manufactured dwelling park shall obtain water from a public water supply when available, and when unavailable, from a source approved by the Guilford County Health Department. The water supply and pressure shall be adequate for the park requirements. Water for drinking, cooking, laundry, and general sanitary uses for each individual manufactured dwelling shall be obtained only from faucets or other plumbing connections located within each manufactured dwelling.
  - (6) Each manufactured dwelling park shall be provided with an adequate sewage disposal system, either by connection to a public sewer or a septic tank constructed in compliance with the regulations of the Guilford County Board of Health. All sewage wastes from toilets, showers, bathtubs, lavatories, wash basins, refrigerator drains, sinks, faucets, and water-using appliances not herein mentioned shall be piped into the manufactured dwelling park sewage disposal system.
- k) Fuel Oil Drum: Each manufactured dwelling that requires the use of fuel oil shall be furnished with an oil drum having a minimum capacity of one hundred fifty (150) gallons, set upon a painted, prefabricated metal stand.

### **Mixed Uses in a Single Building**

- 1) Where Required: B-1, B-2.
- 2) Location of Residential Use: No residential use(s) shall be permitted on or below the ground floor.
- 3) Percentage of Mix: Where residential and non-residential uses are mixed in a principal building, at least twenty percent (20%) percent of the gross floor area shall be devoted to the permitted nonresidential office and/or commercial use(s).
- 4) Dimensional Requirements: A building must meet the nonresidential dimensional requirements of the district in which it is located.

### **Nursing Homes, Assisted Living**

- 1) Where Required: R-12, R-9, PI, B-2, L-I districts.
- 2) Operation
  - a) The facility shall provide centrally located shared food preparation, service and major dining areas.
  - b) Common recreation, social and service facilities shall be provided at a minimum rate of thirty (30) square feet per dwelling unit or per rooming unit.
  - c) All facilities shall be solely for the use of residents and their guests.
  - d) Facilities for administrative services and limited medical services for the exclusive use of the resident shall be located on the site.

### **Parks and Recreation Facilities, Public**

- 1) Where Required: All districts.
- 2) Parking: Overflow parking (in addition to required parking) must be designed on the site plan and be kept available to handle all traffic from special events such as softball tournaments and outdoor concerts.
- 3) Access: All parks greater than ten (10) acres shall have primary access to a collector or higher capacity street.

### **Planned Building Groups, Commercial or Office, Shopping Centers**

- 1) Where Required: B-1, B-2, LI, HI
- 2) Minimum Area: At least 50,000 sq. ft. in B-1 and B-2. In other districts, no minimum.
- 3) Parking and Loading: three square feet of graded and paved parking area to each square foot of enclosed floor space. One loading space for each 10,000 square feet of enclosed space.
- 4) Screening and Fencing - A screen at least six feet high of dense plant material where lot abuts a residential lot.

5) Plans Required, Must Show:

Topography - Topography of the site at contour intervals no greater than five feet.

Structures - Location and approximate size of all existing and proposed structures within the site and all buildings and structures within 500 feet. All easements or rights-of-way, public or private, adjoining or intersecting such property.

Circulation - Proposed points of access and egress and proposed pattern of internal automobile and pedestrian circulation.

Parking and Loading - Location and extent of proposed parking and loading areas and proposed lighting facilities for parking and loading areas.

Timing - proposed schedule of development including steps likely to be followed.

6) Other Details: Proposed provision for storm and sanitary sewage, including both natural and manmade features

a) Size and proposed location of any signs to be visible from a public right-of-way

b) Proposed solid waste storage facilities

c) Proposed water system and fire fighting facilities such as hydrants or sprinkler connections.

d) Types of surfacing for drives, sidewalks, malls, etc.

e) Location and heights of all fences, walls and hedges shall be shown

f) Location and plans for landscaping and plantings

7) Other Requirements:

a) Planned Building Groups, Commercial or Office shall be located within 500 feet of a major thoroughfare and shall have direct access to it.

b) Points of access and egress shall consist of driveways or roadways at least 20 feet in width and shall be set back a sufficient distance from highway intersections to minimize traffic hazards, inconvenience and congestion.

c) Parking areas shall have a stabilized surface with parking space and traffic lanes clearly marked.

d) A report containing pertinent economic data justifying additional business development at the site shall be submitted when deemed necessary for review by the Planning Board,

### **Planned Unit Developments (PUDs)**

- 1) Where Required: R-20, R-15, R-12, R-9
- 2) Purpose: To provide desirable open space, tree cover, recreation areas, scenic vistas and variety in residential properties by allowing certain variations in lot sizes as long as the overall density of dwelling units is no greater than that permitted by any applicable zoning requirements, except that multi-family dwelling units which are not provided for in the R-20 and R-15 district are permitted in a PUD located within the R-20 and R-15 districts at a density of 5 units per acre.
- 3) Minimum Lot Area: Exempt from minimum lot sizes specified in this zoning ordinance, except as specified below.
- 4) Periphery Lots: The minimum size and the minimum standards of periphery lots that will be adjacent to property for single-family houses shall be the same as the minimum size and minimum standards required in the zoning district where that portion of the PUD is located.
- 5) Parking and Loading: Off-street parking shall be provided in a ratio of two spaces per dwelling unit. Restrictions applicable to on-street parking of over-sized vehicles (recreational vehicles, trucks, etc.) and more vehicles than a driveway can accommodate apply in PUDs as in other residential districts.
- 6) Plans required, must show:
- 7) Topography - Topography of the site at contour intervals no greater than five feet.
- 8) Structures - Location and approximate size of all existing and proposed structures within the site and all buildings and structures within 500 feet. All easements or rights-of-way, public or private, adjoining or intersecting such property.
- 9) Parking and Loading - Location and extent of parking areas; proposed

lighting facilities.

- 10) Timing - proposed schedule of development including steps likely to be followed.
- 11) Other requirements: If children are allowed in any multi-family units located within the PUD, play areas shall be provided for the building groups with over five units and shall contain a minimum of 56 square feet per unit with each play area not to exceed 4,000 square feet. These areas must be clearly delineated on the plan and shall not be used for paths or purposes other than recreation. The reasonableness that such sites could be used by young children, free from apparent danger, must be clearly evident before approval.

### **Schools, Elementary or Secondary**

- 1) Where Required: AG, all residential districts.
- 2) Access: All elementary or secondary schools shall be located on a minimum of three (3) acres.

### **Shooting Range (Outdoor)**

- 1) Where Required: AG and PI (if associated with a public institutional use) districts.
- 2) Use Separation: Separation shall be a minimum three hundred (300) feet between range and closest exterior property line.
- 3) Access: Controlled to prevent unregulated entrance to firing area.
- 4) Security Fencing: Security fencing to prevent an individual from crossing the property downrange.
- 5) Dikes (berms): Dikes shall be of sufficient height and thickness to stop all rounds fired downrange. Elevation control is required along the shooting stands to prevent rounds from being fired over the berm.

**Shopping Center** - See "Planning Building Groups, Commercial and Office"

**Swim and Tennis Club** - See "Country Club" etc.

**Veterinary Service with Outdoor Kennel** – See Kennels or Pet Grooming with Outdoor Run

**Warehouse (general storage)**

- 1) Where required: LI district
- 2) Indoor Storage: No outdoor storage is permitted. All contents must be stored within the warehouse or individual storage units.

## Article VII: SIGNS

ORDINANCE AMENDING ARTICLE VII OF THE UNIFIED DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE TOWN OF JAMESTOWN PERTAINING TO SIGN REGULATION.

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WHEREAS, the historic and architectural character of the Town of Jamestown is a source of both community pride and economic vitality for the Town; and

WHEREAS, the historic and architectural character of the Town of Jamestown is directly and indirectly affected by the scale, amount, and type of signage displayed on both public and private properties within the corporate limits and extraterritorial jurisdiction of the Town; and

WHEREAS, the scale, amount, and type of signage allowed within the Town of Jamestown and its extraterritorial jurisdiction communicates essential information to the public with regard to providing effective directions to vehicular and pedestrian traffic, as well as providing identification and promotion of commercial opportunities, public places and events, and similar matters; and

WHEREAS, management and control of signage is a matter of public safety within the Town and its extraterritorial jurisdiction given the potential for unregulated scale, amount, and type of signage to distract motorists, impede pedestrian traffic, and create litter; and

WHEREAS, it has been determined necessary to adopt new sign regulations for the Town of Jamestown in order to maintain the historic and architectural character of the Town, to provide for effectively directing of vehicular and pedestrian traffic, to identify and promote commercial opportunities and public places and events, and to maintain public safety. Now therefore

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JAMESTOWN THAT:

**Section 1:** Article VII (*Town of Jamestown Sign Regulations*) of the Unified Development Regulations of the Code of Ordinances of the Town of Jamestown is hereby repealed in its entirety and a new Article VII is inserted as follows:

### ARTICLE VII. TOWN OF JAMESTOWN SIGN REGULATIONS.

**Section 1. Title.** This Article shall be known and may be cited as the “Town of Jamestown Sign Regulations.”

**Section 2. Applicability and purpose.** This Article applies to all signage erected in the Town of Jamestown and its extraterritorial jurisdiction. The purpose of this ordinance is to ensure the installation of safe and effective signage that promotes both business activity and the aesthetic character of the Town and its extraterritorial jurisdiction, as well as communicating essential information to the public. The following statements elaborate on this purpose:

- To provide opportunities for neighborhoods and commercial endeavors to be identified in an effective and equitable fashion.
- To promote public safety by reducing hazards associated with distracting or excessive signage.
- To establish and promote enhanced community character through signage that is reflective of the historic nature of the Town and its scale of development.
- To promote the integration of signage with the architectural characteristics and aesthetic quality of the Town’s development.
- To provide for flexibility in amount, type and scale of signage depending on the context of the development and the surrounding area.

- To facilitate efficient, thorough, consistent and effective enforcement of the sign regulations.

**Section 3. Definitions.** As used in this ordinance, the following terms shall have the meanings specified herein.

Abandoned – Not occupied or in use for 60 or more consecutive days.

Alteration – Any change, addition, relocation, replacement, or other physical modification to a sign or sign structure other than routine maintenance or change of copy not requiring the replacement of any part of the sign face.

Awning – A cloth, plastic, or other nonstructural covering permanently attached to a building or can be raised or retracted to a position against the building when not in use.

Balloon, accent – A small helium-filled balloon (or group of small balloons) displayed at heights of less than eight feet.

Balloon, tethered – A large helium-filled balloon (or group of balloons of any size) intended for commercial promotion and tethered at a business location.

Canopy – A permanent, unattached roofed structure that shelters a use or activity from the weather.

Channel lettering – A sign design technique involving the installation of three-dimensional lettering against a background, typically a sign face or building façade.



**Example of Channel Lettering**

Enforcement, complaint-based - Enforcement action initiated on the basis of information provided by a third-party complainant.

Enforcement, proactive – Enforcement action initiated at the discretion of the planning director independent of any third-party complaint.

Grandfathered – Not affected by a change in the ordinance absent physical modification or abandonment.

Height, freestanding sign - The vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and finished grade at the midpoint of the base of the sign.

Lighting, accent – Lighting intended to accentuate an architectural feature such as a window, roofline, or other vertical or horizontal element and consisting of small, non-flashing white lights.

Maintenance (of a sign) – Cleaning, painting, repairing, or replacing defective parts in such a manner that does not alter the basic structure of a sign. This definition includes the changing of the copy or listings on a changeable copy, civic event, sandwich board, or directory sign and the replacement of sign copy with other sign copy of the same or smaller size on other permitted signs.

Occupancy – A separately leased or owned area within a building having ground level frontage on a right-of-way or parking facility.

Off-premises – Not located on the property to which it pertains.

On-premises – Located on the property to which it pertains.

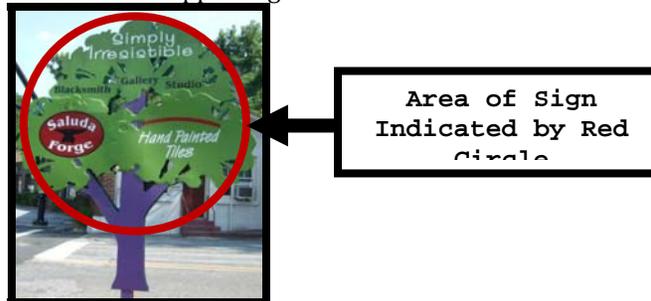
Planning Director – The Town of Jamestown official charged with administering, interpreting, and enforcing the Unified Development Ordinance, including these sign regulations, or his/her designee.

Searchlight – A device that emits an upwardly-directed beam of light to attract commercial attention.

Sign – A communications medium, method, device, structure, or fixture that incorporates motion, lighting, graphics, symbols, or written copy intended to promote the sale of a product, commodity, or service, or to provide direction to or identification of a neighborhood, premises, event or facility.

Sign alteration - Any change to the size, shape, illumination, position, location, or construction of a sign or the supporting structure of a sign.

Sign area – The size of a sign in square feet as computed by the area of not more than two standard geometric shapes (specifically, circles, squares, rectangles, or triangles) that encompass the shape of the sign exclusive of the supporting structure.



**Example Illustrating Measurement of the Area of an Irregularly-Shaped Sign**

Sign copy – Any graphic design, letter, numeral, symbol, figure, device or other media used separately or in combination that is intended to advertise, identify or notify, including the panel or background on which such media is placed.

Sign face – The side or sides of a sign on which a message is placed.

Sign illumination, types of –

- Ambient – Illumination of a sign by light from the sign’s general surroundings, such as daylight or nearby street lights.
- External – Illumination of a sign by a source of light located exterior to the sign, such as a floodlight.
- Internal - Illumination of a sign by a source of light contained within the sign itself.

Sign, nonconforming – A sign that does not conform to one or more requirements of this Article.

Sign types –

- Sign, awning - A sign incorporated into or attached to an awning.
- Sign, blade (or projecting) – A sign attached to and projecting from the building façade, typically at right angles to the building.
- Sign, canopy - A sign incorporated into or attached to a canopy.
- Sign, changeable copy - A sign or portion thereof designed to accommodate frequent copy changes through manual, mechanical or digital means.
- Sign, civic event - A temporary sign posted to advertise a civic event sponsored by a public agency, school, church, civic-fraternal organization, or similar noncommercial organization.
- Sign, directional - An on-premises sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians entering, exiting, or on a site, including signs marking entrances and exits, parking areas, loading zones, or circulation patterns.
- Sign, directory - A sign listing the names, uses, or locations of the discrete uses or activities conducted within a building or group of buildings that is intended to provide on-site directions.
- Sign, exempt – A sign identified in section 6 that is exempt from the requirements of this ordinance, either conditionally or unconditionally.
- Sign, flat (or wall) - A sign attached directly to and generally parallel with the façade of a building.

- Sign, incidental – A sign, generally informational, whose purpose is secondary to the use of the premises on which it is located, such as the date of building erection, the building address, the hours of operation, the open or closed status of the operation, the credit cards honored, and similar incidental information, and containing no commercial message.
- Sign, machine – A sign attached to a machine such as a gasoline pump, a drive-through menu kiosk, a soft drink dispensing machine, or an ATM.
- Sign, model home – An on-premises sign advertising a home model of a type that is available for sale in a subdivision.
- Sign, monument (or ground) – A freestanding sign supported by a structure that is at least as wide as the sign to which it is attached.
- Sign, open house – A temporary off-premises or on-premises sign displaying information about a real estate sales event happening at a property offered for sale.
- Sign, outdoor advertising (or billboard) – A type of off-premises sign that contains a commercial message.
- Sign, permanent – A sign intended or designed for permanent display and permitted as such.
- Sign, pole – A freestanding sign supported by a structure consisting of not more than two poles.
- Sign, sandwich board (or A-frame) – A temporary freestanding sign designed and displayed to provide information to pedestrians.
- Sign, snipe – A temporary sign not otherwise defined in this Article that is tacked, nailed posted, glazed, or otherwise affixed to a light fixture, utility pole, public building, fence, railing, public telephone pole, traffic control device, or tree or to the ground.
- Sign, temporary – A sign not intended or designed for permanent display and permitted as such.
- Sign, time and temperature – A sign that displays time and temperature information as its primary message.
- Sign, V-type – An attached sign consisting of two separate faces arranged in a “V” pattern and having an angle of 120 degrees or less as measured from the side attached to the building.
- Sign, window – A sign attached to a display window or door window that is intended to be viewed from the exterior. This definition shall include signs attached to the interior of a display window or door window.
- Sign, yard sale – A temporary off-premises or on-premises sign advertising a sales event in a residential zoning district.

Substantially similar – The same or significantly the same as a prior plan or application as determined by the associated land area, the intensity of

development proposed, the range of proposed uses, the type, variety and scale of signage, and other relevant factors.

**Section 4. Applicability.** Except as specifically exempted in this ordinance, no sign shall be erected, altered or displayed without a sign permit issued by the Town of Jamestown confirming compliance with the provisions of this ordinance. Signs made nonconforming by this ordinance shall be grandfathered until altered, abandoned, relocated, or removed.

**Section 5. Prohibited signs.** The following signs are specifically prohibited by this ordinance.

- Snipe signs.
- Signs attached to light fixtures, curbs, sidewalks, gutters, streets, utility poles, public buildings, fences, railings, public telephone poles, or trees.
- Windblown signs not specifically permitted in this Article such as pennants, streamers, spinners, balloons, inflatable figures, and similar signs.
- Signs which prevent free ingress to or egress from any door, window, or fire escape.
- Signs erected or displayed in such a manner as to obstruct free and clear vision at any location, street, intersection, or driveway.
- Any sign which interferes with vehicular or pedestrian traffic as a result of its position, size, shape, movement, color, fashion, manner, or intensity of illumination, including signs with the potential to be confused with any authorized traffic sign, signal, or device.
- Signs erected or displayed on or over public rights-of-way or other public property, other than those erected by governmental agencies or for which appropriate encroachment agreements have been executed pursuant to this ordinance.
- Portable signs, except as specifically permitted herein.
- Signs that move or flash or have moving or flashing components, except as permitted under Section 6 below; signs that are intermittently lighted or have changing colors; signs that revolve; or any other similarly constructed signs.
- Signs attached to the roofs of buildings or are otherwise located above the roofs of buildings.
- Signs carried by or attached to people, including costumes worn for the purpose of attracting commercial attention.
- Off-premises signs, including outdoor advertising signs, except those placed by governmental agencies for public purposes and yard sale and open house signs that are displayed as specifically permitted herein.

**Section 6. Exempt signs.** The following signs are exempt from the requirements of this ordinance although, in some instances, building permits may be required, such as an electrical permit for a machine sign or a time and temperature sign.

- Warning and security signs, including signs placed by a public utility for the safety, welfare, or convenience of the public, including, but not limited to signs identifying fire department connections or high voltage, public telephone, or underground cables.
- Government signs and signs for non-profit organizations sponsored by governments including insignia, legal notices, informational, directional, and traffic signs. This exemption shall not include permanent and temporary signs covered in section 7 of this Article but may include signs or flags erected on public property or private property immediately proximate to public property to commemorate public holidays recognized by the Town such as the Fourth of July.
- "No Dumping" and "No Trespassing" signs containing less than two square feet in area per sign face.
- Signs placed inside ball fields and outdoor amphitheatres that face toward the interior of the field or amphitheater and are primarily intended for viewing by persons attending events of performances.

- Accent lighting, as defined herein, provided that not more than two architectural elements are accented per occupancy (e.g., two windows or a window and a roofline, etc.).
- Signs associated with a fundraising event of short duration (3 days or less) for a nonprofit or charitable organization such as a student car wash or a service organization broom or bake sale provided such events happen six or less times per calendar year on a particular premises.
- Incidental signs containing no more than two square feet in area provided that not more than a total of six square feet of incidental signage is displayed per occupancy. Incidental signs that display solely the word “open” may flash provided they are located inside a building and no more than one such sign is displayed per occupancy.



**Example of Incidental Signs**

- Machine signs containing no more than six square feet in area, except drive-through menu kiosk machine signs may contain up to 12 square feet in area provided the portion of the signs devoted to a logo or business name contains no more than 25% of the total sign area.



**Example of Machine Signs**

- Menus displayed at restaurants provided they contain no more than four square feet in area.
- Model home signs provided not more than one such sign is displayed in a subdivision and such sign contains no more than six square feet in area.
- Signs attached to donation bins.

- Any traffic sign, public notice or warning required by a valid and applicable federal, state, or local law, regulation, approved development plan, or ordinance, including traffic control signs on private property.
- Address signs no greater than five square feet in area. Address signs in excess of five square feet in area shall be counted toward the area of signage permitted for attached or freestanding signs depending on placement.
- Retail store window displays of merchandise.
- Signs attached to vehicles provided the vehicles are not parked in such a manner as to create the effect of additional signage, whether on-premises or off-premises.
- Political signs containing no more than six square feet in area in residential districts and no more than 24 square feet in area in nonresidential or mixed use districts, provided that no more than one sign per candidate or issue is displayed per zone lot frontage and such signs are erected no more than 30 days prior to the applicable election and removed no more than seven days after the applicable election.
- Signs attached to umbrellas provided no more than 25% of the total area of the umbrella is devoted to signage.
- One real estate sign per property street frontage containing no more than six square feet in area in residential districts and no more than 24 square feet in area in nonresidential or mixed use districts.
- One construction/financing sign per property street frontage for development projects under active building permits containing no more than six square feet in area in residential districts and no more than 24 square feet in area in nonresidential or mixed use districts provided they are removed after the applicable permit is no longer active due to completion of permitted work or permit expiration. If combined with a real estate sign, the total exempt sign area may be increased to 32 square feet.



**Example of a Combined Construction/Financing and Real Estate Sign**

- Flags of the United States, the State of North Carolina, Guilford County or the Town of Jamestown provided that they do not exceed 40 square feet in area, that they are displayed on flagpoles not exceeding 30 feet in height, that no more than one flag is displayed on a zone lot of less than one acre in size and not more than two flags are displayed on zone lots of one acre or more in size, and that all flagpoles are setback at least the height of the flagpole from all property lines. Flagpoles may be roof or wall-mounted provided size, height and setback requirements as established in this exemption are met.
- One home occupation sign per approved home occupation, not to exceed four square feet in area.
- Holiday lights and decorations with no commercial message provided that such lights and decorations are not displayed for longer than a total of 60 days per calendar year in any nonresidential or mixed use zoning district.

**Section 7. Design and dimensional requirements for permanent signs requiring a permit.**

Section 7.1. Requirements for signs extending over pedestrian and vehicular travel areas. Signs extending over pedestrian and vehicular travel areas shall maintain a minimum clear distance between the ground and any portion of the sign and its associated support structure of nine and 14 feet respectively.

Section 7.2. Permanent sign requirements. The following tables and text provide the design and dimensional requirements for permanent signs that require a permit. Requirements include area, number, type of illumination, and letter height for both attached and freestanding signs. Setback and height requirements are established for freestanding signs and detailed design requirements are provided for monument and pole signs. Additionally:

- Only one general attached sign (blade, V-type, or flat) is allowed per street or parking frontage.
- Only one monument or pole freestanding sign is allowed per street frontage.
- Height of freestanding signs shall be measured from the elevation of the ground at the point of contact with the sign provided that the grade of the site is not artificially altered to increase the allowable height of the sign. For sloping sites, the applicable point of contact shall be the point having the highest elevation.
- The following permanent special purpose signs are allowed in addition to general attached and freestanding signs under the limitations provided in the following tables and elsewhere in this Article.
  - Window.
  - Directional.
  - Directory.
  - Awning.
  - Canopy.
  - Community identification.
- Time and temperature signs are allowed as either attached or freestanding signs provided they are incorporated into the general or attached signage allowed for a nonresidential property, no more than one such sign is allowed per property, the message is limited to time and temperature information and changes no more frequently than once every five seconds, and the area of the time and temperature sign does not exceed 16 square feet. The square footage allowance constitutes an area bonus in addition to the maximum allowable area for the applicable sign type.
- Changeable copy signs are allowed as either attached or freestanding signs provided they are incorporated into the general or attached signage allowed for a nonresidential property, not more than one such sign is allowed per occupancy, the sign message changes no more frequently than once every 4 hours for manually and mechanically changing signs and once every 15 seconds for digitally changing signs. Digitally changing signs are allowed only on properties zoned PI. Unlike time and temperature signs, no area bonus is allowed for changeable copy signs.

Sign Type	Sign Area Allowance (sq ft)	Sign Illumination	Minimum Letter Size	Maximum Number	Other Requirements
<b>Permanent Attached Signs - General</b>					
Blade (or Projecting)					Only one sign (blade, V-type or flat sign) allowed per occupancy per street or parking frontage
V-type		32	Ambient External Internal	6"	One per street or parking frontage per occupancy  One square foot of signage for each one square foot of occupancy frontage up to the maximum allowed
Flat (or Wall)					Internally-illuminated signs - not more than 50% of sign face can be illuminated  No attached signage above second story

Sign Type	Sign Area Allowance (sq ft)	Sign Illumination	Minimum Letter Size	Maximum Number	Other Requirements	
<b>Permanent Attached Signs – Special Purpose</b>						
Window		8	Ambient	N/A	One per each 100 square feet of display or doorway window area or fraction thereof	A maximum allowance of three signs per street or parking frontage per occupancy
Directional		4 12*	Ambient External Internal	4"	N/A	Not more than 25% of sign face shall contain a logo or commercial message  *Only allowed for signs placed above a common entrance shared by multiple tenants of the same building; one sign per entrance
Directory		4	Ambient External	N/A	One per street or parking frontage per building	
Awning		6	Ambient	4"	One per street or parking frontage per awning	Not more than two awning signs per occupancy per street or parking frontage.

Canopy		16	Ambient Internal	6"	One per canopy*	Properties fronting on more than one street may have one canopy sign per street frontage
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Sign Type		Sign Area Allowance (sq ft)	Max. Sign Height	Sign Illumination	Minimum Letter Size	Maximum Number	Minimum Setback from Property Line(s)	Other Requirements
<b>Permanent Freestanding Signs - General and Special Purpose</b>								
Monument		48	8'	Ambient External Internal	6"	One per street frontage having access to the site	5 ft	Monument signs shall comply with the design requirements of section 7.3
Pole		32	10'	Ambient External Internal		One per street frontage providing access to the site	10 ft	Pole signs shall comply with the design requirements of section 7.4
Community Identification		32	6'	Ambient		One per each gateway or primary entrance	0 ft*	Shall comply with design requirements for monument signs
Directory		16	6'	Ambient External Internal	4"	One per street frontage having access to the site	25 ft	Only allowed for sites with multiple buildings  Shall not be displayed so as to be prominently visible from off-site locations

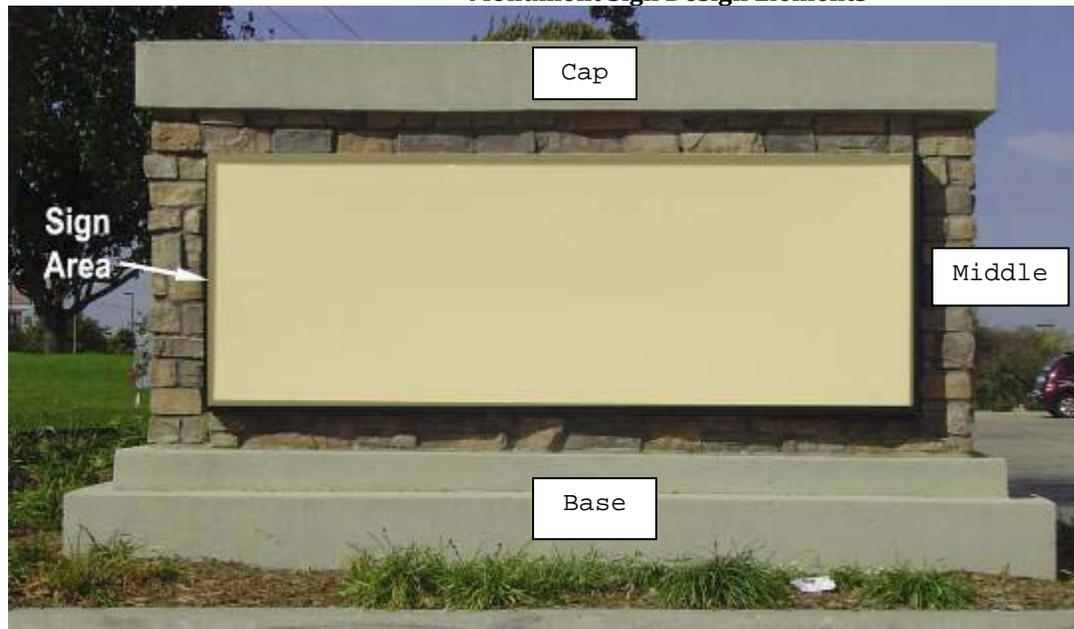
Directional		3	3'	Ambient External Internal	4"	Two per each driveway access to the site	0 ft*	Not more than 25% of sign face shall contain a logo; no other commercial message is allowed
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\*May encroach into adjoining street right-of-way pursuant to an encroachment agreement.

Section 7.3. Monument sign design requirements. Monument signs are intended to serve a wider range of aesthetic and architectural purposes than pole signs. Consequently, the following design requirements are established for monument signs.

- (a) General design requirements and sign area measurement for monument signs. As in traditional building design, monument signs shall be designed to include a base, middle, and cap. The following illustration shows a monument sign having these architectural characteristics, as well as how sign area is to be measured on a monument sign.

**Monument Sign Design Elements**



(b) Sign structure materials. In general, monument sign structures should be constructed of materials that are similar to or complementary to the principal building(s) on the premises where they are located. Only the following materials shall be used in monument sign structure construction, singly or in combination:

- Brick, painted or unfinished
- Wood
- Concrete or stucco
- Natural stone or manufactured stone having a natural appearance
- Metal
- Glass

(c) Sign copy materials. Sign copy materials for monument signs shall include the sign structure materials listed above. For internally illuminated monument sign copy, acrylic may be utilized, provided not more than 50% of the sign face is illuminated.

Section 7.4. Pole sign design requirements. The following design requirements are established for pole signs.

(a) General design requirements. Pole signs in Jamestown have traditionally been supported by two posts or suspended from a single post as shown in the following illustrations. Pole signs shall use one of these two forms of design.

**Examples of Allowable Types of Pole Signs**





(b) Materials. In general, pole signs should use materials that complement the principal building(s) on the premises where they are located. The following materials are acceptable for use in pole signs, singly or in combination:

- Wood
- Metal
- Brick, painted or unfinished
- Concrete or stucco
- Natural stone or manufactured stone having a natural appearance

**Section 8. Temporary signs.** The following tables provide the design, dimensional, and time of display requirements for temporary signs. Additionally: Nonconforming temporary signs shall not be grandfathered (see section 12 of this Article).

Section 8.1. Requirements for temporary signs that require a permit. The temporary signs listed in the following table require a permit and shall comply with the indicated zoning location and other requirements. All such signs, with the exception of searchlights, shall be illuminated solely by ambient light sources.

Temporary Sign Type	Allowable Zoning Districts	Requirements
Sandwich board signs	B-1, B1-A, B-2	One sign per occupancy having direct access onto any public or private sidewalk where sign is placed. "Direct access" shall mean an occupancy having a public entrance immediately from the sidewalk where the sign is placed. See additional sandwich board sign requirements in section 8.3 below.
Banners and flags	All commercial and mixed use districts	Up to 60 square feet of banner materials or one flag not exceeding 3 ft. by 5 ft. in size per occupancy may be attached to an occupancy space. Display time limit: 21 days, four times per calendar year with a 60 day separation between permits. Flags and banners may not be used simultaneously.
Grand opening or going out of business signs		Up to 60 square feet of banner materials may be attached to an occupancy space. Display time limit: 21 days; one time in the same calendar year when the business opens or closes.
Special event signs		<p>One tethered balloon or searchlight to be located on-premises and displayed for not more than three consecutive days once per calendar year. Tethered balloons and searchlights shall conform to all applicable FAA regulations.</p> <p>Joint special event signage for three or more commercial or non-profit occupancies may be approved by the Planning Director for theme-based special events. Such events shall not exceed seven days in duration or a cumulative total of 60 days per calendar year per occupancy with a 14 day minimum separation between permits. Event participants shall submit an application which outlines the types of signage desired and where such signage is proposed to be located. The Planning Director may meet with applicants on-site to determine acceptable locations for signage placement. Signage shall be consistent with the event theme and shall not exceed 60 sq. ft. per occupancy; however, accent balloons may also be displayed, with a maximum number of 12 balloons per occupancy.</p>

Section 8.2. Requirements for temporary signs that do not require a permit. The temporary signs listed in the following table do not require a permit and shall comply with the indicated zoning location and other requirements. All such signs shall be illuminated solely by ambient light sources.

Temporary Sign Type	Allowable Zoning Districts	Requirements			
		Number	Display Frequency	Size (sq. ft.)	Other Requirements
Open house signs (Real estate sales only)	All districts	Up to three signs per event	May be displayed only between the hours of 12:00 PM (noon) Friday and 12:00 PM the following Monday.	6	May be displayed off-premises on private property with the permission of the property owner. May be freestanding or attached. If freestanding, shall not exceed three feet in height. If attached, shall not be attached to any tree or other vegetation, post, utility pole, wall, or other structure except the building containing the event.
Yard sale signs			May be displayed only between the hours of 12:00 PM (noon) Friday and 12:00 PM the following Monday. No more than three events per zone lot per calendar year.		

8.3. Additional requirements for sandwich board signs. Sandwich board signs offer businesses in pedestrian-oriented zoning districts and effective and creative way to market products or services. However, unless carefully regulated, sandwich board signs can create hazards for pedestrians and a cluttered and unattractive appearance. The following design standards are established to permit sandwich board signs to be utilized in a fashion which meets community safety and design expectations, as well as the need for businesses to market their products and services.

- Sandwich board signs shall not exceed four feet in height and 30 inches in width.
- Four feet of sidewalk clearance shall be provided along at least one side of the sign to allow for unobstructed pedestrian access.
- Sandwich board signs are intended to inform and orient pedestrians to business locations and available products and services. Consequently, such signs shall be placed in close proximity to the public entrance to the occupancy with which they are associated and shall be oriented to communicate information primarily to pedestrian traffic utilizing the sidewalk on which they are located as opposed to vehicular traffic utilizing nearby public or private streets or private drives and parking areas.
- Sandwich board signs shall be moved to an indoor location for storage during times when the associated businesses are not open for customers.

- Standard design for sandwich board signs. Sandwich board signs shall be located in frames constructed of black anodized aluminum, black wrought-iron, or wood which has been painted black, as illustrated in the following photographs. Plastic, PVC, or other similar materials shall not be used as the frame. The display area within the frame shall be constructed of durable metal or wood if containing permanent messages; such permanent messages shall be applied to the display area with paint, metal or durable vinyl or shall consist of carved wood or cut metal lettering or images. Sandwich board signs containing changeable message display areas may be constructed of chalkboard style materials, durable plastic (such as a “dry erase” board), or similar materials, provided the display area background is either black, dark green or white in color and that the changeable message is applied using erasable chalk or erasable ink in a handwritten application. Unless otherwise specified, a muted color palette shall be used for any background or message, including lettering and images.



#### **Example of Standard Sandwich Board Sign Frame**

- Alternative design for sandwich board signs. As an alternative to the standard design described above, the planning director may permit alternative sandwich board sign designs which exhibit a distinctive and creative flair which the owner would otherwise be unable to replicate if the standard frame design was used. Such signs shall not contain changeable copy and images and lettering shall be permanently attached, painted, cut or carved onto the sign using a muted palette of colors. Wooden signs are preferred, but all such signs shall be made of durable materials. An example of an acceptable alternative design is illustrated in the following photograph.



**Example of Alternative Sandwich Board Sign**

**Section 9. Signs located in local historic districts.** Regardless of the other dimensional provisions of this Article, signs that are located in local historic districts shall be governed by the applicable design guidelines and review processes established for the local historic district.

**Section 10. Master sign plan.** Regardless of the other provisions of this Article, the Town Council may, at its sole discretion, approve a master sign plan for specified areas of Town or for certain development projects listed in this section. The approved master sign plan may include signs of different sizes, types, locations, placement and height from those otherwise enumerated in this Article.

- (a) Purpose. The purpose behind this section is to permit creativity in sign design and placement to address site issues and constraints associated with topography, pedestrian-orientation, way-finding and other conditions unique to the subject development or area of Town.
- (b) Application. Master sign plans may be submitted for the following types of developments:
  - (1) Urban Village projects.
  - (2) Commercial, industrial, or mixed use developments containing three or more acres in area.
  - (3) Areas of Town that are governed by a corridor plan or area plan that includes sign guidelines.
- (c) Submittal process. Master sign plan applications may be submitted for consideration at the time of original submittal of the proposed development or separately from the original development proposal. The following information or material shall be required for a signage plan application and shall be indicated on an application form provided by the planning director.
  - (1) Owner and contact name, address, telephone number and signature(s), as applicable.
  - (2) A master sign plan proposal illustrating the proposed signs, their proposed location, and their proposed purpose, along with a statement as to why the existing sign code cannot or should not be followed in the subject case.
  - (3) An analysis showing how the proposed signage plan differs from what could be provided under the existing sign regulations set forth in this Article.

- (4) Other similar information determined by the planning director to be necessary for understanding the purpose and intent of the proposed master sign plan application.
- (d) Review procedure. The planning director shall schedule the master sign plan for Planning Board and Town Council consideration in accordance with the notice and public hearing procedures set forth in Article III for zoning map amendments. The protest petition provisions of Article III shall not apply to master sign plan hearings. In reviewing the proposed master sign plan, the Planning Board and Town Council shall take the following matters into consideration.
  - (1) The extent to which the proposed master sign plan deviates from the sign allowances otherwise applicable in this Article.
  - (2) The rationale provided by the applicant for the deviations.
  - (3) The extent to which the master sign plan promotes Town goals associated with community character, way-finding, pedestrian-orientation, and business identification.
  - (4) The degree to which the master sign plan creatively and effectively addresses the issues and constraints unique to the site with regard to signage.
- (e) The Planning Board shall provide a recommendation to the Town Council whether to deny or approve the proposed master sign plan in part or in total and shall further recommend conditions regarding approval where deemed warranted.
- (f) The Town Council may deny or approve the proposed master sign plan in part or in total and may establish conditions regarding approval. In the event that the master sign plan is denied, the applicant must wait at least 365 days before reapplying for a new master sign plan substantially similar (as defined above) to the proposed master sign plan.

**Section 11. Permitting.** Applications for sign permits and the associated fee schedule may be obtained from the planning director. Completed applications, including payment of fees, shall be reviewed for compliance with the requirements of this ordinance and may be approved, approved with conditions, or denied by the planning director.

Signs requiring sign permits under the provisions of this ordinance may also require additional permits, including building permits and electrical permits. It shall be the responsibility of the applicant to obtain all applicable permits.

**Section 12. Nonconforming signs.** A permanent sign which does not comply with one or more of the requirements of this Article shall be grandfathered until such sign is removed, physically altered beyond maintenance (as defined), relocated, damaged or destroyed, after which it shall be brought into compliance with all requirements of this Article. Nonconforming temporary signs shall not be grandfathered and shall be brought into compliance with all requirements of this Article within 60 days from September 16, 2008.

**Section 13. Abandoned signs.** Signs identifying an abandoned occupancy or use shall be considered abandoned signs and shall be removed by the owner of the property on which they are located. Failure to remove an abandoned sign shall be considered a violation of this ordinance. In addition, correction of an abandoned sign violation may include removal of the abandoned sign or signs by the Town at the owner's expense after proper notice of the violation and failure to act by the owner within the timeframe established in the notice of violation.

**Section 14. Maintenance.** All signs, including exempt signs, shall be maintained in a satisfactory state of repair. This shall include, without limitation, correction of peeling or faded paint, repair or replacement of damaged panels, trimming of vegetation that obscures the sign(s), replacement of defective lighting of illuminated signs, secure attachment to the building for attached signs, and stable vertical alignment of freestanding signs.

**Section 15. Administration, enforcement and interpretation.** The planning director shall be responsible for the administration, enforcement and interpretation of these sign regulations. Decisions and interpretations made by the planning director may be appealed to the board of adjustment in

accordance with the appeal provisions of the board. Enforcement action taken by the planning director shall not be appealable to the board of adjustment; appeals of enforcement actions are reviewable in Guilford County Superior Court.

Enforcement action taken by the planning director shall be proactive and/or complaint-based except for exempt signs and window signs in which case enforcement shall be complaint-based. In no case shall violations of this ordinance be considered a criminal offense.

(a) General enforcement. Except for snipe signs, a violation of the sign regulations shall be enforced as provided below.

- (1) Notice of violation. The planning director shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to correct the violation within 30 days after receipt of the notice of violation.
- (2) Failure to comply with a notice of violation. Any person who fails to comply with a notice of violation of any of the provisions of this Article shall be subject to a civil penalty of two hundred dollars (\$200.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. The decision of the planning director to assess a civil penalty may be delivered by personal service, by registered mail or certified mail returned receipt requested or by any means authorized under G.S. 1A-1, Rule 4.
- (3) Appeal to Superior Court. Every decision of the planning director to assess a civil penalty shall be subject to review by the Guilford County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the clerk of Superior Court within 30 days after the decision of the planning director to assess a civil penalty.
- (4) Failure to Appeal and/or Pay. Any civil penalty assessed a person who violates the provisions of Article VII shall be recovered by the Town in a civil action in the nature of a debt, to be brought in the Guilford County Superior Court if the violator fails to give notice of timely appeal and fails to pay the penalty within the prescribed period of time after he or she has been cited for the violation.

(b) Snipe sign enforcement. Snipe signs constitute a particular hazard to public safety due to their tendency to create distracting visual clutter and litter; consequently, for the purposes of this Article, snipe signs are regarded as a nuisance and the illegal placement of snipe signs shall be enforced as provided below.

- (1) Confiscation. The planning director or any agent of the director or Town is hereby authorized to remove or confiscate any snipe sign visible from a public roadway that is located within the required setback of the zone lot on which the sign is located or 30 feet from the edge of a road or street, whichever is less, regardless of whether such sign is situated within the right-of-way or beyond it. Confiscated signs shall be stored in a secure facility for not less than seven days, after which they may be disposed of. Within the seven day period after confiscation, any responsible party, as described herein, shall have the right to request a hearing before the planning director to present evidence as to why his/her sign(s) may have been erroneously confiscated. The planning director shall postpone disposal of

the subject confiscated sign(s) and shall schedule the requested hearing within 30 days and shall render a decision with regard to erroneous confiscation within 10 days after the hearing.

(2) Responsible parties. For the purpose of snipe sign enforcement, the following parties shall be regarded as having joint and severable responsibility with regard to illegal placement of snipe signs.

- The record owner of the property on which the snipe sign is located.
- The entity or person identified in the sign.
- The person placing or affixing the sign.

(3) Civil penalties. Civil penalties of \$200 for each snipe sign determined to be in violation of the regulations of this Article may be imposed on any and all responsible parties by the planning director in accordance with the following notice and compliance provisions:

- a. First violation. The planning director shall send a warning/education letter to the responsible party or parties explaining Town regulations pertaining to snipe signs and providing a list of penalties for violations thereof.
- b. Second violation or failure to comply with the warning/education letter. The planning director shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to correct the violation within 48 hours after receipt of the notice of violation.
- c. Failure to comply with the notice of violation. Any responsible party or parties who fail to comply with a notice of violation of any of the provisions of this Article shall be subject to a civil penalty of two hundred dollars (\$200.00) for each snipe sign determined to be in violation of the regulations of this Article. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. The decision of the planning director to assess a civil penalty may be delivered by personal service, by registered mail or certified mail returned receipt requested or by any means authorized under G.S. 1A-1, Rule 4. Civil penalties so imposed may be appealed to the Guilford County Superior Court in accordance with the provisions of section 15(a)(3) above. Failure to appeal and/or pay the civil penalty shall be treated as a debt in accordance with the provisions of section 15(a)(4) above.

**Section 16. Design guidelines.** In addition to the mandatory standards provided in sections 7 and 8 above, the following design guidelines for signs are provided in order to promote more attractive and functional design and placement of signs.

- Freestanding signs. Placement of freestanding signs should take into account existing trees and other site landscaping so as to maintain sign visibility. Landscaping around the base of freestanding signs is strongly encouraged to improve the overall appearance and visibility of these sign types as evidenced in the following example.



**Landscaping Around the Base of a Monument Sign**

- Display windows are intended to offer opportunities to display merchandise or services available on the premises. Careful placement of signs in display windows will not obscure the visibility of merchandise or services. Additionally, display windows should not be “papered-over,” especially in pedestrian areas.
- General design guidelines. The following general guidelines are provided to guide overall sign design in the Town:
  - Use high quality, durable materials.
  - Minimize the need for sign lighting by placing signs where ambient light sources illuminate the sign. Where separate lighting is necessary, external illumination sources are preferred over internal illumination. All electrical conduit and junction boxes should be concealed.



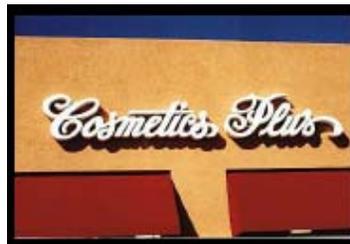
**Externally Illuminated Sign**

- Backlit, individual letter signs (aka, halo lighting) are encouraged where illumination is needed as illustrated below.



**Backlit Individual Letters**

- Avoid elaborate or confusing styles of text as illustrated in the following example.



**Overly-Complicated Style of Text**

- Attempt to use symbols rather than text; for example, this Norwegian pharmacy sign incorporates a symbol as well as text.



**Use of Symbols**

- Use sign styles and designs that complement the architecture of the site where the signs are located. Jamestown is an historic town so using “period” signage is strongly encouraged.



**An Example of a “Period” Pole Sign in a New York City Suburb**

**Section 2: Severability.** That if any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Town Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or

phrases be declared invalid.

**Section 3: Conflict** That all ordinances and clauses in conflict herewith be and are hereby repealed to the extent of such conflict.

**Section 4: Effective date** This Ordinance shall be in full force and effect immediately upon adoption.

Read, approved and adopted this 16th day of September, 2008.

## ARTICLE VIII

### OFF-STREET PARKING

#### 8-1 OFF-STREET PARKING, STACKING, AND LOADING AREAS

##### 8-1.1 General Requirements

- (A) Parking, Stacking and Loading Space Required: When any building or structure is erected, modified, enlarged the requirements of this Section shall be met. For enlargements, modifications, or increase in capacity, the requirements of this Section shall apply only to such enlargements, modifications or increases in capacity.
- (B) Required Number: Minimum numbers of required off-street parking spaces are listed in Table 8-1-1, and minimum numbers of loading spaces are listed in Section 8-1.7. In cases of mixed occupancy, the minimum number of off-street parking and loading spaces shall be the cumulative total of individual use requirements unless otherwise specified.
- (C) Handicapped Spaces: Spaces for the physically handicapped shall be provided as required by the Building Code.
- (D) Minimum Required: In all instances where off-street parking is required, except for residential uses, a minimum of (5) parking spaces shall be provided.
- (E) Reduction of Minimum Requirements: Unless there is a change in use requiring a lesser number of spaces, the number of spaces shall not be reduced below the minimum requirements of this Ordinance except as provided for in Section 8-3.1 (C) (Reduction in Parking Requirements for Pre-Existing Developments).
- (F) Maintenance: All parking, stacking and loading facilities shall be permanently maintained by the owners or occupants as long as the use they serve exists.
- (G) Access: All parking, stacking and loading facilities shall have vehicular access to a public street.

- (H) Use for No Other Purpose: Land used to provide required parking, stacking, and loading shall not be used for any other purposes, except for temporary events. If such land is devoted to any other purpose, the Certificate of Occupancy of the affected principal use shall immediately become void.

#### 8-1.2 Unlisted Uses

For any use not specifically listed in this Section, the parking, stacking and loading requirements shall be those of the most similar use.

#### 8-1.3 Parking Requirements for Change in Use

If a change in use causes an increase in the required number of off-street parking, stacking or loading spaces, such additional spaces shall be provided in accordance with the requirements of this Ordinance; except that if the change in use would require an increase of less than five percent (5%) in the required number of parking spaces or fewer than five (5) spaces, no additional off-street parking shall be required.

#### 8-1.4 Off Street Parking of Over Size Vehicles in Residential Districts

In order to maintain the visual appeal of residential areas, over size vehicles such as RV's (recreational vehicles), water craft and accessories, towing trailers and commercial vehicles larger than one ton shall not be parked or stored on the street or where visible from the street, in yards or driveways in residential districts.

**TABLE 8-1-1  
OFF STREET PARKING REQUIREMENTS**

<b>USE</b>	<b>SPACES REQUIRED</b>
Accessory dwelling units	1/attached unit, 2/detached unit, located on the same zone lot
Airport, bus & train terminals	1/4 seats plus 2/3 employees on largest shift
Ambulance services; fire stations; police stations	1/employee on largest shift
Amusement parks, fairgrounds; skating rinks	1/200 sq. ft. of activity area
Athletic fields	25/field
Auditorium; assembly halls; coliseums; convention centers; stadiums	1/5 persons based on designed capacity of building(s)
Automobile repair or services	3/service bay plus 1/wrecker or service vehicle plus 2/3 employees on largest shift
Banks & financial institution	*1/200 sq ft gross floor area plus stacking for 4 vehicles at each drive-through window or automatic teller machine.
Barber and Beauty shop	3/operator
Bars, dance halls	1/3 persons in designed capacity of building plus 2/3 employees on largest shift
Batting cages, driving ranges; miniature golf; shooting ranges	1/cage, tee, or firing point
Billiard parlors; tennis courts	3/table or court
Boarding and rooming house; bed & breakfast; fraternity or sorority; private dormitory	1/bedroom plus 2/3 employees on largest shift
Bowling centers	4/lane
Car Washes a) Full-service	*Stacking for 30 vehicles or 10/approach lane, whichever is greater plus 3 spaces in the manual drying area plus 2/3 employees on largest shift

**TABLE 8-1-1  
OFF STREET PARKING REQUIREMENTS**

<b>USE</b>	<b>SPACES REQUIRED</b>
b) Self-service	3 stacking spaces/approach lane plus 2 drying spaces/stall
Churches	1/4 seats in main chapel
Clubs, lodges, coin-operated amusement, fitness centers; similar indoor recreation	1/200 sq. ft. of gross floor area
Colleges & universities	7/classroom plus 1/4 beds in main campus dorms plus 1/250 sq. ft. of office space plus 1/5 fixed seats in assembly halls & stadiums
Communication towers; demolition debris landfills; heliports; utility lines or substations	No required parking
Congregate care, family care, or group care facilities	1/4 beds plus 1/employee and visiting specialist plus 1/vehicle used in operation
Convenience stores	*1/200 sq ft gross floor area plus 4 stacking spaces at pump islands
Correctional institutions	1/10 inmates plus 2/3 employees on largest shift plus 1/vehicle used in the operation
Day care, child or adult	1/employee plus 1/10 children
Delivery services	2/3 employees on largest shift plus 1/vehicle used in operation
Department stores; food stores	1/200 sq ft gross floor area
Drive-through (Not otherwise classified)	*Stacking for 4 vehicles at each window lane, or machine in addition to use requirement
Elementary & middle schools; kindergartens	3/4 room used for offices plus 3/classroom
Equestrian facilities	1/2 stalls
Equipment rental and leasing	1/200 sq. ft gross floor area

**TABLE 8-1-1  
OFF STREET PARKING REQUIREMENTS**

<b>USE</b>	<b>SPACES REQUIRED</b>
Flea markets; open air sales, salvage yards	1/acre of site area plus 2/3 employees on largest shift
Fuel oil sales	2/3 employees on largest shift plus 1/vehicle used in operation
Funeral homes or crematoria	1/4 seats in main chapel plus 2/3 employees on the largest shift plus 1/vehicle used in operation
Furniture; floor covering sales	1/1,000 sq ft gross floor area
Furniture market showroom	1/1,000 sq. ft. gross floor area
Go-cart raceways	1/go-cart plus 1/employee on largest shift
Golf courses	4/tee
Government offices; post offices	1/150 sq. ft. of public service area plus 2/3 employees on largest shift
Home occupations	minimum 1 space, maximum 3 space in addition to required resident spaces
Hospitals	1/4 in-patient or out-patient beds plus 2/3 employees on largest shift plus 1/staff doctor
Hotels and motels containing:	
a) 5,000 square feet or less ancillary space, i.e. restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing 3,000 square feet or less	1.1/rental unit
Hotels or motels containing	
b) more than 5,000 square feet of ancillary space, i.e. restaurant, meeting rooms, lounge or lobby or a restaurant/lounge containing over	1.25/rental unit

**TABLE 8-1-1  
OFF STREET PARKING REQUIREMENTS**

<b>USE</b>	<b>SPACES REQUIRED</b>
3,000 square feet	
Kennels or pet grooming	1/300 sq. ft. of sales, grooming or customer waiting area plus 2/3 employees on largest shift
Laboratories	*2/3 employees on largest shift plus 1/250 sq ft of office space
Laundromats, (coin-operated)	1/4 pieces of rental equipment
Laundry & dry cleaning plants or substation	*2/3 employees on largest shift plus 1/vehicle used in operation plus stacking for 4 vehicles/ pickup station
Libraries, museums and art galleries	1/450 sq. ft. gross flood area for public use plus 2/3 employees on largest shift
Manufacturing and Industrial Uses	2/3 employees on largest shift plus 1/200 sq. ft. of retail sales or customer service area plus 1/vehicle used in operation
Medical, dental, or related offices	3/examining room plus 1/employee including doctors
Migrant labor housing	1/4 workers
Motion picture production	1/1000 sq ft gross floor area
Motor vehicle, motorcycle, or recreational vehicle sales or display rental; manufactured home sales	5 spaces plus 1/10,000 sq. ft. of display area plus 2/3 employees on largest shift
Multi-family dwellings (including condominiums)	
0-1 bedroom units	1.50/unit
2 bedroom units	1.75/unit
3+ bedroom units	2.00/unit

**TABLE 8-1-1  
OFF STREET PARKING REQUIREMENTS**

<b>USE</b>	<b>SPACES REQUIRED</b>
Nursing and convalescent homes	1/4 beds plus 1/employee and visiting specialist plus 1/vehicle used in operation
Offices (Not Otherwise Classified)	1/250 sq. ft. gross floor area
Recreation facilities exclusively for residents of a development (pools, tennis courts, clubhouses)	1/25 dwelling units
Recreational vehicle park or campsite	1/campsite, plus parking lot
Repair of bulky items (appliances, furniture, boats)	2/3 employees on largest shift plus 1/vehicle used in operation
Restaurants	*1/4 seats plus 2/3 employees on largest shift and 11 total stacking spaces with minimum 5 spaces at or before ordering station
Retail sales of bulky items (appliances, building materials, etc.)	1/500 sq. ft. gross floor area
Retail sales not otherwise classified	1/200 sq. ft. gross floor area
Self-storage warehouses	5 spaces
Senior high schools	3/room used for offices plus 7/classroom
Service stations, gasoline	*3/service bay plus 1/wrecker or service vehicle plus 2/3 employees on largest shift plus 4 stacking spaces at pump islands
Services and repairs not otherwise classified	1/250 sq ft gross floor area plus 1/vehicle used in operation
Shelter for the homeless	1/resident staff member plus 2/3 non resident staff members and/or volunteers on the largest shift, plus 1/vehicle used in operation
Shopping centers	

**TABLE 8-1-1  
OFF STREET PARKING REQUIREMENTS**

<b>USE</b>	<b>SPACES REQUIRED</b>
a)<250,000 sq. ft.	1/200 sq. ft. gross floor area in main building(s) (excluding theaters) plus parking as required for outparcels or theaters
b)>250,000 sq. ft. gross floor area	1,250 spaces plus 1/225 sq. ft. gross floor area above 250,000 sq. ft.
Single family detached and duplex dwellings (Single family residences must provide on premises parking for all vehicles of residents of the home. Continued on-street parking by residents will be considered a violation of this ordinance.)	2/dwelling unit on the same lot - minimum
Single room occupancy	1/3 rooming units, plus 2/3 employees on largest shift, plus 1/vehicle used in operation
Swimming pools	1/100 sq. ft. of water & deck space
Theaters (indoor)	1/4 seats
Townhouse dwellings	2/dwelling unit, excluding garages & carports
Transportation, warehousing and utility uses (not otherwise classified)	2/3 employees on largest shift plus 1/vehicle used in operation
Truck wash	*3 stacking spaces/stall
Veterinary services (other)	4/doctor plus 1/employee including doctors
Vocational, business, or secretarial schools	1/100 sq. ft. of classroom space plus 1/250 sq. ft of office space
Wholesale uses	2/3 employees on largest shift plus 1/200 sq. ft. of retail sales or customer service area plus 1/vehicle used in operation

\*Note: NCDOT may require additional stacking spaces on state or federal highways.

**TABLE 8-1-2  
Parking Space Geometric Design Standards**

<b>a PARKING ANGLE (degrees)</b>	<b>b STALL WIDTH (* )</b>	<b>c STALL TO CURB (ft.)</b>	<b>d AISLE WIDTH (ft.)</b>	<b>e CURB LENGTH (ft.)</b>	<b>f1</b>	<b>f2</b>
					<b>CENTER-TO-CENTER WIDTH OF TWO ROW BIN WITH ACCESS ROAD BETWEEN (ft.)</b>	
					<b>CURB- TO CURB</b>	<b>OVERLAP C-C</b>
0	8'-6"	8.5	12.0	23.0	29.0	-
	9'-0"	9.0	12.0	23.0	30.0	-
	9'-6"	9.5	12.0	23.0	31.0	-
	10'-0"	10.0	12.0	23.0	32.0	-
30	9'-0"	16.9	11.0	17.0	44.8	37.4
	9'-0"	17.3	11.0	18.0	45.6	37.8
	9'-6"	17.8	11.0	19.0	46.6	38.4
	10'-0"	18.2	11.0	20.0	47.8	38.7
45	9'-0"	19.4	13.5	12.0	52.3	46.3
	9'-0"	19.8	13.0	12.7	52.6	46.2
	9'-6"	20.1	13.0	13.4	53.2	46.5
	10'-0"	20.5	13.0	14.1	54.0	46.9
60	9'-0"	20.7	18.5	9.8	59.9	55.6
	9'-0"	21.0	18.0	10.4	60.0	55.5
	9'-6"	21.2	18.0	11.0	60.4	55.6
	10'-0"	21.2	18.0	11.5	61.0	56.0
90	9'-0"	19.0	25.0	8.5	63.0	-
	9'-0"	19.0	24.0	9.0	62.0	-
	9'-6"	19.0	24.0	9.5	62.0	-
	10'-0"	19.0	24.0	10.0	62.0	-

(\*) 9'-0" Recommended (\*)8'-6" Minimum (\*)7'-6" Compact Cars Only, for non-required spaces only

Stacking Space Geometric Design Standards  
Stacking spaces shall be twelve feet (12) by twenty (20) feet.

(C) Improvements

1) Paving

- a) Required parking spaces, access drives, and loading areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.
- b) Access drives shall be paved and maintained from the curbline to a point at least ten (10) feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved.
- c) Paving shall not be required for:
  - i) Parking facilities used on an irregular basis for churches, private clubs or other similar nonprofit organizations.
  - ii) Parking areas for agricultural uses in the Agricultural (AG) District.
  - iii) Parking areas in the Heavy Industrial (HI) District or manufacturing and industrial uses in the Light Industrial (LI) District provided they are constructed with an all-weather surface.
  - iv) Parking areas for tracked heavy construction equipment, skid-mounted equipment and similar equipment, provided they are constructed with an all-weather surface.
- d) Where parking facilities are paved, curb and gutter or an equivalent drainage system shall be provided along the periphery of the parking lot, except where it is determined by the Enforcement Officer that such system is not practical for storm drainage purposes.
- e) All facilities shall be graded, properly drained, stabilized and maintained to minimize dust and erosion.
- f) All parking spaces and stacking lanes shall be clearly identified with paint lines, bumper guards, curbs, or similar treatment.

- g) All parking spaces shall be provided with wheel guards or curbs located so that no part of the parking vehicle will extend beyond the property line or encroach more than two (2) feet into a required planting area.
- h) Concrete pads for stationary refuse containers shall be provided beneath and in the approach to each container.
- i) Parking lots shall be designed and constructed such that walkways shall maintain a minimum unobstructed width of four (4) feet. (Vehicle encroachment is calculated as two (2) feet beyond curb.)

#### 8-1.5 Location

- (A) Off-site Parking Lots: When required off-street parking is permitted to be located off-site, it shall begin with four hundred (400) feet of the zone lot containing the principal use. Required off-street parking shall not be located across an intervening major or minor thoroughfare.
- (B) Parking in Nonresidential District: Automobile parking for any use may be provided in any nonresidential district.
- (C) Parking in Residential District: Surface parking in a residential district for any use not permitted in that district is allowed under the following conditions:
  - 1) Property on which the parking is located must abut the lot containing the use which the parking serves. The property must be under the same ownership or subject to a parking encumbrance agreement approved by the Enforcement Office. All access to such property shall be through nonresidential zoned property;
  - 2) Parking shall be used only during daylight hours except by Special Use Permit;
  - 3) Parking shall be used by customers, patrons, employees, guests, or residents of the use which the parking serves;
  - 4) No parking shall be located more than one hundred twenty (120) feet into the residential zoning district. Parking may be allowed to extend up to four hundred (400) feet into the residential zoning district with approval of a Special Use Permit;

- 5) No parking shall be permitted closer than one hundred fifty (150) feet to any public street right-of-way upon which the principal use would not be permitted driveway access; and
- 6) Long-term or dead storage, loading, sales, repair work or servicing of vehicles is prohibited.
- 7) All new construction in residential areas must have paved parking.

#### 8-1.6 Combined Parking

- (A) Separate Uses: The required parking for separate or mixed uses may be combined in one facility.
- (B) Shared Parking: A maximum of fifty percent (50%) of the parking spaces required for a church, theater, auditorium or assembly hall or other similar use may also serve as required spaces for another use located on the same zone lot. Shared spaces may also be located off-site as allowed in Section 5-2.5(A)(Off-site Parking Lots). In either case the Enforcement Officer must determine that the various activities will have peak parking demands at different periods of the day or week. Otherwise, no off-street parking required for one (1) building or use shall be applied toward the requirements of any other building or use.
- (C) Reassignment: Required off-street parking spaces shall not be leased or otherwise assigned to another use except as provided in Section 5-2.6(B) (Shared Parking).

#### 8-1.7 Loading Areas

- (A) Location: Off-street loading areas shall be located on the same zone lot as the use they serve.
- (B) Design Standards
  - 1) Minimum Number of Loading Spaces Required:
    - a) Retail operations, including restaurant and dining facilities within hotels and office buildings:

Gross Floor Area (SQ FT)	Number of Spaces
0 - 20,000	0
20,001 - 40,000	1
40,001 - 75,000	2
75,001 - 150,000	3
150,001 - 250,000	4
For each additional 250,000 square feet or fraction thereof	1

b) Office buildings and hotels:

Gross Floor Area (SQ. FT)	Number of Spaces
0 - 100,000	0
For each additional 100,000 square feet or fraction thereof	1

c) Industrial and wholesale operations:

Gross Floor Area (ft.2)	Number of Spaces
0 - 10,000	0
10,000 - 40,000	1
40,001 - 100,000	2
100,001 - 160,000	3
160,001 - 240,000	4
240,001 - 320,000	5
320,001 - 400,000	6
For each additional 90,000 square feet or fraction thereof	1

- 2) Each loading area shall be at least twelve (12) feet wide, sixty-five (65) feet long and fourteen (14) feet in clearance.
- 3) All off-street loading areas shall be arranged and marked to provide for orderly and safe unloading and loading, and shall not hinder the free movement of vehicles and pedestrians. All loading and unloading maneuvers shall take place on private property. No backing in from street or maneuvering on right-of-way shall be permitted.

## ARTICLE IX

### SUBDIVISIONS: PROCEDURES AND STANDARDS

#### 9-1 APPLICATION OF ARTICLE

9-1.1 This article is applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale, or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets.

9-1.2 No lot or plat, except as provided by Section 9-2 below, within the Town of Jamestown's subdivision jurisdiction shall be transferred, nor shall a plat be recorded by the Register of Deeds until a final plat of the subdivision has been submitted to and approved by the Planning Board unless it is a minor subdivision in which case approval by the Town Manager is required. Such approval shall be indicated on the face of the plat and signed by the appropriate Town official.(See Appendix D for certification forms).

9-1.3 The Register of Deeds shall not file a plat or record of subdivision of land within the Town's jurisdiction nor shall the Clerk of Superior Court order such recording without the required certification and signature of the Town Manager.

9-1.4 Technical Review Committee

A) Authority.

A planning agency known as the Technical Review Committee (TRC) is hereby established pursuant to NCGS 160A-361.

B) Membership

The TRC shall be composed of the following staff members, their designee or alternate:

- 1) Planning Director
- 2) Public Services Director
- 3) Town Manager
- 4) Other agencies as appropriate

The Planning Director shall serve as TRC Chair. The Committee shall appoint a secretary to record minutes of each meeting.

C) Powers and Duties

- 1) To provide for continuing, coordinated and comprehensive review of certain technical aspects of development proposals and of the Ordinance in general;
- 2) To review technical aspects of development occurring within the Town as specified by this Ordinance;
- 3) To review and approve new or revised plans including: subdivisions, clustered or attached developments; planned unit developments; office, commercial and industrial developments; and any other proposals for development by this Ordinance.
- 4) To approve modifications where authorized by this Ordinance;
- 5) To recommend to the Planning Board the closing of streets, alleys, easements, and others rights-of-way;
- 6) To perform any other related duties that the Town Council may direct; and
- 7) To exercise other powers and authority provided to it by the Town Council, this Ordinance, or state law.

## **9-2 EXEMPTIONS**

By state law some subdivisions are exempted from local subdivision regulation and are exempt from the subdivision review and approval process. Lots falling into one of these exceptions must still meet the Town's development and zoning standards. These include:

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

Plats not subject to the provisions of this Ordinance may be recorded provided the owner desiring to record such plats shall obtain a Certificate of Exemption (Certification #1, Appendix D) from the Town Manager and shall present such certificate to the Register of

Deeds as proof that one of the conditions of exception noted above is present.

### **9-3 MAJOR SUBDIVISIONS - APPROVAL PROCESS**

- 9-3.1 Definition: Any of the following is a major subdivision:  
a non-residential subdivision;  
a residential subdivision involving more than four (4) lots;  
a residential subdivision requiring new public street(s) for access to interior property;  
a residential subdivision requiring extension of public sewer or water line,  
a residential subdivision requiring a waiver or variance from any requirement of this Ordinance.
- 9-3.2 Sketch Plan: For major subdivisions, it is recommended that the developer prepare a sketch plan to discuss with the Town Manager. The plan should show general plans for the subdivision; no specific size or scale is required. The Town Manager and Enforcement Officer will review the sketch plan and recommend changes, if necessary, before development of a preliminary plat.
- 9-3.3 Preliminary Plat
- a) Submission Requirements: The subdivider shall submit two copies of the preliminary plat at least seven days before the Planning Board meeting at which it is to be considered. The developer shall provide written information as to the type of development, time-stages of development, and estimated time of completion for development. Specifications for preliminary plats are contained in Appendix A.
  - b) Notifications of Adjoining Property Owners; County Health Department
    - (1) The Town Clerk shall notify in writing all adjoining property owners. Such notice shall state the date of the Planning Board meeting when the preliminary plat will be considered and shall be mailed in sufficient time to provide adequate notice.
    - (2) Where municipal water and/or sewer are not available, the Enforcement Officer shall send a copy of the plat to the County Health Department for review.
  - c) Planning Board Action: Following a review of the preliminary plat and other submitted material, the Planning Board shall act on the plat as submitted or modified. If approved, the Planning Board shall record in its minutes the conditions of approval, if any; or if disapproved, shall record in its minutes its disapproval and the reasons for disapproval.

#### 9-3.4 Final Plat

When the preliminary plat has been approved by the Planning Board, the subdivider may proceed with preparation of the final plat and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time.

- a) **Submission Requirements:** the subdivider shall submit two copies of the final subdivision plat at least seven days before the Planning Board meeting at which it is to be reviewed to assure that it conforms to the preliminary plat and other requirements of this Ordinance. The Planning Board is authorized to approve the Final Plat and to grant approval for recording and acceptance of dedications. (Certification #7, Appendix D)
- b) **Improvements and Certificates.** No final plat shall be approved by the Planning Board until all improvements are installed or their execution guaranteed as permitted by this Ordinance (Certification #6, Appendix D) and all certificates required for final plats by this Ordinance or approvals by state law have been properly completed and signed.

9-3.5 **Recording:** Approval of the final plat by the Planning Board shall be on condition that such plat be recorded in the Office of Register of Deeds within 60 days after approval.

9-3.6 **Pre-sale Contracts –** The provisions of this section shall not prohibit any owners or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision ordinance or recorded with the register of deeds, provided the contract does all of the following:

- (1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owners to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
- (2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
- (3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the

delivery of a copy of the final recorded plat.

- (4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register or deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction or residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds. (G. S. 160A-375(b))

#### **9-4 MINOR SUBDIVISIONS - APPROVAL PROCESS**

- 9-4.1 Definition. A minor subdivision is a residential subdivision that:
- involves four (4) or fewer lots fronting on an existing approved public street(s), and
  - does not require any new public street(s) for access to interior property, and
  - does not require extension of public sewage or water line, and
  - does not require a waiver or variance from any requirement of this Ordinance.

#### 9-4.2 Application Process.

- a) The developer of a minor subdivision may apply for final approval of a minor subdivision by submitting to the Town Manager two copies of a plat, prepared according to specifications in Appendix C, accompanied by a certificate of survey and accuracy as specified in Appendix D by a registered land surveyor or professional engineer licensed and registered to practice in North Carolina.
- b) The Town Manager and staff shall review each minor subdivision and shall find that it either does or does not meet the requirements of this ordinance. Based on these findings, the Town Manager shall approve or disapprove the proposed minor subdivision.
- c) Certificate of Approval for Recording. If the proposed minor subdivision is approved, approval shall be shown by a Certificate of Approval for recording, (Certificate #2, Appendix D).

## **9-5 RECORDING FINAL PLATS**

After approval, a final plat must be recorded in the office of the Register of Deeds within 60 days. It is the responsibility of the developer to record the final plat. If the final plat or all or part of the area shown on the approved preliminary plat is not recorded in the Office of the Register of Deeds within 18 months of approval of the preliminary plat, or if there is a lapse of more than 18 months between the recordings of sections, the preliminary plat must be resubmitted to the Planning Board.

## **9-6 PLAT APPROVAL NOT TO CONSTITUTE ACCEPTANCE OF STREET OR PUBLIC UTILITY**

The approval of a plat constitutes dedication and acceptance by the Town of Jamestown and the public of the right-of-way of each public street and easement shown on the plat. The approval of a plat does not constitute acceptance for maintenance of other improvements in the right-of-way such as street paving, utility lines, drainage facilities or sidewalks. Such improvements may be accepted by the Town Council when specifications established by the Town have been met.

## **9-7 ENFORCEMENT**

In addition to being subject to the provisions for enforcement in Article XV of the Ordinance: Any person who, being the owner or agent of the owner or any land located within the Town's jurisdiction, subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the courts shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits required pursuant to G. S. 160A-417 may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act of conduct. (G. SD. 160A-375 (a))

## **9-8 VARIANCES DUE TO SITE CONDITIONS**

- a) Where the subdivider can show that a provision of this Ordinance would cause unnecessary hardship, if strictly adhered to due to topographical or other conditions peculiar to the site, the Board of Adjustment may approve a variance when it finds that such variance may be granted without destroying the intent of this Ordinance.

- b) In granting the variance, the Board of Adjustment shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Board of Adjustment finds:
- (1) that there are special circumstances or conditions affecting the property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land; and
  - (2) that the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and
  - (3) that the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the Town; and
  - (4) that granting the variance will not be a detriment to public health, safety and welfare or injure other property in the area in which the property is located.

Any variance thus granted by the Board of Adjustment shall be recorded in the minutes of the meeting at which the variance is granted along with the reasons for the variance.

## **9-9 GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN**

### **9-9.1 General Requirements and Compliance with Adopted Plans.**

- a) Land shall be subdivided in accordance with good land planning practices, including adequate consideration of the natural topography and drainage features and the type of development proposed.
- b) Land shall also be subdivided in compliance with the Town of Jamestown Zoning provisions(Article V) and other adopted plans and ordinances. In addition, where land lies within the area of a public water supply reservoir, a proposed highway project or other public project designated by a governmental authority, subdividers shall give notice on the face of the final subdivision plat that land within the subdivision lies within a designated area for public development and may be the subject of future public purchase. (See Certificate #4, Appendix D for Certificate of Disclosure for Public Purchase.)

### **9-9.2 Road Frontage**

All lots in a subdivision must front on a public paved road. There shall be no reserve

strips controlling access to streets except where cause can be shown that such control would best serve the purpose of this Ordinance.

### 9-9.3 Streets and Roads

- a) The design of all public streets and roads within the Town of Jamestown shall conform to standards set forth in the Town's standards for street and road design, as modified by Section 9-10 of this Article, "Improvements Required Before Approval of Final Plats."  
(The Town's standards meet or exceed the standards set forth in the most recent edition of "Minimum Construction Standards for Subdivision Roads" published by the N.C. Department of Transportation, Division of Highways.) Where permitted, private streets must also be constructed to the Town of Jamestown design standards.
- b) Disclosure and approval by the Division of Highways shall comply with G.S. 136-102.6.
- c) All streets shall be named, and signs conforming to Town standards shall be posted at intersections showing the name of every street. New streets which are obviously in alignment with others already existing and named shall bear the names of the existing streets. In no case shall the names of new streets phonetically resemble existing street names.
- d) Subdivision Names. All subdivisions requiring the development of new public roads must be named. The minimum identification requirement is that a sign clearly showing the name of the subdivision be posted at the main entrance to the subdivision.
- e) Continuation of Adjoining Street System. The proposed street Layout shall be coordinated with the street system of the surrounding area. Where possible, existing principle streets shall be extended.
- f) Cul-de-Sacs. Cul-de-sacs or other dead end streets designed to be permanently closed shall not exceed 800 feet in length depending on topography and shall be provided at the closed end with a right-of-way radius of 80 feet and a turn-around having a 40 foot radius. The Planning Board may grant exceptions to these requirements on a case by case basis, with the reasons stated in writing.

### 9-9.4 Blocks

Blocks shall be laid out taking into consideration traffic circulation patterns and contemplated use.

- a) Length. Blocks shall be not less than 400 nor more than 1,600 feet in length,

except as considered necessary to secure efficient use of land or desired features of street pattern by the Planning Board. Where deemed necessary by the Planning Board, a pedestrian crosswalk of at least eight feet in width shall be provided.

- b) Widths. Blocks shall be wide enough to allow two tiers of lots of minimum depth, (reference Table of Dimensional Requirements, Article V Zoning), except where fronting on major streets are prevented by topographic conditions, in which case a single tier of lots may be approved.

#### 9-9.5 Lots

Lots shall be designed in shape, size and location with due regard to topographic conditions, features of the surrounding area, contemplated use, and official plans and ordinances.

- a) Marginal Land. Land subject to flooding or land which may aggravate the flood hazard or increase danger to life or property if developed, and land uninhabitable for other reasons, shall not be considered plated for occupancy and shall not be used in determining the minimum lot area or maximum lot depth.
- b) Frontage on a Public Street. Every lot shall front or abut on a public street.
- c) Double and Reverse Frontage. Double frontage and reverse frontage lots shall be avoided, except where required in unusual circumstances specifically approved by the Planning Board.
- d) Side Lot Lines. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
- e) Area and Dimensions of Lots. All lots shall conform to the minimal dimensional requirements for each zoning district as prescribed in the Table of Dimensional Requirements of Article V, Zoning of this Ordinance.

#### 9-9.6 Easements

To provide for public service poles, wires, conduits, storm or sanitary sewers, storm drainage channels, surface overflow, gas, water or heat mains, or other utilities, easements when and where needed shall be required and shall be at least 10 feet wide along all rear lot lines, (20 ft. total width), and 10 feet wide along all side lot lines (20 ft. total width), or across lots where necessary.

#### 9-9.7 Fire Hydrants

The distance between fire hydrants shall be no more than 500 feet.

#### 9-9.8 Sites for Public Facilities and Open Space Areas

Where a school or other public site is shown on an approved plan recorded with the Register of Deeds, the site shall either be dedicated for public purpose at the option of the property owner or reserved for acquisition by the Guilford County School Board for a period not exceeding 18 months from the date of approval of the preliminary subdivision plan.

Land designated as public open space on a plat shall be considered to be offered for dedication until the Town Council has by express action accepted such dedication. Until such dedication has been accepted, land so offered may be used for open space purposes by its owner or by an association representing owners of other lots within the plat.

#### 9-9.9 Water Courses and Flood Plains

If there is a water course or dry branch running through or within 150 feet of the proposed subdivision, the prospective subdivider shall furnish evidence that residential lots within the subdivision will not be flooded. Lots located in flood plains shall not be sold for residential purposes.

#### 9-9.10 Buffer Strips - Streams

- a) A subdivision including within its boundaries a perennial stream shall provide for a 50 foot buffer of vegetation on both sides of the stream to retard rapid water runoff and soil erosion. Perennial streams are identified as the solid blue lines on United States Geological Survey Maps.
- b) Streets, roadways, railroads, and driveways are permitted in the stream buffer, but shall be constructed to cross the buffer as near to perpendicular as possible. Utility lines, greenways and greenway type recreation facilities are permitted within the buffer but shall be designed to have minimal impact. If the vegetative cover must be removed or disturbed, it shall be restored as soon as possible.
- c) The 50 foot buffer shall be measured on a horizontal plane from the bank of the stream. The buffer zone may be included in calculating the lot size.

#### 9-9.11 Planned Unit Developments and Other Developments Under Unified Control

- a) The requirements of this Ordinance applicable to conventional subdivisions may be modified in the case of planned unit developments (PUDs), group developments, multifamily developments and shopping centers. Requirements and the review process for these developments under unified control are specified in the Special Use permit provisions of Article V, Zoning. The Special Use Permit procedure may be combined with the

preliminary plat process required by this ordinance.

- b) A developer planning any of these types of development may therefore prepare all information and plans as required by Article V, Zoning and present two copies of the information to the Town Manager at least two weeks before the Planning Board meeting at which the Special Use request is to be reviewed.
- c) When improvements have been completed in conformance with this ordinance and the Special Use requirements, the developer shall submit two copies of the final plat and any deed restrictions to the Planning Board for review and approval of recordation of a final plat as specified in Subsection 9-3.3 of this Article. All applicable certifications shall be required.

## **9-10 IMPROVEMENTS REQUIRED BEFORE APPROVAL OF FINAL PLATS**

### 9-10.1 Installation of Improvements

No subdivision plats shall be granted final approval until the required improvements have been made in accordance with the provisions of this ordinance or their installation guaranteed as set forth in Section 9-10.2 below.

### 9-10.2 Guarantees of Improvements

- a) Grading and base construction for streets must be installed before submission of the plat for final approval. Where other required improvements have not been completed, the approval of the plat shall be subject to the subdivider's guaranteeing the installation of the improvements by one of the following methods:
  - 1) Performance or surety bond in an amount determined by the Town executed by a company duly licensed to do business in the State of North Carolina.
  - 2) Depositing or placing in escrow a certified check or cash in an amount determined by the Town. Portions of the security deposit may be released as work progresses.
  - 3) Entering into an agreement with the Town guaranteeing the completion of the required work, the agreement to be binding on subsequent purchasers of the property and to be recorded at the option of the Town. The agreement shall provide that satisfactory security be furnished guaranteeing the completion of the necessary improvements before each section is developed.
- b) **Default:** Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as specified in the bond or escrow agreement, the surety or the financial institution holding the escrow account shall, if requested by the Town pay all or any portion of the bond or escrow fund to the Town up to the amount needed to complete the improvements based on an estimate by the Town.

The Town at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The Town shall return to the developer any funds not spent in completing the improvements. Default on a project does not release the developer from responsibility for the completion of the improvements. The Town may release a portion or all of any security posted as the improvements are completed and approved by the Town.

### 9-10.3 Required Improvements

The following improvement requirements shall be fulfilled or guaranteed before a final plat shall be approved by the Town Council for recording:

- a) Watershed Control Ponds and Soil and Erosion Control Devices. Any approved watershed control ponds and soil and erosion control devices may be installed before approval of street and utility construction.
- b) New Public Streets. The location and design of streets shall be in conformance with applicable street plans. Where conditions warrant, right-of-way widths and pavement widths in excess of the minimum street standards may be required.

Public Street Design Criteria: Minimum street design standards for the street classifications are noted in Table 9-10.1 following. Streets shall be designed in accordance with the Town’s Street Design Standards which meet or exceed the NCDOT Subdivision Roads: Minimum Construction Standards. Streets shall be cleared and graded to the full width of the right-of-way and as required for stable side slopes. The Town Manager shall approve finished grade, cross sections and profiles.

<b>TABLE 9-10-1 MINIMUM PUBLIC STREET DESIGN STANDARDS-URBAN AREA</b>				
<b>Classification</b>	<b>Minimum Right-of-way (ft.)</b>	<b>Minimum Pavement Width<sup>a</sup> (ft.)</b>	<b>Stopping Sight Distance (ft.)</b>	<b>Centerline Radius (min.) 4% Super (ft.)</b>
Local Residential with curb and gutter	50	30	200	300
Residential Cul-de-sac with curb and gutter	60	40	200	300
Local Industrial	50	30	325	575
Industrial Cul-de-sac	60	40	325	575
Recommended design standards - exceptions may be approved due to special physical				

constraints on an individual basis by designated local staff.

<sup>a</sup> Dimension in this column are from face of curb to face of curb, except ribbon pavement.

#### Required Improvements (cont'd)

- c) Utilities. Water mains and sanitary sewers shall be installed by the subdivider. If such installation is made, the subdivider shall comply with all rules, regulations and construction specifications of the Town.

Electrical utilities and communication lines shall be installed underground with arrangements made by the subdivider with the utility company or cooperative authorized to serve the area of the subdivision. Installation shall be in keeping with the latest accepted design standards and procedures along lot lines.

Storm and sanitary sewer systems shall be designed by a registered engineer and shall be approved by the Town Town Manager. Water mains shall be installed in accordance with Town specifications and standards.

Utilities which encroach upon the state highway system shall require an encroachment contract executed by the person or firm responsible for maintenance.

- d) Curb and Gutter: Curb and gutter shall be required in all new urban subdivisions and shall be constructed in conformance with the Town's design criteria. Curb and gutter in rural subdivisions are not required unless public water and/or sewer is provided or required. This requirement does not apply to subdivisions existing at the time of the readoption of this ordinance
- f) Driveways. Construction Requirements - The applicant shall follow construction standards adopted by the Town and shall, before the approval of driveway permits required by this section, examine the proposed driveway locations and determine that the driveway location does not constitute a traffic hazard.
- g) Monuments. Permanent concrete monuments four (4) inches in diameter or square, three feet long, shall be placed at not less than two (2) corners of the subdivision, provided that additional monuments shall be placed where necessary so that no point within the subdivision lies more than five hundred (500) feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross, metal pin, or metal plate to identify properly the location of the point. All monuments shall be shown on the final plat.
- h) Erosion Control. The subdivider shall mulch, seed, sod or otherwise protect all grading, excavations, open cuts, side slopes and other land surface disturbances. It is also the subdivider's responsibility to comply with the North Carolina Sedimentation and Pollution Control Act. The Town staff will advise the developer to contact Guilford

County for technical assistance on the Sedimentation and Pollution Control Act.

- i) Removal of Rubbish. The subdivider shall remove all cut or fallen trees, stumps, or rubbish from the subdivision.

#### 9-10.4 Street Construction

Property owners' participation. The Town of Jamestown will not accept or adopt any new street, nor will it pave or assist in the construction or pavement of any new street other than streets shown on the map of the streets of the Town of Jamestown known as the Powell Bill Map except upon the payment of the full cost and expense of construction or of construction and pavement, as the case may be, and such cost and expense must be actually paid or amply secured (see Subsection 9-10. 2 above) before the Town will take any action.

## SUBDIVISION APPENDIX A

### Specifications for Preliminary Plat, Major Subdivision

The preliminary plat shall be submitted in two copies on 18" x 24" sheets drawn to a scale of not less than 200 feet to the inch and shall contain the following information:

- I. Title Data
  - A. Date of submission
  - B. Name and address of owner(s)
  - C. Name of subdivision (Subdivision names shall not duplicate or approximate, phonetically, existing subdivision names.)
  - D. Location designation (township, county, state), and location map showing the property to be subdivided and surrounding area.
  - E. Name and address of designer
  - F. Scale in figures and bar graph
  - G. North arrow
  - H. "Preliminary Plan" notation
  - I. Proposed use of property to be subdivided
  
- II. Existing Conditions (on property to be subdivided and within 500 feet of property being subdivided)
  - A. Street rights-of-way, width of pavement, and names
  - B. Location and size of community utilities including sewer, water, electricity, and telephone facilities.
  - C. Location and size of bridges, culverts, and other storm drainage facilities.
  - D. Location, width, and purpose of all easements
  - E. Bearings and distances of property boundary
  - F. Surrounding property lines, property owners, and subdivisions
  - G. Boundaries and identification of political subdivisions
  - H. Boundaries and identification of zoning districts
  - I. Buildings
  - J. Topography including water courses, wooded areas, and contours at five feet (5') intervals or less.
  - K. Location, extent, and identification of floodplain, watershed, water critical area or other restricted land.
  - L. Driveways and road (in use or abandoned) leading to other property.
  - M. Other natural or manmade conditions affecting site development.
  
- III. Proposed Plans
  - A. Street alignments, rights-of-way, names
  - B. Community utilities, including sewer, water, electricity, gas, and telephone facilities, with connections to existing system shown.

- C. Location and size of bridges, culverts, and other storms drainage facilities.
- D. Location, width, and purpose of all easements
- E. Lines, numbers, and approximate dimensions of lots and blocks
- F. Minimum building setback lines
- G. Public use sites
- H. Site data:
  - 1. Acreage of property to be subdivided
  - 2. Acreage of public use sites
  - 3. Number of lots
  - 4. Average lot size
  - 5. Square feet of each irregularly shaped lot
  - 6. Lineal feet of streets

Where the preliminary plat submitted covers only a part of the subdivider's tract, a sketch shall be submitted showing the prospective future street system and other features for ultimate development of the entire tract.

## SUBDIVISION APPENDIX B

### Specifications for Final Plat, Major Subdivision

The final plat, two copies and one mylar shall be submitted on 18" x 24" sheets to a scale of not less than 200 feet to the inch. If more than two sheets are required an index sheet of the same dimensions shall be provided. The final plat shall contain the following information:

- I. Title Data
  - A. Date of submission
  - B. Name and address of owner(s)
  - C. Name of subdivision
  - D. Location designation (township, county, school district, state)
  - E. Name and address of engineer or surveyor
  - F. Scale in figures and bar graph
  - G. North arrow
  - H. "Final Plat" notation
  - I. Certificates (Reference Appendix F)
  
- II. Surrounding Properties Information
  - A. Property lines, property owners, and subdivisions
  - B. Rights-of-way, easements, reservations, and public use sites located and identified within 500 feet of property being subdivided
  
- III. Property Being Subdivided
  - A. Street rights-of-way, widths of pavements, and names of streets as posted on site
  - B. Property boundary lines including bearings and distances as determined by survey
  - C. Block and lot line with dimensions, block and lot numbers
  - D. Minimum building setback lines
  - E. Identification and dimensions of easements, reservations and dedicated area
  - F. Location, extent, and identification of flood plain, watershed, water critical area or other restricted land
  - G. Sufficient data of monuments and markers to determine readily and reproduce on the ground, the location, bearing and length of all the above items

## SUBDIVISION APPENDIX C

### **Specifications for Minor Subdivision Plat**

Two copies of a minor subdivision plat shall be submitted on 18" x 24" sheets to a scale of not less than 200 feet to the inch. The following information shall be included:

- A. Date of submission
- B. Name and address of owners
- C. Location designation (township, county, zoning district)
- D. Name and address of surveyor
- E. Scale
- F. North arrow
- G. Property lines, property owners and subdivisions of surrounding property owners
- H. Surveyed lots with all dimensions, easements, reservations, etc.
- I. Sufficient data of monuments and markers to determine readily and reproduce on the ground the location, bearing and length of all above items.



**4. Certificate of Disclosure of Public Purchase**

I hereby certify that land identified within the subdivision plat shown hereon lies within the area of a designated proposed (highway, public water supply, other applicable project) and may be subject to public purchase at a future date.

\_\_\_\_\_  
Authorized Town Official

\_\_\_\_\_  
Date

**5. Certificate of Accuracy**

I, \_\_\_\_\_ certify that under my direction and supervision this Map was drawn from an actual field land survey; that the Error of Closure is calculated by latitudes and departures is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information in book \_\_\_\_\_, page \_\_\_\_\_; that this Map was prepared in accordance with G.S. 47-30 as amended.

WITNESS my hand and Seal this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_.

Signature \_\_\_\_\_  
Engineer or Land Surveyor

Registration Number \_\_\_\_\_

**6. Certificate of Approval of Design and Installation of Streets, Utilities and Other Required Improvements**

I hereby certify that all streets, utilities and other required improvements in the \_\_\_\_\_ Subdivision have been installed in an acceptable manner according to the Town of Jamestown specifications, or that guarantee of the installation of the required improvements in an amount and manner satisfactory to the Town has been received, and that the filing fee for this plat has been paid.

\_\_\_\_\_  
Authorized Town Official

\_\_\_\_\_  
Date

**7. Certificate of Approval, Major Subdivision**

I hereby certify that this subdivision plat has been found to comply with the Subdivision Regulations for the Town of Jamestown, North Carolina and that all procedures for approval of major subdivisions have been complied with. I further certify that on \_\_\_\_\_ the Planning Board approved this plat for recording and accepted the dedication of streets, easements, rights-of-way and any other sites shown hereon for public purposes.

\_\_\_\_\_  
Town Manager

\_\_\_\_\_  
Date

**AN ORDINANCE AMENDING THE TOWN OF JAMESTOWN DEVELOPMENT ORDINANCE TO MEET THE REQUIREMENTS OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PHASE II AND TO OTHERWISE REVISE VARIOUS SECTIONS OF THE DEVELOPMENT ORDINANCE RELATED TO WATERSHED REGULATIONS, FINANCIAL SURETIES AND THEIR ADMINISTRATION**

**ARTICLE X**

**WATERSHED PROTECTION ORDINANCE**

**10-1 WATERSHED MANAGEMENT AND PROTECTION PURPOSES**

The Watershed Protection regulations, adopted and prescribed in this Ordinance, are found by the Town Council to be necessary and appropriate to:

- (1) Comply with all applicable Federal and State laws governing the protection of water supply watersheds and the provision of stormwater management to protect, maintain and enhance the public health, safety, environment and general welfare.
- (2) Establish minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point and point source pollution associated with new development and redevelopment.
- (3) Protect those portions of designated water supply watersheds which lie closest to existing and proposed water supply reservoirs from activities which could degrade water quality in the reservoirs;
- (4) Reduce the volume of nutrients and other chemicals which could enter the water supply by reducing the rate of runoff which any given development will generate;
- (5) Minimize land disturbance to reduce the amount of sediment washing into streams and lakes and to enhance the infiltration of runoff into soils, thus alleviating the sedimentation of water supply lakes which reduces their storage capacity, shortens their useful life, and makes them less able to withstand drought;
- (6) Reduce the probability of the release of harmful chemicals into water supply reservoirs, either through natural catastrophe or human error; and
- (7) Provide for natural and engineered methods for managing the stormwater which flushes contaminants off of built-upon areas in the water supply watersheds and which may reach water supply reservoirs unless controlled;
- (8) Minimize pollution entering municipal reservoirs to assure the public health and the

public provision of a continued supply of safe drinking water thereby protecting the water quality of these water supply reservoirs and promoting publicity; and

(9) Encourage a low intensity of land development in the most sensitive portions of the water supply watersheds (Watershed Critical Areas) thereby reducing the risks to water quality posed by higher density residential and nonresidential uses.

## **HOW TO USE THIS ARTICLE**

The following general steps should be followed to determine the applicability of these watershed protection requirements to a particular property: 1) identify the location of the property on the Watershed Map; 2) determine any exemptions (see Section 10-4) identify any fragile areas or development limitations (i.e. surface waters, steep slopes, etc.) on the property; 3) classify the development as high or low density; 4) based on the development density or built-upon area, determine the method of stormwater control required; and 5) adhere to the requirements of the High Point Stormwater Best Management Practices Design Manual.

## **10-2 AUTHORITY AND ENACTMENT**

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

## **10-3 JURISDICTION**

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

## **10-4 APPICABILITY**

### **10-4.1 Coverage**

All new development in a Watershed Critical Area (WCA) Overlay District or General Watershed Area (GWA) Overlay District, including grading, paving, gravel placement, and construction of buildings and other structures, except for the exemptions listed in Section 10-4.2 below, shall comply with the procedural, design, and construction requirements of this Article.

#### 10-4.2 Exemptions to Applicability

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

- (1) Lots of record of less than twenty thousand (20,000) square feet existing on October 1, 1993, in all watersheds except Randleman Lake Watershed, where the effective date is January 1, 2000.
- (2) The construction or modification of one single-family dwelling and its accessory structures on a zone lot provided it is located outside Watershed Critical Area (WCA) Tier 1 within the City Lake and Oakdale Reservoir Watersheds or outside Watershed Critical Area (WCA) Tiers 1 and 2 within the Randleman Lake Watershed.
- (3) The construction of one two-family dwelling and its accessory structures(s) on a zone lot in the City Lake and Oakdale Reservoir Watersheds provided a sedimentation and erosion control plan is not required and provided it is located outside Watershed Critical Area (WCA) Tiers 1 and 2.
- (4) Replacement of existing built-upon area (BUA) on a lot developed with a like or lesser amount of new BUA, at the same location, or at a different location on the same zone lot if the Enforcement Officer has determined that equal or better water quality will result.
- (5) Existing development as defined by Section 10-19 (Definitions) of this Ordinance.

#### 10-4.3 Exemption to the Plan Submission Requirements of this Article

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

#### 10-4.4 Modifications, Variances and Appeals

Requests for modifications, variances or appeals to the provisions of this Article shall be in compliance with Sections 10-17 (Modifications) of this Ordinance.

### **10-5 OTHER LAWS, AGREEMENTS AND PLAN COMPLIANCE**

#### 10-5.1 Effect on Other Laws, Agreements

(A) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the Town at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.

(B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

#### 10-5.2 Compliance With Previously Approved Plans

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

### **10-6 ACTIVITIES REGULATED BY OTHER GOVERNMENTAL AGENCIES**

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

(4) Hazardous Materials:

- a. The Town of Jamestown Fire Chief and the Guilford County Local Emergency Planning Committee are the designated management agencies responsible for implementing the provisions of this Subsection pertaining hazardous materials.
- b. An inventory of all hazardous materials used and stored in the watershed shall be maintained. A spill/failure containment plan and appropriate safeguards against contamination are required. Waste minimization and appropriate recycling of materials is encourage.
- c. Properties in the WCA or GWA shall comply with the requirements of the following hazardous substances regulations if materials listed in the Superfund Amendments and Reauthorization Act (SARA) Section 302 Extremely Hazardous Substances (42 USC 11000 et seq.), or Section 311 of the Clean Water Act (CWA), as amended (CWA) (33 USC 1251 et seq; oil and hazardous substances) are either stored or used on the site.

## **10-7 INCORPORATION OF WATER SUPPLY WATERSHED AND ZONING MAPS**

### 10-7.1 Incorporation of Water Supply Watershed Map

This Section incorporates by reference the Town of Jamestown Water Supply Watershed Map, dated October 1, 1993 and any amendments thereto, showing Watershed Critical Areas, General Watershed Areas, within the Town's existing and future jurisdiction (according to existing annexation agreements) of the City Lake Randleman Lake, and Oakdale (Jamestown) watersheds, which are classified as WS-IV Critical Water Supply Watersheds by the **North Carolina Division of Water (DWQ)**.

### 10-7.2 Incorporation of WCA and GWA Overlay Districts on Official Zoning Map

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

## **10-8 WATER SUPPLY OVERLAY DISTRICT DESCRIPTIONS AND BOUNDARIES**

- Two overlay districts cover water supply watersheds. They are the Watershed Critical Area Overlay District and the General Watershed Area Overlay District.

### **10-8.1 GENERAL WATERSHED AREA OVERLAY DISTRICT**

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

### **10-8.2 WATERSHED CRITICAL AREA OVERLAY DISTRICT**

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

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

an area bounded by Tier 2 and a line parallel to and 3,000 feet measured horizontally from the normal pool elevation, or to the boundary of the WCA, whichever comes first, except that Tier 3 along Richland Creek consists of those lands lying within an area bounded by Tier 2 and a line parallel to and 2,640 feet (1/2 mile) measured horizontally from the normal pool elevation or to the boundary of the WCA, whichever comes first.

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

## **10-9 WATERSHED CRITICAL AREA OVERLAY DISTRICT (WCA) STANDARDS AND RESTRICTIONS**

### **10-9.1 PROTECTION OF FRAGILE AREAS IN A WATERSHED CRITICAL AREA OVERLAY DISTRICT**

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

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

a. Dedication of these areas to the Town as drainageway and open space may be required wherever authorized by other provisions in local ordinances.

b. Where such dedication is not required, a water quality conservation easement shall be recorded over such wetlands and slopes.

c. Where a water quality conservation easement serves to bring two or more properties into compliance with the WCA requirements of this Article, the Technical Review Committee may require that the wetlands and slopes covered by such easements be held as common area by an owners association.

d. The natural ground cover and the natural tree canopy within a water quality conservation easement shall be preserved with the following exceptions, which are permitted only after issuance of a permit by the Public Services Department:

1. Public utilities can be constructed and maintained by the Town of Jamestown or its designee;

2. Soil erosion and sedimentation control structures can be constructed and maintained by the developer of the property, subject to approval of a land-disturbing permit by the Public Services Department. After these structures are no longer needed,

they shall be removed and the water quality conservation easement restored to a natural state;

3. Normal maintenance by mechanical means is allowed for the removal of dead, diseased, deformed, poisonous or noxious vegetation and pests harmful to health;

4. Mechanical mowing of utility areas is allowed for the purpose of controlling growth.

5. Approved passive recreational facilities or trails.

e. Nothing in this Subsection shall supercede the surface water buffer requirements of Section 10-14.3 of this Article.

(2) Drainage:

a. Drainage within the Watershed Critical Area Overlay District shall be provided by means of open channels, unless it is determined by the Technical Review Committee that better water quality protection is provided by alternative means.

b. Drainageways shall have protected channels or remain in a natural, undisturbed state, except for road crossings, utilities, erosion control devices, runoff control devices, and desirable artificial stream bank stabilization.

c. No new development shall be allowed in such protected or undisturbed areas; except that water dependent structures and public projects such as greenways may be allowed where no practicable alternative exists. Where these activities are allowed, they shall minimize built-upon surface area and maximize the utilization of Best Management Practices (BMP's).

d. Perennial and intermittent streams, lakes and ponds shall be protected as specified in Section 10-14.3 of this Article.

## **10-9.2 SPILL RISK REDUCTION**

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

<b>Agricultural Uses</b>	
Animal Feeder/Breeder	0210
Chemical Treatment for Crops; Fertilizer Application for Crops; Weed Control for Crop Operations; including Aerial Crop Dusting	0710, 0721
<b>Business Professional and Personal Services</b>	
Automobile Rental or Leasing	7510
Automobile Repair Services, Major	0000

**DESCRIPTION SIC INDUSTRY GROUP MAJOR  
GROUP NUMBERS**

Automobile Repair Services, Minor	0000
Automotive Towing and Storage Services	7549
Boat Repairs	3730
Car Washes	7542
Commercial Physical & Biological Research	8731
Equipment Repair, Heavy, including: Agricultural Equipment Repair, Boiler Cleaning and Repair, Cesspool Cleaning	7690
Engine Repair except automotive Industrial Truck Repair, and Welding Repair Shops	7690
Farm Machinery Repair	7690
Furniture Stripping or Refinishing (including secondary or accessory operations)	7641
Heavy Construction Equipment Rental & Leasing	7353
Industrial Truck Rental & Leasing	7359
Laundry or Dry Cleaning Plants	7211, 7216, 7217, 7218
Landscape and Horticultural Services	0780
Machinery Cleaning	7690
Motorcycle Repair Service	7690
Pest or Termite Control Services	7342
Rebabbiting	7690

Repair of Service Station Equipment	7690
Septic Tank Services	7699
Sewer Tank Cleaning and Rodding	7690
Solvent Recovery Services	7389
Tank and Boiler Cleaning Service	7690
Tank Truck Cleaning Service	7690
Tractor Repair	7690
Truck Driving Schools	8249
Truck Tractor & Semi Rental & Leasing, Heavy	0000
Truck & Util. Trailer Rental & Leasing, Light	0000
Truck Washing	7542
Welding Repair Shops	7692
<b>Retail Trade Uses</b>	
Convenience Stores (with gasoline pumps)	5411
Fuel Oil Sales	5980
Motor Vehicle Sales (new and used)	5511
Motorcycle Sales	5571
Recreational Vehicle Sales	5561
Service Stations, Gasoline	5541
Truck Stops	5541
<b>Wholesale Trade</b>	

**DESCRIPTION SIC INDUSTRY GROUP MAJOR GROUP  
NUMBERS**

Agricultural Chemicals, Pesticides, Fertilizers	5191
Chemical and Allied Products	5169
Motor Vehicles	5012
Nursery Stock, Plants Potted	5193
Paints & Varnishes	5198
Petroleum & Petroleum Products	5170
Resins	5162
Scrap and Waste Materials	5093
<b>Transportation, Warehousing, and Utilities</b>	
Air Transportation Facilities	4500
Bus Terminals & Service Facilities	4100, 4170
Demolition Debris Landfills, Major	0000
Demolition Debris Landfills, Minor (less than two acres)	0000

Hazardous & Radioactive Waste (transportation, storage, disposal)	4953
Petroleum Contaminated Soil	0000
Pipelines, except Natural Gas	4600
Railroad Terminal Yard	4010
Recycling Processing Centers	0000
Refuse & Raw Material Hauling	4212
Plant Sludge Application Sites	4953
Remediation Disposal Sites	0000
Solid Waste Disposal (nonhazardous)	4953
Trucking or Freight Terminals	4230, 4213
<b>Manufacturing and Industrial Uses</b>	
Animal Slaughter or Rendering	0000
Arms and Weapons	3480
Asbestos, Abrasive and Related Products	3290
Asphalt Plant	2951
Batteries	3690
Chemicals, Paints & Allied Products	2800
Concrete, Cut Stone & Clay Products	3240, 3270
Cement, Hydraulic	3241
Contractors, Heavy Construction	1600
Contractors, Special Trade	1700
Dairy Products	2020
Explosives	2892
Fats and Oils, Animal	2077
Fats and Oils, Plant	2070
Fish, Canned, Cured or Frozen	2091
Hazardous Waste Handler (refer to Section 9-7-26)	0000
Leather and Leather Products (tanning)	3110

**DESCRIPTION SIC INDUSTRY GROUP MAJOR GROUP  
NUMBERS**

Magnetic & Optical Recording Media	3695
Meat & Poultry, Packing & Processing (no renderings)	2010
Metal Coating and Engraving	3470
Mining and Quarrying	1000
Paper Products (no coating and laminating)	2670

Paper Products (coating and laminating)	2670
Petroleum and Related Products	2900
Photographic Supplies	3861
Primary Metal Products & Foundries	3300
Pulp and Paper Mills	2610
Rubber & Plastics, Misc.	3000
Rubber & Plastics, Raw	3000
Salvage Yards, Auto Parts	5015
Salvage Yards, Scrap Processing	5093
Solvent Recovery	7389
Surface Active Agents	2843
Textile Products (no dyeing & finishing)	2200
Textile Products (with dyeing & finishing)	2260
Hazardous or toxic substance generators prohibited by Section 9-7-26(b)(2) (regulations for hazardous or toxic substance generators)	0000

(2) Containment Structures:

- a. Storage tanks for fuels and chemicals and associated pumping and piping shall have a spill containment system.
- b. Such containment systems shall be of sufficient volume to contain 100% of all the tank(s) contents stored in the area and shall have a leak detection system installed.
- c. The containment system shall be approved by the Enforcement Officer and the Fire Marshall.
- d. Such tanks and containment structures shall not be placed closer than 1,000 feet to the normal pool elevation of the applicable reservoir.
- e. Such a containment system shall be a minimum of 50 feet from the property line of the facility if the area adjacent to the facility is in a zoning district other than light or heavy industrial.
- f. Provisions shall be made to remove stormwater without removal of the product except for mistable materials. Contaminated water may not be discharged to the sewer system without a permit or to a waterbody or to a water-course.

(3) Underground Storage Tanks: In a Watershed Critical Area Overlay District,

underground storage tanks for fuels and chemicals shall not be permitted except for the replacement of existing tanks.

(4) Point Source Discharges:

a. No expansion of any existing private wastewater facilities or establishment of any new public or private wastewater treatment plants of any kind shall be permitted in WCA districts.

b. Industrial pre-treatment facilities that prepare wastewater for discharge into a public sewer system shall be permitted in WCA districts.

**10-9.3 GENERAL STANDARDS AND RESTRICTIONS**

**(a) DENSITY AND INTENSITY**

(1) Low Density Development: For low density development, density is measured in dwelling units per acre for single-family and two-family residential developments. For recreational facilities, such as golf courses and tennis and swim clubs lying within such residential developments, measure the built-upon area on the lot or common area and divide by 3,000 square feet to obtain a dwelling unit equivalency number. For all other residential and nonresidential development, the built-upon area measure shall apply. (See table 10-9.2 below)

**Table 10-9.2**  
**WCA MAXIMUM DWELLING UNITS**  
**PER GROSS ACRE AND**  
**BUILT-UPON AREA LIMITS**

TABLE INSET:

Watershed	Tier 1	Tier 2	Tier 3	Tier 4
City Lake	N/A <sup>1</sup>	1 du/ac	2 du/ac or 35%	2 du/ac or 50%
Oakdale Reservoir	N/A <sup>1</sup>	1 du/ac	2 du/ac or 35%	N/A <sup>2</sup>
Randleman Lake (low density, no public	N/A <sup>1</sup>	1 du/ac	1 du/ac <sup>3</sup> or	1 du/ac

water/sewer)		or 2.5%	4%	or 12% <sup>3</sup>
Randleman Lake (high density, public sewer/water)	N/A	1 du/ac or 2.5%	30%	40%

*Notes:*

1. Except for public water-dependent structures.
2. The WCA of Oakdale Watershed does not have a Tier 4.
3. Single-family and two-family residential development shall use the density standard. Multi-family, PUD or nonresidential development shall use the BUA standard.

(2) High Density Development: For all high density development the built-upon area measure shall apply.

(3) Density and Built-Upon Area Calculations: For the purpose of calculating density, acres shall be gross acres. As an alternative, single-family or two-family residential developments dividing four or fewer lots and not constructing streets may use 20,000 square-foot lots where the maximum density is two dwelling units per acre and 40,000 square-foot lots where the maximum density is one dwelling unit per acre. If single-family or two-family dwellings are intermingled within a development with other uses, then the built-upon area measurement shall apply. When sections of the same development are devoted to single-family or two-family residential development and other sections are devoted to other uses, then the developer may apply the appropriate measurement to the different sections or may use the built-upon area measurement for the entire development. Single-family or two-family residential development using the built-upon area measurement shall assume 3,000 square feet of built-upon area per lot. The built-upon area maximum shall apply to the entire development, including streets, lots, and other impervious surfaces. The maximum built-upon area allowed shall be allocated throughout the development. In single-family and two-family residential developments, the allocation to each lot shall be uniform. In all other developments, the allocation may vary among lots. In all cases, the recorded plat shall clearly state each lot's allocation and restrictive covenants shall record these allocations.

**Table 10-9.1**  
 State Maximum Density and Intensity Limits  
 For Low Density and High Density Options

Watershed	Overlay	Low Density Option	High Density
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	Zone			Option
		Dwelling Unit/Acre	% Built-Up Upon Area	% Built-Up Upon Area
Oak Hollow Lake, City Lake and Oakdale Reservoir	WCA	2	24	24-50
Oak Hollow Lake, City Lake and Oakdale Reservoir	GWA	2 <sup>1</sup>	24 <sup>1</sup>	24-70
Randleman Lake	WCA	.5 <sup>3</sup>	6 <sup>3</sup>	30 <sup>3</sup>
Randleman Lake	GWA	1	12	50 <sup>4</sup>

- 1. Three dwelling units (du) per acre or 36% built-upon area is allowed for projects without curb and gutter street and driveway system with performance standards.**
- 2. Refer to Table 10-9.1 Tier 4 built-upon area may be up to 40% under the high density option.**
- 3. Tier 4 may have one dwelling unit/acre or 12% built-upon area under the low density.**

#### **10-9.4 DENSITY SHIFTING**

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

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

#### **10-9.5 Stormwater Management**

(A) **Stormwater Control(s) Required:** The minimum stormwater control(s) required in the Watershed Critical Area Overlay District shall be in accordance with Table 10-9.3 which follows and the additional standards of this Section.

Table 10-9.3  
Minimum Stormwater Controls Required in the WCA

Watershed	Density/Built upon Area Residential	Density/Built upon Area Multifamily, PUD's and Non-residential	Minimum Stormwater Control required
City Lake and Oakdale Reservoir	≤ 1 du/acre	≤ 6% built-upon area	None
	≤ 2 du/acre	≤ 24% built-upon area	Alternate measures <sup>1</sup>
	NA	≤ 50% built-upon area	Engineered Stormwater controls <sup>2</sup>
Randleman Lake	≤ 1 du/2 acre	≤ 6% built-upon area	None
	≤ 1 du/acre	≤ 12% built-upon area	Alternate measures <sup>1</sup>
	NA	≤ 30% built-upon area <sup>3</sup>	Engineered stormwater controls <sup>2</sup>

1. Alternative measures in accordance with Section 10-9.5(C)
2. Engineered stormwater controls in accordance with Section 10-9.5(C)
3. Tier 4 built-upon area may be up to 40% under the high density option

(B) **Control of Runoff:** In a Watershed Critical Area Overlay District, runoff from built-upon areas shall be controlled as follows:

- (1) Where alternate measures are allowed in accordance with Table 10-9.3, runoff shall be controlled in compliance with the Town of Jamestown's Stormwater Guidelines for Water Quality and Flood Control, which are hereby adopted and incorporated herein by reference.
- (2) Where engineered stormwater controls are required in accordance with Table 10-9.3, runoff shall be controlled in compliance with the Town of Jamestown's Stormwater Guidelines for Water Quality and Flood Control.
- (3) Design Approval: All designs for runoff control structures shall meet the requirements of Section 10-13.5 (Improvements), the guidelines set forth in the Town of Jamestown Stormwater Guidelines and BMP Manual and the State requirements for the retention of the difference in pre and post construction runoff for the one (1 year) year, twenty-four (24 hour) hour storm and removal of 85% TSS; and shall be subject to the approval of the Enforcement Officer.

**(C) Methods of Stormwater Control:**

(1) Alternate Measures for Low Density Development: As required by Table 10-9.2 and Table 10-9.3, the allowed alternate measures may be any one of the following that meet the standards of the Town's Stormwater Guidelines for Water Quality and Flood Control:

- a. Extended Dry Pond.
- b. Infiltration Trench.
- c. Natural Infiltration Area.
- d. Participation in a public or private regional runoff control program, in compliance with Section 10-14.4.
- e. Low Impact Design as approved by the Technical Review Committee in accordance with the Stormwater Guidelines for Water Quality and Flood Control.
- f. Any best management practice approved by the Enforcement Officer that meets the performance standards of control of the first one-half inch of rainfall.

(2) Engineered Stormwater Controls for High Density Development: In accordance with Tables 10-9.2 and 10-9.3, a wet detention pond or other best management practice meeting the performance standards of control of the first one inch of rainfall and removal of 85% of total suspended solids (TSS) shall be used to control stormwater runoff in compliance with the Town's Stormwater Guidelines for Water Quality and Flood Control. 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 10-14.4.

**10-9.6 PUBLIC SANITARY SEWER REQUIRED**

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

**10-10 GENERAL WATERSHED AREA OVERLAY DISTRICT (GWA)  
STANDARDS AND RESTRICTIONS**

**10-10.1 SPILL RISK REDUCTION IN THE GWA**

(1) Prohibited Uses: The following uses shall be prohibited in a General Watershed Area (GWA): Hazardous or toxic substance generator or handler.

(2) Restricted Use: The following use shall be restricted in a GWA: No expansion of any existing private solid waste landfill or establishment of any new public or private solid waste landfill shall be permitted.

### 10-10.2 GWA BUILT-UPON AREA LIMITS

(1) Built-Upon Area Limits in City Lake and Oakdale Reservoir Watersheds: City Lake and Oakdale Reservoir are classified as WS IV water supply watersheds, and development in the General Watershed Area (GWA) Overlay Districts shall not exceed 70% built-upon area. Developments with greater than 6% built-upon area (BUA) shall provide an engineer’s certification of runoff control in compliance with section 10-13.5(D) of this Ordinance.

(2) Built-Upon Area Limits in Randleman Lake Watershed: Randleman Lake is classified as a WS IV CW water supply watershed, and development in the Randleman Lake GWA Overlay District shall not exceed 50% built-upon area, except as otherwise provided in this Subsection. Developments with greater than 6% built-upon area (BUA) shall provide an engineer’s certification of runoff control in compliance with section 10-13.5(D) of this Ordinance.

a. In the Randleman Lake Credit Area, which is in the Deep River 1 subbasin as shown on the City of High Point Water Supply Watershed Map, nonresidential development shall not exceed 70% on parcels totaling a maximum of 2,357 acres.

b. Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.

### 10-10.3 Stormwater Control

The minimum stormwater control(s) required in the GWA shall be in accordance with Table 10-10.1 which follows, and the additional standards of this article.

Table 10-10.1  
Minimum Stormwater Controls Required in the GWA

Watershed	Density/Built-upon Area Residential	Density/Built-upon Area Multifamily and Nonresidential	Minimum Stormwater Control Required
City Lake and Oakdale Reservoir	≤1 du/2 acre	≤6% built-upon area	None
	≤2 du/acre	≤24% built-upon	Performance

		area	standards
	>2 du/acre	≤ 70% built-upon area	Engineered stormwater controls
Randleman Lake	≤ 1 du/2 acre	≤ 6% built-upon area	None
	≤ 1 du/acre	≤ 12% built-upon area	Performance standards
	> du/acre	≤50% built-upon area	Engineered stormwater controls

1. Single-family and two-family development utilizing the low density option shall use the density standards. Single family and two-family development exceeding the density limits shall use the built-upon area standards. Multi-family residential and non-residential developments shall use the built-upon area standards.
2. May be increased to three dwelling units per gross acre or 36% built-upon area for developments without curb and gutter street system with performance standards.

#### 10-10.4 Performance Standards

Where compliance with performance standards is required in accordance with Table 10-10.1, the performance standards shall be in the form of a score sheet based on factors that minimize the impact of stormwater runoff from development. Plan approval for a proposed development within the General Overlay District shall require meeting one of two performance standards below:

(A) Score Sheet: A minimum of one hundred (100) points is earned when the score sheet system for development is applied; Single-family and two-family residential development shall use the Residential Score Sheet Table 10-10.3. Nonresidential and multifamily development shall use Score Sheet in Table 10-10.4.

(B) Stormwater Control: When a proposed development does not earn one hundred (100) points, an approved stormwater control measure or structure shall be provided, in accordance with Section 10-9.5(C) and in compliance with the Town of Jamestown’s Stormwater Guidelines for Water Quality and Flood Control.

#### RESIDENTIAL SCORESHEET

TABLE INSET:

Maximum Points	Factor	Point Value	Points Earned
20	1. Zone		

	AG or RS-10	10	
	PD-R (Single-family detached and cluster)	15	
	PD-R (Cluster exclusively)	20	
25	2. Built-upon area		
	0--3 percent	25	
	3--7 percent	20	
	7--10 percent	15	
	10--15 percent	10	
25	3. Proximity to floodway as defined by the Federal Emergency Management Agency		
	More than 2,000 feet	25	
	1,000--2,000 feet	20	
	500-1,000 feet	15	
	100--500 feet	10	
	50--100 feet	5	
10	4. Soil type as defined on pg. 29 and Table 7, pg. 57, Guilford County Soil Survey		
	Slight	10	
	Moderate	5	
25	5. Drainage--Protect and use natural drainageways		
	Piped or improved drainage with riprap	5	
	Dispersed drainage or protected drainageways	10	
	Dispersed drainage and protected drainageways	20	
	Enhanced and protected natural drainageways	25	
25	6. Average slope		
	0--5 percent	25	
	6--10 percent	20	
	11--15 percent	5	
25	7. Land cover--High percentage of natural and stabilizing vegetation		
	50' stream buffer and natural or stabilizing vegetation on greater than 25 percent of the lot	25	

	50' stream buffer and natural or stabilizing vegetation on 15--25 percent of the lot	20	
	50' stream buffer and natural or stabilizing vegetation on 10--15 percent of the lot	15	
	Natural or stabilizing vegetation between units and water	10	
	Ornamental lawn on greater than 5 percent of the lot	5	
25	8. Runoff control strategies		
	Maximum runoff control	25	
	Moderate runoff control	20	
	Runoff control in excess of minimum requirements of erosion control ordinance	15	
	Runoff control equal to minimum requirements	5	
10	9. Sewage disposal--Public sewer services	10	
10	10. Street and driveway design		
	With vegetated ditches	10	
	With piped drainage and/or curb and gutter and energy dissipaters	5	
Total: 200		Total	

*Notes:*

- (1) All plans must have 100 or more points and meet all other requirements to be approved.
- (2) Do not use this table if gross density exceeds two (2) dwelling units per acre or built-upon area is greater than 24 percent or three (3) dwelling units/acre (gross) or 36 percent built-upon area without curb and gutter in a WS-IV watershed, except for the Randleman Lake Watershed. Do not use this table for development in the Randleman Lake Watershed if gross density exceeds one (1) dwelling unit per acre or built-upon area is greater than 12 percent.

TABLE 10-10.3, continued

NOTES:

- 1) All plans must have 100 or more points and meet all other requirements to be approved.
- 2) Do Not use this table if gross density exceeds 2 dwelling units per acre or built-upon area is greater than 24 % or 3 dwelling units/acre (gross) or 36% built-upon area without curb and gutter in a WS-IV watershed.

SUBMISSION REQUIREMENTS

SINGLE FAMILY: Rated prior to approval of a Preliminary Plat. Individual homes on individual lots are not rated.

MULTI-FAMILY: Rated prior to approval of a site plan.

DEFINITIONS, EXPLANATIONS, AND STANDARDS

1. Conditional use rezonings will be given the appropriate bonus points if the use and site plan conditions meet the requirements of the bonus zone, such as clustering developments on the best soils and terrain of the site.
2. A gravel surface is considered a built-upon area.
3. Proximity to floodway is determined by measuring or scaling the distance from the floodway to the closets boundary of the tract.
4. Self - explanatory.
5. Protected Drainageway means drainage is channeled by pervious devices such as sod waterways, berms, channels or swales which have been constructed to resist soil erosion by either vegetating, netting, rip-rapping, or a combination of those, and which allows infiltration of water into the soil.

Dispersed Drainage means spread out, as opposed to collecting the runoff in channels, so as to effect increased sheet flow and overland flow.

Improved Drainageway means channeled by impervious surfaces such as curb and gutter or concrete (gunnite, bituminous, etc.) channels. Enhanced Drainageway means carried by existing natural drainageways which have been enhanced to resist soil erosion, including stream bank degradation.

6. Average Slope shall mean the maximum inclination of the land surface from the

horizontal as measured in percentage slope. The average slope shall be determined for the entire lot, tract, or subdivision before development.

7. If all or part of an existing lot containing natural or stabilizing vegetation is dedicated to the public for park or drainageway and open space purposes, such land will count in computing score.

Stabilizing Vegetation means any vegetation that protects the soil against erosion.

8. Maximum Runoff control means approximately one hundred (100%) percent of built-upon area runoff must pass through permanent wet detention pond(s). Moderate Runoff Control means at least seventy-five (75%) percent of built-upon area runoff must pass through permanent wet detention pond(s). Runoff control in Excess of Minimum Requirements of Erosion Control Ordinance means at least fifty (50%) percent of built-upon area runoff must pass through permanent wet detention pond(s). Runoff Control Equal to Minimum Requirements means velocity control of runoff. Detention Pond means a pond which collects stormwater runoff, filters the water, and releases it slowly over a period of hours or days. It does not have a permanent pool and is sometimes referred to as a dry pond. Wet Detention Pond means a pond that has a permanent pool and also collects stormwater runoff, filters the water, and releases it slowly over a period of days. Retention Pond means a pond that has a permanent pool.
9. No points will be allowed for on-site septic tank systems or private treatment systems.
10. Self-explanatory.

MULTIFAMILY AND NONRESIDENTIAL SCORESHEET

TABLE INSET:

Maximum Points	Factor	Point Value	Points Earned
10	1. Built-upon area		
	Less than 7.5 percent impervious	10	
	7.5--15 percent impervious	5	
25	2. Proximity to floodway as defined by the FEMA		
	More than 2,000 feet	25	
	1,000--2,000 feet	20	
	500--1,000 feet	15	
	100--500 feet	10	
	50--100 feet	5	
15	3. Soils--Hydrologic soil group (when 50 percent or more of the site remains undisturbed)		
	B	15	
	C	5	
20	4. Drainageways		
	Vegetated waterways (swales)	10	
	Minor channels with riprap	10	
	Preserve natural drainageways	10	
	Preserve and protect natural drainageways	20	
25	5. Average slope (where 50 percent or more of site remains undisturbed)		
	0--6 percent	25	
	6--10 percent	20	
	10--15 percent	5	
25	6. Undisturbed area		
	Greater than 50 percent undisturbed	25	
	30--50 percent undisturbed	15	
	20--30 percent undisturbed	10	

10	7. Permanent erosion control		
	Revegetating bare soil areas	5	
	Revegetating and protecting concentrated flow areas	10	
60	8. Permanent runoff control strategies		
	Natural infiltration of required runoff from:		
	100 percent of built-upon area	60	
	75 percent of built-upon area	45	
	50 percent of built-upon area	30	
	Wet detention pond meeting performance standards controlling runoff from:		
	100 percent of built-upon area	50	
	75 percent of built-upon area	40	
	50 percent of built-upon area	25	
	Vegetative filter for sites with less than 25 percent built-upon area meeting performance standards	15	
	Dry detention pond	10	
10	9. Sewage disposal--Public sewer service		10
15	10. Street and driveway design		
	With water from roadside swales or curb cuts directed into natural infiltration	15	
	With vegetated ditches	10	
	With piped drainage and/or curb and gutter and energy dissipators	5	
Total: 215		Total	

*Notes:*

- (1) All plans must have 100 or more points and meet all other requirements to be approved.
- (2) Do not use this table if built-upon area exceeds 24 percent or three (3) dwelling units/acre (gross) or 36 percent built-upon area for developments without a curb and gutter street system in a WS-IV watershed, except for the Randleman Lake Watershed. Do not use this table for development in the Randleman Lake Watershed if built-upon area exceeds 12 percent.

TABLE 10.10.4, continued

## NOTES:

- 1) All plans must have 100 or more points and meet all other requirements to be approved.
- 2) Do not use this table if built-upon area exceeds twenty-four (24%) percent or 3 dwelling units/acre (gross 36% built-upon area for developments without a curb and gutter street system in a WS-IV watershed).

## SUBMISSION REQUIREMENTS

RESIDENTIAL/COMMERCIAL/INDUSTRIAL SUBDIVISION: Rated prior to approval of preliminary plat.

RESIDENTIAL/INSTITUTIONAL/COMMERCIAL/INDUSTRIAL SITE PLANS: Rated prior to approval of site plan unless lot was prequalified by subdivision.

COMMERCIAL/INDUSTRIAL PROJECTS WITHOUT SITE PLANS: Rated prior to approval of the building permit.

## DEFINITIONS, EXPLANATION, AND STANDARDS

1. Built-upon area coverage includes: paved and gravel parking lots, driveways, roads and streets, buildings or other structures which cover the soil. It is computed by the equation: acres built-upon area divided by total acres in the tract times one-hundred (100%) percent.
2. Proximity to floodway is determined by measuring or scaling the distance from the floodway to the closest boundary of the tract.
3. Hydrologic Soil Groups as defined on pg. 35 of the USDA - SCS Soil Survey of Guilford County, North Carolina (12/19/77) and referenced in Table 15.
4. Vegetated Waterways (Swales) are to be constructed according to USDA-SCS specifications or equivalent methods, and they are to include installation of channel liners (plastic, jute, or excelsior) where expected flow velocity (10-yr. Storm) exceeds three (3) feet per second. Minor Channels With Rip-rap are to meet Town of Jamestown specifications. Preserve Natural Drainageways shall mean no disturbance of natural drainageways by cutting, filling, channelization, or destroying natural vegetation., Preserve and Protect Natural Drainageways shall mean protecting natural channels against stream bank erosion by rip-rap, or establishing soil stabilizing vegetation on stream banks and/or providing for a natural or revegetated stream of twenty-five (25) feet or more on each side of the stream.
5. Average Slope shall mean the maximum inclination of the land surface from the

horizontal as measured in percentage slope. The average slope shall be determined for the entire lot, tract or subdivision before development.

6. Undisturbed Area shall be that portion of a lot, tract or subdivision which has not and will not be occupied and which has not and will not be graded to change land contours or to destroy existing vegetation.. Only areas that are wooded or reforested are considered undisturbed for the purposes of watershed protection scoresheet evaluation.
7. Revegetating Bare Soil Areas shall mean providing a stabilizing vegetative cover on those areas disturbed by grading of the site where no other land cover (structure, etc.) is to be located.
8. All runoff control methods or devices shall meet or exceed Town of Jamestown design specifications. Retention ponds will be considered in lieu of wet detention ponds on a case-by-case basis.
9. No points will be allowed for on-site septic tank systems or private sewage treatment systems.
10. Self-explanatory.

#### **10-10.5 Control of Runoff**

(A) Control of Runoff

Where engineered stormwater controls are required in accordance with Table 10-10.1, runoff shall be controlled in compliance with the Town of Jamestown's Stormwater Guidelines for Water Quality and Flood Control.

(B) Design Approval for Runoff Control Structures

All designs for runoff control structures shall meet the requirements of Section 10-13.5 (Improvements) and shall be subject to the approval of the Jamestown Town Manager or his designee.

#### **10-10.6 Spill Risk Reduction in the GWA**

(A) The following uses shall be prohibited in a GWA:

1. Landfills, except for on-site construction debris landfills less than three acres.
2. Land application of sludge/residuals or petroleum contaminated soils.

## **10-11 INDIVIDUAL WATER SUPPLY WATERSHEDS**

### **10-11.1 CITY LAKE**

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

### **10-11.2 OAKDALE RESERVOIR**

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

### **10-11.3 RANDLEMAN RESERVOIR**

- (1) General Watershed Area (GWA) Built-Upon Area Limits: Development in the Randleman Lake General Watershed Area (GWA) Overlay District shall not exceed 50% built-upon area, except as otherwise provided in this Subsection.
  - a. In the Randleman Lake Credit Area, which is in the Deep River 1 subbasin as shown on the High Point Water Supply Watershed Map, nonresidential

development shall not exceed 70% on parcels totaling a maximum of 2,357 acres.

b. Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.

(2) Watershed Critical Area (WCA) Density and Built-Upon Area Limits: Density and built-upon area in the Randleman Lake Watershed Critical Area (WCA) shall not exceed one dwelling unit per acre or 12% built-upon area (Tier 4 only) under the low density option, except as provided in this Subsection.

a. In Tier 3 of the Richland Creek subbasin, a total of 255 acres may be developed with nonresidential development under the high density option at 30% built-upon area. In the Business 85/Riverdale Road subbasin, a total of 482 acres may be developed with nonresidential development under the high density option at 30% built-upon area in Tier 3 and 40% built-upon area in Tier 4. However, of that total 482 acres in the Business 85/Riverdale Road subbasin, only a maximum of 284 acres shall be developed in Tier 3.

b. Allocation shall be made on a first come, first served basis. An allocation shall be assigned when a building permit for the site is issued, site plan is approved, or the preliminary subdivision plat for a development is approved. Expiration of a building permit, site plan approval, or preliminary plat approval shall terminate the allocation under this Subsection.

## **10-12 WATERSHED ACCOUNTING**

### **10-12.1 RANDLEMAN LAKE GWA BUILT-UPON AREA LIMITS**

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

### **10-12.2 RANDLEMAN LAKE WCA BUILT-UPON AREA LIMITS**

The Enforcement Officer shall keep records on the Town's use of the provision allowing land in the Richland Creek subbasin and the Business 85 Riverdale Road subbasin of the Randleman Lake WCA to be developed with a maximum of 30% built-upon area in Tier 3 and 40% built-upon area in Tier 4. High density nonresidential development shall be limited in the WCA to these two subbasins of the Randleman Lake Watershed, as shown on the High Point Water

Supply Watershed Map. Records for the watershed shall include the total area of the WCA, total area of Tiers 3 and 4 of the WCA within the two subbasins, total acres eligible to be developed in Tiers 3 and 4 under this provision, total acres approved for development under this provision, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan.

### **10-12.3 WATERSHED VARIANCES**

The Enforcement Officer shall keep a record of all watershed variances. This record shall be submitted for each calendar year to the North Carolina Division of Water Quality on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variances. It is also recommended that the Enforcement Officer also copy these correspondences to adjacent local governments for their records.

## **10-13 GENERAL STANDARDS AND RESTRICTIONS FOR THE WCA AND GWA**

### **10-13.1 STORMWATER DISCHARGE (ILLICIT DISCHARGE ORDINANCE)**

#### **(a) Purpose:**

1. Protecting the public health, safety and welfare by controlling the discharge of pollutants into the stormwater conveyance system;
2. Promoting activities directed toward the maintenance and improvement of surface and groundwater quality;
3. Satisfying the requirements imposed upon the Town of Jamestown by the State of North Carolina Division of Water Quality in order to conform with the National Pollutant Discharge Elimination System (NPDES Phase II) Municipal Separate Storm Sewer System (MS4) discharge permit issued by the state; and
4. Establishing administration and enforcement procedures through which these purposes can be fulfilled.

**(b)** The provisions of this regulation are supplemental to regulations administered by Federal and State governments.

#### **(c) Acronyms:**

DEHNR: North Carolina Department of Environment Health and Natural Resources.

DEM: North Carolina Division of Environmental Management.

MS4: Municipal Separate Storm Sewer System.

NPDES: National Pollutant Discharge Elimination System

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

*Federal law reference:* National pollutant discharge elimination system permits.

*Illicit connection:* Any unlawful connection which allows the discharge of no-stormwater to the stormwater conveyance system or waters of the state in violation of this article.

*Illicit discharge:* Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the water of the state, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the state.

*Municipal Separate Storm Sewer System (MS4):* A stormwater conveyance or unified stormwater conveyance system (including without limitation: roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that:

- 1) Are located within the corporate limits of the Town of Jamestown, North Carolina or in the extraterritorial jurisdiction (ETJ) of the Town of Jamestown, North Carolina.
- 2) Is owned or operated by the state, county, the Town, or other public body; and
- 3) Discharges to waters of the state, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the waters of the state.

*National pollutant discharge elimination system:* A permitting system established pursuant to 402 of the Clean Water Act.

*Pollution:* Man-made or man induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.

*Stormwater:* Any flow resulting from, and occurring during or following, any form of natural precipitation.

*Stormwater Conveyance or stormwater conveyance system:* Any feature, natural or man-made, that collects and transports stormwater, including but not limited to roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made or natural channels, pipes, culverts, and storm drains and any other natural or man-made feature or structure designed or used for collecting or conveying stormwater.

*Waters of the state:* Surface waters within or flowing through the boundaries of the state including the following: any intermittent or perennial stream, river, creek, brook, swamp, lake, sound, tidal estuary, bay, reservoir, wetland, or any other surface water or any portion thereof that is mapped as solid or dashed blue lines on United State Department of the Interior Geological Survey 7.5 minute series topographic maps. Treatment systems, consisting of man-made bodies of water, which were not originally created in waters of the state, which are not the result of impoundment of waters of the state, are not waters of the state.

**(e) Scope and exclusion.**

This article shall apply within the territorial jurisdiction of the Town of Jamestown, with the following exclusions: federal, state, and local governments, including their agencies, unless intergovernmental agreements have been established giving the Town enforcement authority.

**(f) Objectives.**

The objectives of this article are to:

- 1) Regulate the discharge of substances which may contaminate or cause pollution of stormwater, stormwater conveyances, or waters of the state;
- 2) Regulate connections to the stormwater conveyance system;
- 3) Provide for the proper handling of spills; and
- 4) Provide for the enforcement of the same.

**(g) Non-stormwater discharge controls.**

*Illicit discharges.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the water of the state, or upon the land in such proximity to the same (such that the substance is likely to reach a stormwater conveyance of the water of the state), any fluid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality. It shall be unlawful for any person to discharge non-stormwater to any stormwater conveyance with the exception of the following:

- 1) Water line flushing
- 2) Diverted stream flows
- 3) Rising ground waters
- 4) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2006(20)) to Separate storm sewers

- 5) Uncontaminated pumped ground water discharges from potable water sources
- 6) Foundation drains
- 7) Air Condition condensation
- 8) Irrigation water
- 9) Springs
- 10) Water from crawl space pumps
- 11) Footing drains
- 12) Lawn watering
- 13) Car washing at one's residence, not for hire
- 14) Flows from riparian habitats and wetlands
- 15) Dechlorinated swimming pool discharges
- 16) Street wash waters, and
- 17) Discharges from fire fighting

Prohibited substances including but not limited to: oil, antifreeze, chemicals, animal waste, paints, garbage, and litter.

*Illicit connections.* Connections to a stormwater conveyance or system which allows the discharge of non-stormwater, other than the exclusions described above, are unlawful. Prohibited connections include but are not limited to: floor drains, wastewater from washing machines or sanitary sewers, washwater from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owners or the person using said connection shall remove the connection within one (1) year following application of this regulation; provided that, this grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

Where it is determined that said connection:

- (a) May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife or habitat; or
- (b) Was made in violation of any applicable regulation or ordinance.

The Town Manager or his designee shall designate the time within which the connection shall be removed. In setting the time limit from compliance, the Town shall take into consideration:

- (a) The quantity and complexity of the work;
- (b) The consequences of delay;
- (c) The potential harm to the environment, public health, and to public and private property; and

(d) The cost of remedying the damage.

Permits are issued by the Town of Jamestown for connection to or modification of storm sewers located in Town owned rights-of-way.

*Spills.* Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the stormwater conveyance system, shall be contained, controlled, collected, and removed promptly. All affected areas shall be restored to their preexisting conditions.

Persons associated with the spill or leak shall immediately notify the Town fire chief or his designee of all spills or leaks of polluting substances. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by the state or other law.

**(h) Enforcement.**

*Authority to enter.* Any authorized Town personnel shall be permitted to enter upon public or private property for the purposes of observation, inspection, sampling, monitoring, testing, surveying, and measuring compliance. Should the owner or occupant of any property refuse to permit such reasonable access, the Town Manager or his designee shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with any such representative while carrying out his official duties.

*Civil penalties.*

1) Illicit discharges: Any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, or directs, or assists directly or indirectly in the creation of a violation of this article shall be subject to civil penalties as follows:

- (a) For first time offenders, if the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products in quantities considered ordinary for household purposes, said person shall be assessed a civil penalty not to exceed one hundred (\$100.00) per violation or per day for any continuing violation, and if the quantity of the discharge is greater than five (5) gallons or contains no-domestic substances, including but not limited to process wastewater, or if said person cannot provide clear and convincing evidence of the volume and nature of the substance discharged, said person shall be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation.
- (b) For repeat offenders, the amount of the penalty shall be double the amount assessed for the previous penalty, not to exceed ten thousand dollars (\$10,000.00) per violation or per day for any continuing violation.

- (c) In determining the amount of the penalty, the Town Manager or his designee shall consider:
  - i. The degree and extent of harm to the environment, the public health, and public and private property;
  - ii. The cost of remedying the damage;
  - iii. The duration of the violation;
  - iv. Whether the violation was willful;
  - v. The prior record of the person responsible for the violation in complying or failing to comply with this article;
  - vi. The costs of enforcement to the public; and
  - vii. The amount of money saved by the violator through his, her, or its noncompliance.

2) Illicit connections. Any person found with an illicit connection in violation of this article and any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, or directs, or assists directly or indirectly in the creation of a violation of this article shall be subject to civil penalties as follows:

- (a) First time offenders shall be assessed a civil penalty not to exceed five hundred (\$500.00) per violation or per day for any continuing violation.
- (b) Repeat offenders shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation or per day for any continuing violation.
- (c) In determining the amount of the penalty, the Town Manager or his designee shall consider:
  - i. The degree and extent of harm to the environment, the public health, and public and private property;
  - ii. The cost of remedying the damage;
  - iii. The duration of the violation;
  - iv. Whether the violation was willful;
  - v. The prior record of the person responsible for the violation in complying or failing to comply with this article;
  - vi. The costs of enforcement to the public; and
  - vii. The amount of money saved by the violator through his, her, or its noncompliance.

3) Procedures for assessing penalties pursuant to illicit connections. Said penalties shall be assessed by the Town Manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violation with particularity and specify the measures needed to come into compliance. The notice shall designate the time within which such measures must be completed. In setting the time limit for compliance, the Town shall take into consideration:

- (a) The quantity and complexity of the work;

- (b) The consequences of delay;
- (c) The potential harm to the environment, public health, and to public and private property; and
- (d) The cost of remedying the damage.

The notice shall warn that failure to correct the violation within the specified time period will result in the assessment of a civil penalty and/or other enforcement action. If after the allotted time period has expired, and the violation has not been corrected, the penalty shall be assessed from the date of receipt of notice of violation and each day of continuing violation thereafter shall constitute a separate violation under this section.

Any person found in violation of other provisions of this article, not specifically enumerated elsewhere, shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00) per violation or per day for any continuing violation.

4) Payment/collection procedures. Penalties shall be assessed by the Town Manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered mail, certified mail-return receipt requested, or by personal service. Refusal to accept the written notice shall not relieve the violator of any obligation to pay the penalty. The Town Manager or his designee shall make written demand for payment upon the person in violation. If the payment is not received or equitable settlement reached within thirty (30) days after the demand for payment is made, the matter shall be referred to the Town Attorney for institution of a civil action in the name of the Town, in the appropriate division of the General Court of Justice in Guilford County for recovering the penalty.

#### *Injunctive relief.*

Whenever the Town Council has a reasonable cause to believe that any person is violating or threatening to violate this article, rule, regulation, order duly adopted or issued pursuant to this article or making a connection to a stormwater conveyance or stormwater conveyance system other than in accordance with the terms, conditions, and provision of approval, the Town may, either before or after the institution of any other action or proceeding authorized by the Code, institute a civil action in the name of the Town for injunctive relief to restrain and abate the violation or threatened violation.

The institution of any action for injunctive relief under this section shall not relieve any party of such proceeding from any further civil or criminal penalty prescribed for violations of this Code.

#### *Criminal penalties.*

Any person who knowingly or willfully violates any provision of this article, rule, regulation, order duly adopted or issued pursuant to this article shall be guilty of a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not longer than thirty (30) days. Each violation shall be a separate offense.

**10-13.2 Subdivisions in GWA and WCA**

(A) No subdivision within either the GWA or the WCA shall be approved by the Town or filed and recorded by the Guilford County Register of Deeds until it has been approved in accordance with the Subdivision Approval process in the Development Ordinance and in accordance with the provisions of this Article.

(B) Notification of the subdivision’s location in a public water supply watershed shall appear on the certificate of recording as shown below:

**CERTIFICATE OF APPROVAL FOR RECORDING IN A PUBLIC WATER SUPPLY WATERSHED**

This subdivision plat has been found to comply with the provisions of the Subdivision Ordinance of Jamestown, provided that it is recorded in the Office of the Register of Deeds within 60 days of final approval by the Planning Board.

\_\_\_\_\_  
Jamestown Town Manager

\_\_\_\_\_  
Date Approved by Planning Board

**NOTICE: This property is located within a Public Water Supply Watershed - development restrictions may apply.**

(C) To lessen the time required to attain all necessary approvals and to facilitate the processing of applications, an applicant may start the subdivision approval process simultaneously with applications for grading permits or other applications for approvals required for a particular project. When a watershed control development plan approval is required, that approval shall be a prerequisite to preliminary plat approval.

**10-13.3 Sedimentation and Erosion Control Plan**

A sedimentation and erosion control plan shall be required in accordance with Section 4-1 (Permit Required) of the Development Ordinance.

**10-13.4 Street Standards**

Streets within a Watershed Critical Area Overlay District or General Watershed Area District shall be in accordance with the Subdivision Street Requirements of this Ordinance and the following additional standards:

- (A) Ribbon paved streets shall be allowed except for areas where the continuity of previous street work necessitates curb and gutter, or where otherwise required by this ordinance.
- (B) Roads and streets crossing natural areas or stream buffers must cross at a ninety (90) degree angle or as near to a ninety (90) degree angle as possible within topographic limits.

### **10-13.5 Improvements**

#### **(A) Design of Improvements**

- (1) The design of all water quality improvements shall be performed by a North Carolina registered professional engineer, and approved by the Town of Jamestown Technical Review Committee, and meet or exceed the standards of the Town of Jamestown's Stormwater Guidelines for Water Quality and Flood Control.
- (2) The Town of Jamestown Technical Review Committee shall require that a runoff control structure be positioned on a site such that water quality protection is improved.

#### **(B) Construction of Improvements**

- (1) Construction of all engineered stormwater controls as shown on an approved watershed development plan shall be completed and have received final approval prior to any plat recordation, or said improvements shall be guaranteed by a surety in accordance with Section 10-17.4 (Sureties or Improvement Guarantees).
- (2) The construction of all engineered stormwater controls as shown on an approved watershed development plan shall be completed and have received final approval prior to the issuance of building certificate of compliance.
- (3) If a building permit is not required for a site, then any required engineered stormwater control shall be completed prior to installation of any built-upon area on the site.

(C) Recordation of Improvements: All engineered stormwater controls and associated access/maintenance easements(s) shall be recorded on a final plat, and a mechanism to ensure their maintenance shall be established and recorded concurrent with or prior to plat recordation .

(D) Engineer's Certificate of Completion Required: An engineer's certification of Completion (see below) for engineered stormwater controls shall be submitted prior to issuance of any building certificate of compliance.

**ENGINEER’S CERTIFICATION OF RUNOFF CONTROL**

The engineering certification required on Watershed Development Plans and construction plan drawings shall be of the following form:

**ENGINEER’S CERTIFICATION OF RUNOFF CONTROL**

I certify that this plan will control runoff in compliance with the Stormwater Guidelines for Water Quality and Flood Control adopted by the Town of Jamestown, and that the runoff control measures shown on this plan meet or exceed the guidelines of the same Stormwater Guidelines for Water Quality and Flood Control.

P.E. SEAL                      SIGNATURE                      DATE

**ENGINEER’S CERTIFICATION OF COMPLETION**

The Engineering certification required upon completion of permanent watershed control structures shall be on the following form:

**ENGINEER’S CERTIFICATION OF COMPLETION**

I certify that the permanent runoff control structure for (name of plat) as recorded in the Office of the Guilford County Register of Deeds has been completed in conformance with the approved plans as specifications dated (approval date).

P.E. SEAL                      SIGNATURE                      DATE

(E) Maintenance Responsibility:

Operation and Maintenance Agreement:

a. Maintenance responsibility for engineered stormwater controls and its access shall be vested with a responsible party by means of a legally binding and enforceable operation and maintenance agreement that is executed as a condition of plan approval. Said agreement must be approved by the Enforcement Officer and shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the engineered stormwater controls. The developer shall have primary responsibility for carrying out the provision of the operation and maintenance agreement for a minimum period of three (3) years after completion and inspection of the engineered stormwater controls. At the termination of the minimum three (3) year period, the responsibility for the engineered stormwater

controls shall transfer to the owner of property or lot served by such, or to an Owners' Association as required per Section 10-18, Owners Association, of this Ordinance. In the case of participation in a regional runoff control program per Section 10-14.4, a binding contract or agreement shall be required for participation.

b. The operations and maintenance agreement shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

c. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the engineered stormwater controls, and shall state the terms, conditions, and schedule of maintenance for such. The owner of each engineered stormwater control installed pursuant to this Ordinance shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity in accordance with the function for which it was designed. The operation and maintenance agreement shall refer the property owner or owners' association to the Town of Jamestown for specific maintenance requirements of engineered stormwater controls. In addition, it shall grant to the Town a right of entry in the event that the Enforcement Officer has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the engineered stormwater controls. In no case shall the right of entry, of itself, confer an obligation on the Town of Jamestown to assume responsibility for maintenance of the engineered stormwater controls.

d. The Enforcement Officer shall have the responsibility to inspect the engineered stormwater control structures annually, to record the results on forms approved or supplied by the North Carolina Division of Water Quality, and to notify the responsible property owner or owners' association when maintenance or repairs are required. All required repairs and maintenance shall be performed within 90 days after such notice. In case of failure by the responsible party to perform the required maintenance or repairs within the stated period, the Town may perform such maintenance or repairs and recover all costs attendant thereto from the property owner or owners' association.

e. For all engineered stormwater controls required pursuant to this Ordinance and that are to be or are owned and maintained by an Owners' Association, the required operation and maintenance agreement shall include all of the following provisions:

1. Acknowledgment that the owners' association shall continuously operate and maintain the stormwater control and management facilities.
2. Establishment of an escrow account, which can be spent solely for

sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the engineered stormwater controls. If engineered stormwater controls are not performing adequately or as intended or are not properly maintained, the Town, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the owners' association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the engineered stormwater controls, provided that the Town shall first consent to the expenditure.

3. Granting to the Town a right of entry to inspect, monitor, maintain, repair, and reconstruct engineered stormwater controls.

4. Allowing the Town to recover from the owners' association and its members any and all costs the Town expends to maintain or repair the engineered stormwater control or to correct any operational deficiencies. Failure to pay the Town all of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town shall thereafter be entitled to bring an action against the owners' association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.

5. A statement that this agreement shall not obligate the Town to maintain or repair any engineered stormwater controls, and the Town shall not be liable to any person for the condition or operation of engineered stormwater controls.

6. 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.

7. A provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the engineered stormwater control, unless the Town has agreed in writing to assume the maintenance responsibility and has accepted dedication of any and all rights necessary to carry out that maintenance.

f. Every structural BMP installed pursuant to this Ordinance shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be recorded on the final plat and its terms shall specify who may make use of the easement and for what purposes.

(6) Inspection Program:

- a. Inspections and inspection programs by the Town of Jamestown may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in engineered stormwater controls; and evaluating the condition of engineered stormwater controls.
- b. If the owner or occupant of any property refuses to permit such inspection, the Enforcement Officer shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Enforcement Officer while carrying out his or her official duties.
- c. If, for any reason, the stormwater control device is not accessible by the Enforcement Officer or other inspectors, it shall be the right of the Town of Jamestown to require that the owner of the control contract with a Professional Engineer (P.E.) to inspect the device and provide the Town of Jamestown with a signed and sealed document outlining the maintenance needs or certifying that the scheduled maintenance has been completed and the device is operating correctly. The Town of Jamestown will not assume any costs for these related inspections.

## **10-14 PROTECTION OF FRAGILE AREAS**

### **10-14.1 LAND DISTURBANCE MINIMIZATION**

(1) Sedimentation and Erosion Control: A sedimentation and erosion control plan shall be required in accordance with Article XI “Erosion” of this Ordinance.

(2) Development on the Best Soils and Terrain: Development on the best soils and terrain of any site is encouraged. Hydric soils and those soils that are highly erodible should be avoided.

(3) Street Standards: Refer to the street. Modifications to street standards may be considered by the Technical Review Committee in order to minimize land disturbance pursuant to Section 10-17.2, “Modifications”.

(4) Low Impact Design: Low Impact Design is encouraged, and the Technical Review

Committee may consider modifications pursuant to Section 10-17.2, “Modifications”, in order to facilitate low impact design.

(5) Cluster Development: The location of development on soils and terrain most suited to protecting water quality is greatly encouraged by clustering.

(6) Density Shifting: The location of development on soils and terrain most suited to protecting the water quality of water supply reservoirs is encouraged. See Section 10-9.4 “Density Shifting” in the WCA.

### 10-14.2 FLOODPLAIN PROTECTION

Development within Special Flood Hazard Areas of the jurisdiction shall comply with the requirements of Article XII, “Flood Damage Prevention” of this Ordinance.

### 10-14.3 SURFACE WATER BUFFERS

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

Table 10-14.1 Surface Water Buffers

Classification	Low Density Development		High Density Development
Perennial Surface Waters	50 feet	50 feet	100 Feet

(Streams, Lakes, and Ponds)	Zone 1 30 Feet	Zone 2 20 Feet	Zone 1 30 Feet	Zone 2 20 Feet	Zone 3 50 Feet
Intermittent Surface Waters (Streams, Lakes and Ponds)	50 Feet		50 Feet		
	Zone 1 30 Feet	Zone 2 20 Feet	Zone 1 30 Feet	Zone 2 20 Feet	

(2) Buffer Zones: Required surface water buffers consist of two or three zones depending on the density of development and stream classification, as shown in Table 10-14.1. Zone 1 shall be the first 30 feet landward from the top of the stream bank or mean high water line of other water bodies. Zone 2 shall begin at the outer edge of Zone 1 and extend landward a minimum of 20 feet. Zone 3 shall begin at the outer edge of Zone 2 and extend landward 50 feet. Zones 1 and 2 shall be undisturbed except as allowed in this Section. Zone 3 can be disturbed but must remain vegetated.

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

1. Ditches and manmade conveyances, other than modified natural streams which under normal conditions do not receive drainage from tributary ditches, canals or streams, unless the ditch or manmade conveyance delivers runoff directly to state-classified waters;
2. Ponds and lakes created for animal watering, irrigation or other agricultural uses that are not a part of a natural drainageway that is classified;
3. Water dependant structures provided that they are located, designed, constructed and maintained to provide maximum nutrient removal, to have the least adverse effects on aquatic life and habitat and to protect water quality; and
4. Horticultural or silvicultural practices to maintain the health of individual trees and removal of individual trees which are in danger of causing damage to dwellings, other structures or the stream channel; however, other selective cutting of individual trees is not exempted and is not an allowed activity.

b. Zone 1: The following practices and activities are prohibited in Zone 1:

1. Land disturbing activities and placement of fill other than those allowed in Section 10-14.3(2).
2. No new development shall be allowed in Zone 1 of the surface water buffer, except that water dependent structures as defined in Section 10-14.3(2), road crossings, railroad crossings, bridges, airport facilities and utility crossings may be allowed

where no practical alternative exists, as determined by the Technical Review Committee. Activities that cross the stream shall be constructed as close to 90 degrees relative to the stream as practicable. Where these activities are allowed, they shall minimize built-upon surface area, divert runoff away from surface waters and protect water quality to the maximum extent practical through the use of Best Management Practices.

3. New on-site sanitary sewage systems that use ground adsorption;
4. The application of fertilizer;
5. Any activity which threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.

The following sheet flow requirements must be met in Zone 1:

1. Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flow and re-establishment of vegetation to maintain the effectiveness of the surface water buffer.
2. Concentrated runoff from new ditches or manmade conveyances must be dispersed into sheet flow before the runoff enters Zone 2 of the surface water buffer. Existing ditches and manmade conveyances are exempt from this requirement; however, care shall be taken to minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion.
3. Periodic corrective action to restore sheet flow shall be taken by the landowner if necessary to impede the formation of erosion gullies that allow concentrated flow to bypass treatment in the surface water buffer.

c. Zone 2: The following practices and activities are prohibited in Zone 2:

1. No new development shall be allowed in Zone 2 of the surface water buffer, except those allowed in Zone 1 and stormwater management facilities, utility construction and maintenance corridors, stream restoration projects, stream gauging, water wells, passive recreation facilities such as boardwalks, paved greenway trails, pathways and historic preservation and archaeological activities may be allowed where no practical alternative exists, as determined by the Technical Review Committee. Where these activities are allowed they shall minimize built-upon surface area, divert runoff away from surface waters and protect water quality to the maximum extent practical through the use of Best Management Practices.

2. New on-site sewage systems that use ground adsorption;
3. Any activity which threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.

The following sheet flow requirements must be met in Zone 2:

1. Sheet flow must be maintained to the maximum extent practical through dispersing concentrated flow and re-establishment of vegetation to maintain the effectiveness of the surface water buffer.
  2. Concentrated runoff from new ditches or manmade conveyances must be dispersed into sheet flow before the runoff enters Zone 2 of the riparian area. Existing ditches and manmade conveyances are exempt from this requirement; however, care shall be taken to minimize pollutant loading through these existing ditches and manmade conveyances from fertilizer application or erosion.
  3. Periodic corrective action to restore sheet flow shall be taken by the landowner if necessary to impede the formation of erosion gullies that allow concentrated flow to bypass treatment in the surface water buffer.
- d. Zone 3: Zone 3 is required for all high density development. Zone 3 may be disturbed, but it must remain vegetated. The following practices and activities are prohibited in Zone 3:

1. No new development shall be allowed in Zone 3 of the surface water buffer, except those allowed in Zone 1 and stormwater management facilities, utility construction and maintenance corridors, stream restoration projects, stream gauging, water wells, passive recreation facilities such as boardwalks, paved greenway trails, pathways and historic preservation and archaeological activities may be allowed where no practical alternative exists, as determined by the Technical Review Committee. Where these activities are allowed they shall minimize built-upon surface area, divert runoff away from surface waters and \protect water quality to the maximum extent practical through the use of Best Management Practices.
2. New on-site sewage systems that use ground adsorption;
3. Any activity which threatens the health and function of the vegetation including, but not limited to, application of chemicals in amounts exceeding the manufacturer's recommended rate, uncontrolled sediment sources on adjacent lands, and the creation of any areas with bare soil.

(3) Channelization: Channelization of perennial or intermittent streams shall be prohibited, except for access crossings, erosion control devices and runoff control devices.

(4) New Lots in the Surface Water Buffer: To the extent practical, no new single-family or two-family residential lots shall be created which are entirely or partly contained within the surface water buffer.

#### **10-14.4 PARTICIPATION IN A REGIONAL STORMWATER CONTROL PROGRAM**

(1) Public Regional Stormwater Control Program:

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

(2) Private Regional Stormwater Control Program:

- a. Where Permitted: Participation in a private regional engineered stormwater control program is permitted where a private off-site stormwater control program has been established by one or more property owners and approved by the Technical Review Committee. A development may participate in said program in lieu of any certification of runoff control required by this Article, provided that:
  1. The development is within an area covered by an off-site engineered stormwater control structure;
  2. Runoff from the development drains to an existing engineered stormwater control structure;
  3. The parties agree to share the cost of any required maintenance and/or construction;
  4. The agreement runs with the property;
  5. The agreement is recorded with the county Register of Deeds in accordance with Section 10-13.5(D);
  6. The Enforcement Officer finds that the watershed development plan is in compliance with all other applicable requirements of this Ordinance.
- b. Developments participating in a private regional stormwater control program are encouraged to maintain pre-development hydrology at the project site.

**10-14.5 WATERSHED DEVELOPMENT PLAN**

- (1) Plan Required: A watershed development plan prepared by a North Carolina registered professional engineer in accordance with the requirements of this Article shall be submitted to the Enforcement Officer for all development throughout the jurisdiction.
- (2) Construction Plans a Part of Watershed Development Plan: The construction plans for required runoff control structure(s) shall be approved as part of the watershed development plan, and prior to issuance of any building or land-disturbing permit on a site. For subdivisions, construction plans shall be submitted in accordance with Article IX “Subdivisions”.
- (3) Master Watershed Development Plan: Where authorized by the Technical Review Committee, a master watershed development plan may be approved for certain large-scale nonresidential and multifamily developments, in lieu

of a watershed development plan with the required construction plans. Where authorized, said master watershed development plan shall be approved by the Technical Review Committee prior to the recordation of any plat, or issuance of any grading or building permits for the total site. Prior to the approval of any site plans or group development plans, grading or building permits for any development site included on a given master watershed development plan, a site-specific watershed development plan shall be approved subject to the requirements of this Article.

- (4) Plan Approval: The Technical Review Committee shall approve any watershed development plan that is in conformance with the requirements of this Article.
- (5) Approved Plan a Prerequisite: A watershed development plan shall be approved prior to the recordation of any plat, or issuance of any grading or building permits for the site. The Enforcement Officer may issue permits and/or approvals, if required, for well or septic tank permits, driveway permits, water and sewer construction plans, site or plot plans, and watershed development plans prior to issuance of building permits. The Enforcement Officer may issue permits for temporary construction trailers, safety structures, and other customary construction structures prior to site plan or preliminary plat approval. Final plats shall not be approved prior to issuance of building permits for development on any land in Jamestown's jurisdiction or planning area unless and until a watershed development plan has been approved.
- (6) Engineered Stormwater Controls and Alternate Measures: When a permanent engineered stormwater control structure or alternate measure, including participation in a regional stormwater control program, is required for a development to meet the requirements of this Article, a North Carolina registered professional engineer shall prepare the plan with the Engineer's Certification of Runoff Control (found in Stormwater Guidelines for Water Quality and Flood Control) affixed, signed, sealed, and dated.
- (7) Clustering: The location of development on soils and terrain most suited to protecting the water quality of municipal water supply reservoirs is encourage in the WCA and the GWA by clustering. The overall density of a development utilizing clustering shall meet the applicable WCA or GWA density and stormwater runoff control requirements. Built-upon area within such development shall be designed and site to minimize stormwater runoff impact to the receiving water, and the remainder of the tract should remain in an undisturbed or natural state.

Clustering of single-family residential development is utilized in developments proposing to create lot sized below the minimum area permitted by the underlying zoning district and shall be subject to the issuance of a

Special Use permit by the Town Council, in accordance with Section 5-4, Special Use Permits, of the Development Ordinance.

## **10-15 WATERSHED ADMINISTRATOR**

The Jamestown Town Manager or his designee, hereafter referred to as the Enforcement Officer, is hereby appointed the Watershed Administrator, who shall be duly sworn in that capacity. It shall be the duty of the Enforcement Officer acting as watershed administrator to administer and enforce the provisions of this ordinance as follows:

### **10-15.1 Duties**

- (A) The Enforcement Officer shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Enforcement Officer.
- (B) The Enforcement Officer shall keep records of all amendments to the Town's Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Water Quality.
- (C) The Enforcement Officer is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of the Town. The Enforcement Officer, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.
- (D) The Enforcement Officer shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Water Quality on annual basis and shall provide a description of each project receiving a modification and the reasons for granting the modification.

### **10-15.2 Appeal from the Enforcement Officer.**

Any order, requirement, decision or determination made by the Enforcement Officer may be appealed to and decided by the Jamestown Town Council.

### **10-15.3 Authority to Enforce**

The provisions of this Ordinance shall be enforced by the Watershed Administrator/Enforcement Officer or his designee, or by any authorized agent of the Town of Jamestown. Whenever this section refers to Watershed Administrator, it included his or her designee as well as any authorized agent of the Town of Jamestown.

#### 10-15.4 Violations and Enforcement Actions

##### (A) Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this Ordinance, is unlawful and shall constitute a violation of this Ordinance.

##### (B) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

##### (C) Responsible Person/Entities

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this Ordinance 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, causes, creates, or maintains a condition that results in or constitutes a violation of this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance 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 ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

##### (2) Responsibility For Land or Use of Land

The *owner* of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or

practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

#### (D) Remedies and Penalties

The remedies and penalties provided for violations of this ordinance, 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 Certificate of Occupancy

The Watershed Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices 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) Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this ordinance continues and remains uncorrected, the Watershed Administrator or other authorized agent may withhold, and the Planning & Zoning Board or Town Council may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

###### c) Injunction, Abatements, etc.

The Watershed Administrator, 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 ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

d) 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 Watershed Administrator, 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.

e) Stop Work Order

The Watershed Administrator may issue a stop work order to the person(s) violating this ordinance. 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 ordinance 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 Watershed Administrator. Civil penalties may be assessed up to the full amount of penalty to which the Town of Jamestown is subject for violations of its Phase II Stormwater permit, or if no Phase II Stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

3) Criminal Penalties

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

(E) PROCEDURES

1) Initiation/Complaint

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Watershed Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Watershed Administrator.

2) Inspection

The Watershed Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

### 3) Notice of Violation and Order to Correct

When the Watershed Administrator finds that any building, structure, or land is in violation of this ordinance, the Watershed Administrator shall notify, in writing, the property owner or other person violating this ordinance. 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 must be paid or be subject to collection as a debt.

The Watershed Administrator may deliver the notice of violation and correction order personally, by the Guilford County Sherriff's office, 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 Watershed Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

### 4) 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 Watershed Administrator 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 Watershed Administrator may (at his or her discretion) extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days. The Watershed Administrator may grant 30-day extensions (at his or her discretion) 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 ordinance. The Watershed Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

### 5) Enforcement After Time to Correct

After the time has expired to correct a violation, including any extension(s) if authorized by the Watershed Administrator, the Watershed Administrator shall determine if the violation is corrected. If the violation is not corrected, the Watershed Administrator may act to impose one or more of the remedies and penalties authorized by this ordinance.

## 6) Emergency Enforcement

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Watershed Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Watershed Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

## **10-16 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE.**

### 10-16.1 Changes to Be Reviewed by Other Bodies

(A) The Jamestown Town Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Planning and Zoning Committee for review and recommendations. If no recommendation has been received from the Planning and Zoning Committee within forty-five (45) days after submission of the proposal to the Chairman of the Planning and Zoning Committee, the Town Council may proceed as though a favorable report had been received.

(C) Under no circumstances shall the Town Council adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the North Carolina Division of Water Quality (DWQ), N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

### 10-16.2 Public Notice and Hearing Required

Before adopting or amending this ordinance, the Town Council shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area.

## **10-17 WATERSHED REVIEW BOARD**

The Town of Jamestown Technical Review Committee shall serve as the Watershed Review Board. The same rules of procedure as specified in the Zoning Ordinance shall apply.

#### 10-17.1 Powers and Duties of TRC Acting as Watershed Review Board.

(A) Administrative Review. Jamestown Town Council shall hear and decide appeals from any decision or determination made by the Enforcement Officer in the enforcement of this ordinance.

(B) Modifications. The Jamestown Town Council shall have the power to authorize, in specific cases, minor modifications from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

#### 10-17.2 Watershed Modifications

##### (a) Purpose

Recognizing that it is sometimes possible to provide equal or better performance in furtherance of the purposes of this Ordinance through use of means other than those specified herein, the Town Council finds it to be reasonably necessary and expedient that provisions be made for flexibility in administration of specified standards in this Ordinance.

##### (b) Application

Proposed modifications of certain standards as applied to particular developments are properly evaluated only in conjunction with technical review of a site plan, subdivision plat, or watershed control plan. The modifications being applied for shall be portrayed on such plans and shall be approved, approved with conditions, or denied along with the approval or denial of such plans. To obtain approval of a modification, the burden shall be upon the developer or property owner to demonstrate that the alternate standards portrayed on the plan will yield equal or better performance in furtherance of the purposes of this Ordinance.

##### (c) Approval Body

Recognizing that the evaluation of proposed alternate means intended to offer equal or better performance normally requires technical expertise and is best accomplished in conjunction with review of development plans, the Town Council hereby designates the Technical Review Committee to be the appropriate planning agency to approve modifications, except as otherwise provided in this Section.

(d) Watershed Modifications

Where the Technical Review Committee is authorized to grant modifications to Article X, Watershed Protection, to accept an alternate means of accomplishing the purposes of this Ordinance, then such modifications shall only apply to provisions of this Ordinance that are more stringent than the State minimum watershed requirements. Where such requirements are State minimum requirements, then a departure from the requirements of this Ordinance shall only be considered per the requirements of Section 10-17.3, Watershed Variances.

(e) Grounds for Modification

In considering modifications, the Technical Review Committee shall determine that the modification request meets one or more of the following findings:

(1) Equal or Better Performance: A finding by the Technical Review Committee that equal or better performance in furtherance of the purposes of this Ordinance will result from the alternate standards portrayed on the plan constitutes grounds for approval of a modification. The evaluation of performance shall be made with regard to one purpose in Section 10-1 (Purpose) if only one purpose is affected. If performance with regard to more than one purpose in Section 10-1 (Purpose) is affected, the evaluation shall be made with regard to overall performance in furtherance of the purposes of this Ordinance. If an alternate standard as portrayed on the plan reduces performance with regard to one or more Ordinance purposes but produces a concomitant and counterbalancing superiority of performance with regard to one or more other purposes, a modification may be approved.

(2) Physical Constraints: A finding by the Technical Review Committee that the size, topography, or existing development of the property or of adjoining areas prevents conformance with a standard constitutes grounds for approval of a modification.

(3) Other Constraints: A finding by the Technical Review Committee that a federal, state or local law or regulation prevents conformance with a standard constitutes grounds for approval of a modification.

(f) Conditions

In approving a modification, the Technical Review Committee or Town Council may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property will be compatible with surrounding properties, and will not alter the essential character of the neighborhood, and will support the purposes of this Ordinance being maintained. Violations of conditions and safeguards that are part of the terms of modification approval shall be deemed a violation of this Ordinance.

(g) Appeals

Appeals may be made pursuant to Article XV, Section 15-4.2 "Appeals".

(h) Duration

An approved modification or watershed variance is part of an approved plan and shall have the same duration as the plan approval.

10-17.3 Watershed Variances

(a) Purpose

Recognizing that it is sometimes evident that there are practical difficulties in meeting the strict standards and requirements of this Ordinance, and that it is possible to provide appropriate relief in furtherance of the purposes and spirit of this Ordinance through use of means other than those specified herein, the Town Council finds it to be reasonably necessary that provisions be made for major and minor variances to the watershed requirements.

(b) Application

Variances under this section apply to the standards and restrictions of Article X, Watershed Protection. Proposed watershed variances of certain standards as applied to particular developments are properly evaluated only in conjunction with a watershed development plan. The variance being applied for shall be portrayed on such plan and shall be approved, approved with conditions, or denied along with the approval or denial of such plans. To obtain approval of a watershed variance, the Technical Review Committee or Town Council shall make findings of fact as provided for in Section 10-17.2(e). To obtain approval, the burden shall be upon the developer or property owner to demonstrate such variance is warranted.

(c) Minor Variances

The Technical Review Committee shall review and decide requests for minor variances to the standards and restrictions pertaining to Watershed Protection Overlay Districts. In order to approve a requested minor variance, the Technical Review Committee shall make findings of fact showing that:

- (1) There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of this Ordinance;
- (2) The variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
- (3) The granting of the variance assures the public safety and welfare and does substantial justice.

The Technical Review Committee may attach conditions to the minor variance approval that support the purpose of this Ordinance. In addition, in the case of water supply watersheds, the town shall notify and allow a reasonable comment period for all other local governments having

jurisdiction in the applicable designated watershed and the entity using the water supply for consumption where the minor variance is being considered.

(d) Major Variances

Requests for major variances to the standards and restrictions pertaining to Article X (Watershed Protection) shall be to the N.C. Environmental Management Commission (EMC), following review and favorable recommendation by Town Council and after review and recommendation by the Technical Review Committee in accordance with the procedure set forth in 10-17.2 above. The major variance request shall be forwarded to the EMC with a report containing the findings of fact for Town Council's favorable recommendation, conclusions of law, a recommended decision, recommended conditions and a record of the Council's hearing of the request. Requests for major variances that do not receive a favorable recommendation shall be deemed denied and shall not be forwarded to the EMC.

(e) Annual Report of Watershed Variances

The Enforcement Officer shall keep a record of all watershed variances and this record shall be submitted for each calendar year to the North Carolina Division of Water Quality in accordance with Section 10-17.3, Watershed Variances

(f) Conditions

In approving a watershed variance, the Technical Review Committee or Town Council may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property will be compatible with surrounding properties and will not alter the essential character of the neighborhood. Violations of conditions and safeguards that are part of the terms of a variance shall be deemed a violation of this Ordinance.

(g) Appeals

Appeals may be made pursuant to Article XV, Section 15-4.2 "Appeals".

(h) Duration

An approved watershed variance is part of an approved plan and shall have the same duration as the plan approval.

(i) Town Council

(1) Appeals from a decision of the Technical Review Committee with regard to subdivisions or site plans shall be to the Town Council provided the appeal is made by the applicant within thirty (30) days of the decision. Appeals from a decision of the Technical Review Committee with regard to decisions relative to watershed development plans shall be to the Town Council provided that the appeal is made by the applicant within thirty (30) days of the decision. Appeals from a decision of the Urban Forestry Committee with regard to tree planting, pruning or

removal authorization shall be to the Town Council provided the appeal is made by the applicant within thirty (30) days of the decision.

(2) All relevant facts, information or other evidence that could have affected a decision of the Technical Review Committee, Watershed Review Committee or Urban Forestry Committee, shall first have been presented to or made available for consideration by the Committee prior to taking an appeal to Town Council. The Town Council may remand a case to the Technical Review Committee, Watershed Review Committee or Urban Forestry Committee for consideration of new information before ruling on an appeal.

#### 10-17.4 SURETIES OR IMPROVEMENT GUARANTEES

a) *Installation statement and financial guarantee.*

In lieu of requiring the completion, installation, and dedication of all required town streets, utilities and other required improvements prior to final plat approval; the developer shall submit the statement of required improvements for which the developer is responsible and the date when said improvements shall be completed. Said installation statement and any related security shall not be accepted until after the plans and profiles for the development have been approved by the Technical Review Committee. Once said statement has been submitted and accepted and the security required herein is provided in accordance with Section 10-17.4, the final plat may be approved if all other requirements of this Ordinance are met.

In lieu of requiring the completion, installation, or dedication of public and other improvements required by this Ordinance prior to issuance of the certificate of compliance, the Town may accept a financial guarantee along with a statement from the developer indicating responsibility for, and the completion date of, said improvements.

b) *Performance Guarantee*

The performance guarantee shall consist of at least 125% of the total estimated cost of all required improvements, as approved by the Director of Public Services, or his designee. The duration of the performance guarantee shall be of a reasonable period to allow for completion, approval and acceptance of improvements, but in no case shall the duration of the performance guarantee exceed eighteen (18) months, unless said guarantee is extended with the consent of the Town Manager. The Enforcement Officer may release a portion or all of any performance guarantee posted as the improvements are completed and approved by the Enforcement Officer, however an engineer's certification and as-builts must be submitted and an inspection conducted by the Enforcement Officer prior to final release. At the time of final release of the performance guarantee, maintenance responsibility shall transfer to the appropriate entity.

(c) *As-Built Plans Required*

Upon completion of a project the applicant shall certify that the completed project is in accordance with the approved plans and shall submit actual "as built" plans for all improvements

after final construction is completed. The plans shall show the final design specifications for all improvements and the field location, size, depth, and related measures, controls and devices, as installed. The designer shall certify, under seal, that the as-built design, measures, controls, and devices are in compliance with the approved plans and with the requirements of this ordinance. A final inspection and approval by the Enforcement Officer shall occur before the release of any performance guarantees, or before approval of the final plat if no performance guarantees were made.

*(d) Financial Guarantee Forms*

The performance and maintenance guarantees shall be provided in one or more of the following forms.

(1) *Cash, irrevocable letter of credit or equivalent security:*

a. The developer shall deposit cash, or other instrument readily convertible into cash at face value, such as an irrevocable letter of credit, either with the town or in escrow with a financial institution. The use of any instrument other than cash shall be subject to approval by the town manager.

b. If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the Town guaranteeing the following:

1. That said escrow account shall be held in trust until released by the town and may not be used or pledged by the developer for any other matter during the term of the escrow; and

2. That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the town, immediately pay the funds deemed necessary by the town to complete the improvements up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town of Jamestown.

(2) *Surety bond:*

a. The developer shall obtain a surety bond from a surety bonding company authorized to issue said bonds in North Carolina.

The bond shall be payable to the town and shall be in an amount as required by this Ordinance.

*(e) Forfeiture Provisions*

The guarantees shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the developer in accordance with this Ordinance, approvals issued pursuant to this Ordinance, or an operation and maintenance agreement established pursuant to this Ordinance.

(f) *Default*

Upon default of the developer to construct, maintain, repair and, if necessary, reconstruct any required improvements, the Enforcement Officer shall obtain and use all or any portion of the guarantee to make necessary improvements or maintenance based on an engineering estimate. Such expenditure of funds shall only be made after requesting the developer to comply with the approved plans. In the event of a default triggering the use of the performance guarantee, the Town shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(g) *Improper release of financial guarantee.* Should the town release a financial guarantee through error, such administrative error shall not release the developer from responsibility for the completion of all improvements required by this title.

(h) *Fee in lieu of required sidewalk installation.* Where the installation of sidewalk is required by an ordinance of the Town, and the Director of Public Services determines that installation at the time of development would conflict with a Town, state, or federal roadway project programmed in the state transportation improvement program or the Town's approved capital projects list, the developer shall be required to submit a fee in lieu of such installation.

Fees submitted in lieu of required sidewalk installation shall be in an amount of the entire estimated cost of completing the installation, based on current contract unit prices, as approved by the Town engineer. All fees collected by the Town pursuant to this subsection shall be deposited in the Town's sidewalk revolving fund and used only for construction of sidewalks on the site, or in the street right-of-way abutting the site, for which the fee is collected. Use of submitted funds to construct said sidewalks shall be coordinated with the appropriate phase of the conflicting roadway project.

To the extent that the conflict which necessitated the fee-in-lieu is eliminated by cancellation or alteration of the conflicting roadway project, 1) if the scheduled project was on a new alignment, the funds submitted for construction of sidewalks in coordination with said project shall be refunded to the developer; 2) if the scheduled project was a widening of an existing roadway, funds submitted for construction of sidewalks in coordination with said project shall be used by the Town of Jamestown to construct said sidewalk.

## 10-18 OWNERS ASSOCIATIONS

### *10-18.1 Establishment*

(1) Creation: An Owners' Association shall be established to fulfill requirements

of the NC Condominium Act or to accept conveyance and maintenance of all common areas and common elements within a development. The Owners' Association shall be in legal existence prior to the conveyance, lease option, or other long-term transfer of control of any unit or lot in the development and its establishment shall comply with the NC Planned Community Act (NCGS 47F).

(2) Conveyance: Where developments have common areas or common elements serving more than one (1) dwelling unit, these areas shall be conveyed to the Owners' Association, in which all owners of lots in the development shall be members. All areas other than public street rights-of-way, other areas dedicated to the Town, and lots shall be designated as common elements. In a condominium development the common elements shall be platted as common elements in accordance with the NC Condominium Act. In other developments, the fee-simple title shall be conveyed by the subdivider or developer to the Owners' Association prior to the sale of the first lot.

(3) Subdivision or Conveyance of Common Elements: Common elements shall not subsequently be subdivided or conveyed by the Owners' Association unless a revised Preliminary Plat and a revised Final Plat showing such subdivision or conveyance have been submitted and approved.

(4) Minimize Number of Associations: Developments, whether including different land uses, different types of housing, or simply different sections, shall hold the number of Owners' Associations to a minimum. An association may establish different categories of membership, different budgets for the categories, and different rates of assessment when different kinds of services are provided to different categories. Smaller associations under an umbrella (master) association are permitted.

(5) Owners' Association Not Required: A development involving only two (2) units attached by a party wall (or two separate walls back-to-back) shall not be required to have common elements or an Owners' Association. Such developments without an Owners' Association shall establish a binding agreement between owners to govern any party walls and to ensure reciprocal easement rights needed for maintenance.

#### *10-18.2 Submission of Owners Association Declaration*

After Preliminary Plat approval, and before any building permit issuance, it is recommended that the subdivider submit for review and approval a draft of the Declaration of the Owners' Association containing covenants, conditions and restrictions governing the Owners' Association, lots or units, and common elements. Prior to or concurrently with the submission of the Final Plat for review and approval, the subdivider shall submit a copy of the final Declaration for review and approval. The Declaration shall include provisions for the following:

(1) Membership: Membership in the Owners' Association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions

shall be made for the assimilation of owners in subsequent sections of the development.

(2) Responsibilities of Owners' Association: The declaration shall state that the Association is responsible for:

a. Payment of premiums for liability insurance and local taxes;

b. Maintenance of all common elements including, but not limited to, stormwater control devices, utilities, streets, drives, walks, and recreation facilities, at the time such common elements are transferred to the Owners' Association. The transfer of such responsibility occurs at the time said improvements, where required, have been inspected and approved by the Town. Maintenance of the stormwater management facilities shall be pursuant to the established operation and maintenance agreement so transferred.

c. Payment of assessments for public and private improvements made to or for the benefit of the common elements.

(3) Exterior Maintenance of Units: The Owners' Association shall be made responsible for exterior maintenance of all attached units (whether they be dwelling units or nonresidential units); or each unit owner shall be made responsible, with the Owners' Association granted authority to perform such

exterior maintenance in the event the unit owner fails to do so in a prompt and satisfactory manner, and to assess the cost of the maintenance against the unit.

(4) Default By Owners' Association: Upon default by the Owners' Association in the payment to the jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six (6) months, each owner of a lot in the development shall become personally obligated to pay to the jurisdiction a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives, and assigns.

The taxing or assessing jurisdiction may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner.

(5) Powers of the Association: The Owners' Association is empowered to levy assessments against the owners of lots or units within the development. Such assessments

for the payment of expenditures made by the Owners' Association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.

(6) Easements: Easements over the common elements for access, ingress, and egress from and to public streets and walkways, and easements for enjoyment of the common areas and for parking shall be granted to each lot owner.

(7) Maintenance and Restoration: Provisions for maintenance and restoration in the event of destruction or damage shall be established for all common area improvements and party walls. The Owners' Association shall establish a maintenance fund for these purposes. It is recommended that the Owners' Association engage the services of a professional management company and that all required inspections and repairs be conducted by qualified personnel. An operation and maintenance agreement for stormwater management facilities is required per Section 10-13.5(E).

(8) Parking Allocation in Nonresidential Developments: In nonresidential owners association developments, the Declaration shall contain the following provision: "Parking spaces shall be allocated among the individual lots or units in such a manner that each unit is entitled to a sufficient number of parking spaces to comply with this Ordinance for the use intended to be located therein. The Owners' Association shall maintain a register listing the total number of parking spaces in the development and the number of spaces allocated to each lot or unit. A copy of this register shall be available to the Enforcement Officer at his request. The Owners' Association shall not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the owner thereof, and in no case shall the number of parking spaces allocated to an individual unit be reduced to a number below that required by this Ordinance."

(9) Common Elements and Location: The common elements shall be listed and the location of common areas or common elements shall be shown graphically as an attachment to the Declaration of the Owners' Association.

### *10-18.3 Conversion of Nonconforming Developments*

If a nonconforming use or nonconforming building is converted into a condominium or other owners' association development, the Declaration and Final Plat shall disclose such nonconformity and explain potential consequences of such nonconformity in case of substantial damage to the building.

## **10-19 DEFINITIONS**

*Drainage and watershed protection:*

*Agricultural use.* The use of waters for stock watering, irrigation, and other farm purposes.

*Animal unit.* A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

*Best management practice (BMP).* A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

*Buffer.* An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured from the normal pool elevation of impounded structures and from the top of bank of each side of streams or river.

*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.)

*Channelization.* Any improvements or other construction activity which occurs within or in the vicinity of an existing natural drainageway or perennial stream which directs or relocates said waterway along some desired course, by increasing its depth or by the use of piping or any other manmade storm drainage structures.

*Cluster development.* The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family subdivisions and multi-family developments that do not involve the subdivision of land.

*Completed.* Work has progressed to the point that, in the opinion of the enforcement officer, it is sufficiently completed in accordance with the approved plans and specifications that the work can be utilized for its intended purposes. For permanent runoff control structures this generally means that the following have been accomplished:

- (1) The dam has been constructed to the approved lines and grades;
- (2) all slopes have been fine graded, seeded, mulched, fertilized, and tacked to establish permanent ground cover;
- (3) principal and emergency spillways have been installed at the approved elevations and dimensions; and
- (4) permanent velocity controls on the inlet and outlet pipes and channels have been installed.

*Composting facility.* A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations are deposited.

*Critical Area.* The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the

ridge line of the watershed (whichever comes first). Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required. Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

*Development.* Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

*Discharging landfill.* A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

*Domestic wastewater discharge.* The discharge of sewage, nonprocess industrial wastewater, other domestic wastewater, or any combination of these items. It includes liquid waste generated by domestic water-using fixtures and appliances from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic wastewater include once-through noncontact cooling water, seafood packing facility discharges, and wastewater from restaurants.

*Drainage, dispersed.* Drainage spread out, as opposed to collected in channels, so as to effect increased sheet flow and overland flow.

*Drainageway.* Any natural or manmade channel that carries surface runoff from precipitation.

*Drainage, enhanced.* Drainage carried by existing natural drainageways which have been enhanced to resist soil erosion and stream bank degradation. An enhanced natural drainageway is achieved with the installation of an engineered measure (i.e., netting, riprap) which will resist soil erosion and allow infiltration within the natural drainageway.

*Drainageway, improved.* Drainage channeled by impervious surfaces such as curb and gutter or concrete channels.

*Drainageway, protected.* Drainage channeled by pervious devices such as sod waterways, berms, channels, or swales which have been stabilized with vegetation, rip-rap, or a combination of these, to resist soil erosion.

*Drainageway and open space area, dedicated.* The area designated for floodplain and open space purposes on a recorded subdivision plat and thereby dedicated to the public for such purposes and, where approved by the Town, for utilities.

*Dry detention pond.* A pond which collects stormwater runoff, holds the water, and releases it slowly over a period of hours or days. It does not have a permanent pool and is sometimes referred to as a dry pond or wet weather pond.

*Enforcement Officer.* The Town Manager of Jamestown or his designee who is responsible for administering and enforcing the watershed protection provisions adopted by the Town.

*Existing development.* Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning based on at least one (1) of the following criteria:

- a. Substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- b. Having a valid outstanding building permit; or
- c. Having an approved site specific or phased development plan in compliance with North Carolina General Statutes 153A-344.1 or North Carolina General Statutes 385.1 Regulations. (This definition applies only with respect to watershed protection regulations.)

*Existing Lot (Lot of Record).* A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, (if located in the Randleman Lake Watershed) or a lot described by metes and bounds, the description of which has been so recorded prior to October 1, 1993.

*Hazardous material.* Any material listed as such in: Superfund Amendments and Reauthorization Act (SARA) section 302 Extremely Hazardous Substances (42 USC 1100 et seq.); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Hazardous Substances (42 USC 9601 et seq.); or section 311 of the Clean Water Act, as amended (CWA) (33 USC 1251 et seq.; oil and hazardous substances) hereby incorporated by reference including any subsequent amendments and editions.

*Impervious surface.* Improvements including street pavement, driveways, gravel areas, buildings, and other structures which cover the soil surface and prevent infiltration of water into the soil.

*Industrial Development.* Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

*Industrial discharge.* The discharge of industrial process treated wastewater or wastewater other than sewage and including:

- a. Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- b. Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;
- c. Stormwater contaminated with industrial wastewater; and
- d. Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

*Landfill.* A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of these watershed provisions, this term does not include composting facilities.

*Major watershed variance.* A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor greater than five (5) percent of any buffer, density or built-upon area requirement under the high density option; any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system; or relaxation by a factor greater than 10 percent of any management requirement under the low density option.

*Minor watershed variance.* A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor of up to five percent of any buffer, density or built-upon area requirements under the high density option; or relaxation by a factor of 10 percent of any management requirement under the low density option.

*New development.* Any land-disturbing activity which adds to or changes the amount of built-upon area. (This definition applies only with respect to watershed protection regulations.)

*Nonprocess discharge.* Industrial effluent not directly resulting from the manufacturing process. An example is noncontact cooling water from a compressor.

*Perennial and intermittent streams.* Those streams (and rivers), with associated lakes and ponds as indicated on the following:

- a. On the most recent version of the United States Geological Survey 1:24,000 scale (7.5 minute quadrangle) topographical map;
- b. On the most recent version of the Soil Survey of Davidson County, Forsyth County, Guilford County, or Randolph County developed by the United States Department of Agriculture (USDA) Natural Resource Conservation Service (formerly the USDA Soil Conservation Service); or
- c. By other site-specific evidence that indicates to the North Carolina Division of Water Quality (DWQ) the presence of such waters not shown on either of these two (2) maps or evidence that no actual stream or waterbody exists.

*Protected drainageway (channel).* Where drainage is channeled by pervious devices such as sod waterways, berms, channels or swales which have been constructed to resist soil erosion by either vegetating, netting, riprapping, or a combination of those, and which allows infiltration of water into the soil.

*Required drainage channel.* The theoretical stream bed section which is required to carry and discharge the runoff from a 100-year storm.

*Residential Development.* Buildings for residence such as attached and detached single-family

dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

*Single Family Residential.* Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

*Retention pond.* A pond that has a permanent pool.

*Runoff detention equal to minimum requirements.* Velocity control of runoff.

*Stream Buffer.* A natural, vegetated, or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer width is measured landward from the normal pool elevation of impoundments and from the bank of each side of streams or rivers. (This definition applies only with respect to Watershed Protection Regulations).

*Sludge.* Any solid or semisolid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under authority of the North Carolina Environmental Management Commission.

*Stabilizing vegetation.* Any vegetation that prevents accelerated soil erosion.

*Storm, 100-year.* The surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in 100 years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

*Storm, 10-year.* The surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in 10 years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

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

*Stormwater runoff.* The direct runoff of water resulting from precipitation in any form.

*Stream.* A watercourse that collects surface runoff.

*Surface Water Buffer.* A natural, vegetated, or re-vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer width is measured landward from the normal pool elevation of impoundments and from the bank of each side of streams or rivers. (This definition applies only with respect to Watershed Protection regulations.)

*Toxic Substance.* Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

*Typical required drainage channel section.* A cross-sectional view of a required drainage channel.

*Undisturbed area.* That portion of a lot, tract, or subdivision which has not and will not be occupied and which has not and will not be graded to change land contours or to destroy existing vegetation. Only areas that are wooded or reforested are considered undisturbed for the purposes of watershed protection scoresheet evaluation. (This definitions applies only with respect to watershed protection regulations.)

*Velocity.* The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overland flows are not to be included for the purpose of computing velocity of flow.

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

*Water quality conservation easement.* See section 9-2-2(d) (easements).

*Watershed, water supply.* The entire land area contributing surface drainage to a designated water supply reservoir. For the purposes of the Watershed Protection Overlay District Regulations, major landmarks such as roads or property lines may be used to delineate the outer boundary of the drainage area if these landmarks are immediately adjacent to the ridgeline.

*Watershed critical area.* That portion of the watershed within the lake basin of the water supply reservoir as delineated in chapter 7 (environmental regulations).

*Wet detention pond.* A pond that collects stormwater runoff, holds the water, and releases it slowly over a period of days, and which has a permanent pool that utilizes both settling and biological process to remove both particulate and soluble particulates.

*Wetlands.* Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support under normal circumstances a prevalence of vegetation typically adapted for life in saturated soil conditions.

## **10-20            LEGALITY**

### Section 1 – Severability

If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance.

### Section 2 - Repeal of Previous Town of Jamestown Watershed Protection Ordinances

The following Town of Jamestown, North Carolina Ordinance: 1) Watershed Protection Ordinance which was adopted in 2000, is hereby repealed.

### Section 3 – Conflict

All other ordinances and regulations and parts of other ordinances and regulations inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

### Section 4 – Amendments

The Town of Jamestown expressly reserves the right to amend, modify, rescind, or supplement this Ordinance.

## **10-21            ADOPTION AND EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law on June 19, 2007.

## ARTICLE XI

### SOIL EROSION AND SEDIMENTATION CONTROL

*Development within the Town of Jamestown is subject to the Soil Erosion and Sedimentation Control Ordinance of Guilford County, which is reprinted herein for reference. Any subsequent amendments to the county ordinance take precedence over this text.*

#### 11-1 GENERAL REQUIREMENTS

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

- 1) Exceeds one (1) acre;
- 2) Will take place on highly erodible soils with a "k" factor greater than .36 in a watershed critical area;
- 3) Includes a pond or retention structure in a watershed critical area; and
- 4) Will take place in Tier 1 or Tier 2 of a watershed critical area.

(B) Protection of Property: Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage or nuisance caused by such activity.

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

#### 11-2 BASIC CONTROL OBJECTIVES

A soil erosion and sedimentation control plan may be disapproved pursuant to Section 11-4.14(M) Grounds for Plan Disapproval of this Ordinance if the plan fails to address the following control objectives:

(A) Identify Critical Areas: On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention;

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

- (C) Limit Exposed Areas: All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;
- (D) Control Surface Water: Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;
- (E) Control Sedimentation: All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage and nuisances to adjacent properties, streets or streams; and
- (F) Manage Storm Water Runoff: When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

### **11-3 MANDATORY STANDARDS FOR LAND DISTURBING ACTIVITY**

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

- (A) Buffer Zone: No land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five (25%) percent of the buffer zone nearer the land-disturbing activity, provided, that this subsection (A) shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse;
- (B) Graded Slopes and Fills: The angle for graded slopes and fills shall be no steeper than two (2) to one (1) slope if they are to be stabilized with vegetative cover. Slopes or fills steeper than two (2) to one (1) slope must be protected by structures. In any event, slopes left exposed will, within thirty (30) days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion;
- (C) Ground Cover: Whenever land-disturbing activity is undertaken on a tract comprising more than-one acre, if more than one contiguous acre is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section 11-4.4(B)5) of this Ordinance, provisions for a ground cover sufficient to restrain erosion must be

accomplished within thirty (30) working days or one hundred and twenty (120) calendar days following completion, whichever period is shorter; and

(D) Prior Plan Approval: No person shall initiate any land-disturbing activity if more than one contiguous acre is to be uncovered unless, thirty (30) or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the Jurisdiction.

#### **11-4 DESIGN AND PERFORMANCE STANDARDS**

(A) Design for Ten-year Storm: Except as provided in Section 11-4.4(B)2) of this Ordinance, soil erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of runoff from the ten (10)-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.

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

1) Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract to twenty acres. Only this subsection shall govern the portion of the land-disturbing activity within a HQW zone. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director (DEHNR).

2) Soil erosion and sedimentation control measures, structures and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the twenty-five (25) - year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agricultural Soil Conservation Service's "national Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

3) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least seventy (70%) percent for the forty (40) micron size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agricultural Soil Conservation Service's "national Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other

agency of this State or the United States or any generally recognized organization or association.

4) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two (2) horizontal to one (1) vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

5) Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within fifteen (15) working days or sixty (60) calendar days following completion of construction or development, whichever period is shorter.

## **11-5 STORM WATER OUTLET PROTECTION**

(A) Intent: Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.

(B) Performance Standard: Persons shall conduct land-disturbing activity so that the post-construction velocity of the ten (10)year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

- 1) the velocity established by Table 11-4-1; or
- 2) the velocity of the ten (10)-year storm runoff in the receiving watercourse prior to development.

If conditions 1) or 2) above cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten (10%) percent.

(C) Acceptable Management Measures: Measures applied alone or in combination to satisfy the intent of this Section are acceptable if there are no objectionable secondary consequences. The Jurisdiction recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results.

Some alternatives are to:

- 1) Avoid increases to surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
- 2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;
- 3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities at the point of discharge. These may range from simple rip-rapped sections to complex structures; or

TABLE 11-5.1

MAXIMUM PERMISSIBLE VELOCITY FOR  
STORMWATER DISCHARGES

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

Source - Adapted from recommendations by Special Committee on Irrigation

**Research, American Society of Civil Engineers, 1926, for channels with straight**

alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

- 4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

- (D) Exceptions: This rule shall not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

#### **11-6 BORROW AND WASTE AREAS**

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

#### **11-7 ACCESS AND HAUL ROADS**

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

#### **11-8 OPERATIONS IN LAKES OR NATURAL WATERCOURSES**

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

#### **11-9 RESPONSIBILITY FOR MAINTENANCE**

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

**11-10      ADDITIONAL MEASURES**

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

**11-11      EXISTING UNCOVERED AREAS**

(A)    Applicability: All uncovered areas existing on the effective date of this Ordinance which are the result of land-disturbing activity, which exceed one (1) contiguous acre, which are subject to continued accelerated erosion, and which are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(B)    Notice of Violation: The Jurisdiction will serve upon the landowner a written notice of violation by registered or certified mail, return receipt requested. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonably attainable time limits for compliance.

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

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

**11-12      EROSION AND SEDIMENTATION CONTROL PLANS**

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

(B)    Preparation of Plan: The erosion control plan shall be prepared by, and shall bear the seal and signature of a registered professional engineer, architect, landscape architect, or a registered surveyor to the extent permitted by North Carolina laws, at a scale not smaller than one (1) inch equals one hundred (100) feet. The plan shall be filed with the Jurisdiction, and the Guilford Soil and Water Conservation District, thirty (30) days prior to the commencement of the proposed activity.

(C) Submission of Plan: Persons conducting land-disturbing activity which covers one or more contiguous acres shall file five (5) copies of the erosion control plan with the Jurisdiction, at least thirty (30) days prior to beginning of such activity, and shall keep another copy of the plan on file at the job site. If the Jurisdiction, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Jurisdiction will require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

(D) Financial Responsibility Statement: Erosion control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. The person financially responsible for the land-disturbing activity or his attorney shall sign this statement in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of this compliance or non-compliance with the plan, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance.

(E) Conservation District Review: The Guilford Soil and Water Conservation District within twenty (20) days of receipt of any plan shall review such plan and submit its comments and recommendations to the Jurisdiction. Failure of the Soil and Water Conservation District to submit its comments and recommendations within these twenty (20) days will not delay final action on the plan.

(F) Local Jurisdiction Review: The Jurisdiction will review each plan submitted to them and within thirty (30) days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve or disapprove a complete erosion and sedimentation control plan within thirty (30) days of receipt shall be deemed approval. Denial of a plan must specifically state in writing the reasons for denial. The jurisdiction must approve or deny a revised plan within fifteen (15) days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved plan, the Jurisdiction determines that the plan is inadequate to meet the requirements of this Ordinance, the Jurisdiction may require such revisions as are necessary to comply with this Ordinance.

(G) Plan Requirements: The plan required by this Section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures proposed to ensure compliance with the requirements of this Ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation can be found in Appendix 2 (Map Standards) of this Ordinance.

(H) Application Amendments: Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the

original application. Until such time as said amendment is approved by the Jurisdiction, the land-disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.

(I) Work Conducted from Approved Plan: Any person engaged in land-disturbing activity who fails to file a plan in accordance with this Ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Ordinance.

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

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

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

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

- 1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or the Jurisdiction and has not complied with the notice within the time specified in the notice;

- 2) Has failed to pay a civil penalty assessed pursuant to the Act or this Ordinance which is due and for which no appeal is pending;
- 3) Has been convicted of a misdemeanor pursuant to NCGS 113A-64(b) or any criminal provision of this Ordinance; and
- 4) Has failed to substantially comply with State rules adopted pursuant to the Act or regulations of this Ordinance.

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

(N) Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (NCGS 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. Guilford County shall promptly notify the person submitting the plan that the thirty (30) day time limit for review of the plan pursuant to Section 11-4.12(F) of this Ordinance shall not begin until a complete environmental document is available for review.

### **11-13 AMENDMENTS TO SOIL EROSION AND SEDIMENTATION CONTROL REQUIREMENTS**

The State Sedimentation Control Commission must approve all revisions to the soil erosion and sedimentation control requirements of this Ordinance. Guilford County shall incorporate revisions required by the Commission within eight (8) months following receipt of the required revisions. If standards of this Ordinance currently meet or exceed the required revisions, the Commission shall be so notified within ninety (90) days of their receipt.

### **11-14 CIVIL PENALTIES - SOIL EROSION AND SEDIMENTATION CONTROL**

#### **11-14.1 General**

Any person who violates any provisions of this Article or the Act, or rules or orders adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required, not in accordance with the terms, conditions, and provisions of an approved erosion and sedimentation control plan, shall be subject to a civil penalty. No civil penalty shall accrue in excess of \$500 per day, in addition to the penalty for failure to submit an erosion and sedimentation control plan provided in Section 11-14.5 (Erosion and Sedimentation Control Plan).

#### **11-14.2 Notice of Violation**

No penalty shall be assessed until the person alleged to be in violation has been notified

of the violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. However, no time period for compliance need be given for failure to submit a soil erosion and sedimentation control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. Each day of continuing violation shall constitute a separate violation.

#### 11-14.3 Notice of Assessment

The Enforcement Officer shall determine the amount of the civil penalty to be assessed under this subsection, shall make written demand for payment upon the person in violation, and shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty the Enforcement Officer shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give actual notice. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the Guilford County attorney for institution of a civil action in the appropriate division of the General Counts of Justice for recovery of the penalty.

#### 11-14.4 Specific Civil Penalties

Civil penalties for specific violations of Section 7-4 (Soil Erosion and Sedimentation Control) shall be assessed as follows:

- (A) Grading without Permit: \$500 per day for failure to secure a valid grading permit prior to conducting a land-disturbing activity for which a soil erosion and sedimentation control plan is required.
- (B) Failure to Protect: \$500 per day for failure to take all reasonable measures to protect public property, or private property, including lakes and/or natural watercourses, from damage caused by land-disturbing activities.
- (C) Failure to Follow Plan: \$300 per day for failure to conduct a land-disturbing activity in accordance with the provisions of an approved erosion and sedimentation control plan.
- (D) Failure to Install Devices: \$500 per day for failure, when more than one (1) (contiguous acre is disturbed), to install erosion and sedimentation control devices sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract(s) and prevent off-site sedimentation.

- (E) Failure to Maintain Measures: \$300 per day for failure to maintain satisfactory erosion and sedimentation control measures, structures and/or devices on the site that are designed to provide protection from the calculated maximum peak rate of runoff from the ten (10)-year storm or the twenty-five (25)-year storm in a High Quality Storm (HQW) zone.
- (F) Failure to Maintain Temporary Measures: \$250 per day for failure to maintain temporary erosion and sedimentation control measures and facilities during site development.
- (G) Failure to Maintain Slopes: \$250 per day for failure on graded slopes and fills to maintain an angle sufficient to retain vegetative cover or other adequate erosion and sedimentation control devices or structures.
- (H) Failure to Cover Slopes: \$250 per day for failure within thirty (30) days of completion of any phase of grading to plant or otherwise provide exposed, graded slopes or fills with ground cover, devices, or structures sufficient to restrain erosion.
- (I) Failure to Plant Cover: \$250 per day for failure on a tract when more than one contiguous acre is disturbed, to plant or otherwise provide ground cover sufficient to restrain erosion within thirty (30) working days or one-hundred and twenty (120) calendar days, fifteen (15) working days or sixty (60) calendar days in High Quality Water Zones, whichever is the shorter, following completion of construction or development.
- (J) Failure to Revise Plan: \$250 per day for failure to file an acceptable, revised erosion and sedimentation control plan after being notified of the need to do so.
- (K) Failure to Maintain Buffer: \$250 per day for failure to retain a buffer zone of sufficient width along a lake or natural watercourse to confine visible siltation within the twenty-five (25%) percent of the buffer zone nearest the land-disturbing activity.
- (L) Interference with Official Duties: \$500 per day for obstructing, hampering, or interfering with any authorized agent of the Jurisdiction or the Sedimentation Control Commission while in the process of carrying out his official duties.
- (M) Failure to Provide Control: \$250 per day for failure to install or maintain erosion control devices, or prevent off-site sedimentation on sites of land-disturbing activity not requiring a grading permit and with disturbed area of less than one (1) acre.

#### 11-14.5 Erosion and Sedimentation Control Plan

Any person who fails to submit an erosion and sedimentation control plan as required by this Ordinance shall be subject to a single, non-continuing civil penalty of not more than \$1,000. Any person may be subject to additional civil penalties for violation of any other provision of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance.

#### 11-14.6 Civil Penalty Use

Civil penalties collected for erosion and sedimentation control violations shall be used or disbursed as directed by NCGS 113A-64(a).

### **11-15 CRIMINAL PENALTY - SOIL EROSION AND SEDIMENTATION**

#### **CONTROL**

Any person who knowingly or willfully violates any soil erosion and sedimentation control provisions of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed ninety (90) days, or by a fine not to exceed \$5,000, or both.

#### 11-16 INJUNCTIVE RELIEF SOIL EROSION AND SEDIMENTATION CONTROL

Whenever the Enforcement Officer has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved soil erosion and sedimentation control plan the Enforcement Officer may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Jurisdiction, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Guilford County. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this Section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

## ARTICLE XII

### FLOOD DAMAGE PREVENTION

#### 12-1 FLOOD DAMAGE PREVENTION PURPOSE

(A) It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- 1) Restrict or prohibit uses which 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 other development which may increase erosion or flood damage; and
- 5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;

(B) Objectives

- 1) 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 flood prone areas;

- 6) To help maintain a stable tax base by providing for the sound use and development of flood prone area; and
- 7) To ensure that potential buyers are aware that property is in a Special Flood Hazard area.

(C) Definitions

- Additional Definitions may be found in Article II “Definitions”.

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

“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 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 ordinance.

“Area of Shallow Flooding” means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection

Elevation”.

“Breakaway Wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

“Building” see “Structure”.

“CAMA” – North Carolina’s Coastal Area Management Act. This act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources’ (NCDENR’s) Division of Coastal Management (DCM).

“CBRS” means Coastal Barrier Resources System.

“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.

“Coastal Barrier Resources System (CBRS)” consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

“Coastal High Hazard Area” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in this ordinance, as Zone VE.

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Disposal” means, as defined in NCGS 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 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, 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 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 initial effective date of the floodplain management regulations adopted by the community.

“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 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 both the Special 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).

“Flood Prone Area” see “Floodplain”

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“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 ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“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 (1) 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) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to 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 Management Facility” means, as defined in NCGS 130, Article 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:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) 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;
- (c) individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) 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 US 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 the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“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 ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Encroachment 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 (1) foot as designated in the Flood Insurance Study report.

“OPA” means an Otherwise Protected Area.

“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.

“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.

“Primary Frontal Dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“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:

- built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- designed to be self-propelled or permanently towable by a light duty truck; and
- designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-30, AE, A, A99 or AO. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as zone VE.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

“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 non-residential 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.

“Sand Dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Shear Wall” means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 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 (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

“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 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.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is 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 damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“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:

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

any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

“Variance” is a grant of relief from the requirements of this ordinance.

“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 Articles 4 and 5 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.

## **12-2 FLOOD DAMAGE PREVENTION**

### **12-2.1 Statutory Authorization**

(A) The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5 and 8 of Article 19 Chapter 160A; and Article 8 of Chapter 160, of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Town Council of the Town of Jamestown, North Carolina, does ordain as follows:

(B) Legal Status Provisions:

(1) Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance: This ordinance in part comes forward by re-enactment of some of the

provisions of the flood damage prevention ordinance enacted on March 4, 1980, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Jamestown enacted on March 4, 1980, as amended, which are not reenacted herein are repealed.

The date of the initial flood damage prevention ordinance for Guilford County is as follows: **June 4<sup>th</sup>, 1980.**

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

(3) Effective Date: This ordinance shall become effective upon adoption.

#### 12-2.2 Findings of Fact

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

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

#### 12-2.3 General Provisions

(A) Lands to Which this Ordinance Applies: This Ordinance shall apply to all areas of Special Flood Hazard Areas within the Town of Jamestown, including Extra-Territorial Jurisdictions (ETJs). Bona fide farms are not exempt from the provisions of this Ordinance regulating development in floodways and flood plains as required for participation in the National Flood Insurance Program.

(B) Basis for Establishing the Areas of Special Flood Hazard: The special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement

between the State of North Carolina and FEMA in its Flood Insurance Study and its accompanying Flood Insurance Rate Maps (FIRM), for Guilford County, date June 18, 2007 which are adopted by reference and declared to be a part of this ordinance.

12-2.4 Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 12-2.3 (B) of this ordinance.

12-2.5 Compliance

No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this ordinance and other applicable regulations. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

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

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body; and
- (c) deemed neither to limit nor repeal any other powers granted under State statutes.

**12-3 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Town of Jamestown or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

**12-4 FLOOD PLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENT**

- (A) Application for Permit: On a property containing area of Special Flood Hazard, application for a Flood Plain Development Permit shall be made in accordance with 12-4 (Flood Plain Development Permit).

12.4-1 Floodplain Development Permit

Application Requirements: Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

- (1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - a) 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;
  - b) The boundary of the special flood hazard area as delineated on the firm or other flood map as determined in this section, or a statement that the entire lot is within the special flood hazard area;
  - c) Flood zone(s) designation of the proposed development area as determined on the firm or other flood map as determined in Section 12-2.3(B)
  - d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 12-2.3(B);
  - e) The base flood elevation (BFE) where provided as set forth in Sections 12-2.3(B) or ;12-6
  - f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
  - g) Certification of the plot plan by a registered land surveyor or professional engineer.
- (2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
  - a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
  - b) Elevation in relation to mean sea level to which any non-residential structure in Zone AE or A will be flood-proofed; and
  - c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

- (3) 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.
  - (4) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
    - a) 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);
    - b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 12-5.(4)(c), when solid foundation perimeter walls are used in Zones A, AE, and A1-30;
  - (5) Usage details of any enclosed areas below the regulatory flood protection elevation.
  - (6) 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;
  - (7) 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.)
  - (8) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 12-5.6(B) of this ordinance are met.
  - (9) 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.
- (B) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
- (1) A description of the development to be permitted under the floodplain development permit.
  - (2) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 12-2.3(B).

- (3) The regulatory flood protection elevation required for the reference level and all attendant utilities.
- (4) The regulatory flood protection elevation required for the protection of all public utilities.
- (5) All certification submittal requirements with timelines.
- (6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- (7) The flood openings requirements, if in Zones A, AE, or A1-30.
- (8) Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).

#### 12-4.2 Certification of Floor Elevation/Floodproofing

- (B) Certificate of Floor Elevation/Flood proofing: When a property is located in a flood hazard area or when a structure is flood proofed, a certificate shall be provided in accordance with Section 12-4.2(A) (Certificate of Floor Elevation/Flood proofing).

##### (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 (7) 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 (7) 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 non-residential 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. 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 A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 12-5.3(B).

(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 A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (A) and (B) of this subsection:

(1) Recreational Vehicles meeting requirements of Section 12-5.(6)(B);

(2) Temporary Structures meeting requirements of Section 12-5.(7)(B); and

- (3) Accessory Structures less than 150 square feet meeting requirements of Section 12-5.8(B).

## **12-5 PROVISIONS FOR FLOOD HAZARD REDUCTION**

### 12-5.1 Provisions for Flood Hazard Reduction

- (A) General Standards: In all Special Flood Hazard Areas the following provisions are required:
- 1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
  - 2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - 3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
  - 4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
  - 5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - 6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
  - 7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  - 8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.
  - 9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood

protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

- 10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 12-7.2(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Section 12-4 (B) of this ordinance.
- 11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- 12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- 13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- 14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- 15) Permitted Uses. The following uses shall be permitted below flood protection elevation within the floodway fringe zone to the extent that they are otherwise permitted by this Ordinance:
  - a) Any use as permitted and regulated in the floodway zone.
  - b) Fill material graded to drain, provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at grade ten (10) feet beyond the limits of the structure foundation, and shall have a side slope no steeper than two (2) feet horizontal to one (1) foot vertical.

(B) Specific Standards: In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 12-2.3B, or Section 12.9(11)(12), the following provisions, in addition to Section 12-5(A), are required:

- 1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 12-5(A) of this ordinance.

- 2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 12-5(A) of this ordinance. Structures located in A, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 12-4.2(A), 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 12-4.2(A) of this ordinance.
  - b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
  - c) All enclosures or skirting below the lowest floor shall meet the requirements of 12-5(B).
  - d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.
- 4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- b) shall be constructed entirely of flood resistant materials to the top of any enclosure below the lowest floor;
- c) shall include, in Zones A, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
  - i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
  - v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
    - ii) A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.
  - (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
  - (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
    - ii) A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.
- 6) Recreational Vehicles. Recreational vehicles shall either:
  - 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 Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;
  - a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
  - b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

- d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
  - e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- 8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
  - b) Accessory structures shall not be temperature-controlled;
  - c) Accessory structures shall be designed to have low flood damage potential;
  - d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - e) Accessory structures shall be firmly anchored in accordance with Section 12-5(B)
  - f) All service facilities such as electrical shall be installed in accordance with Section 12-5(A)(4)
  - g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section 12-5(B) (4C).

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 Section 12-4.2(E) (3)

## **12-6 STANDARDS FOR STREAMS WITHOUT BASE FLOOD ELEVATION**

### Standards for Floodplains without Established Base Flood Elevation

- (A) Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 12-2.3(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 12-5(A)(B), shall apply:

No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (B) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
- 1) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Section 12-9.2 (11 & 12).
  - 2) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 12-9.2(11&12) to be utilized in implementing this ordinance.
  - 3) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Section 2-1.6.

#### **12-6.1 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.**

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (A) Standards outlined in Sections 12-2.3(B); and
- (B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

#### **12-6.2 FLOODWAYS AND NON-ENCROACHMENT AREAS.**

Areas designated as floodways or non-encroachment areas are located within the Special

Flood Hazard Areas established in Section 12-2.3(B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 12-2.3(A) (B), shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:

- 1) The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
- 2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(B) If Section 12-6.2 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(C) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

- 1) the anchoring and the elevation standards of 12-5.3(B); and
- 2) the no encroachment standard of Section 12-6.2.

### **12-6.3 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).**

Located within the Special Flood Hazard Areas established in 12-2.3 (B), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to 12-5.1, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.

Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in 12-4.2 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with

structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with applicable sections of this ordinance.

Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

## **12-7 CORRECTIVE PROCEDURES**

### ***12-7.1 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 floodplain management regulations;
  - (b) that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  - (c) that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the 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 sixty (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 local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

***12-7.2 E. VARIANCE PROCEDURES.***

- (1) The Board of Adjustments as established by Town of Jamestown, hereinafter referred to as the “Board of Adjustments”, shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
  - (a) 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.
  - (b) functionally dependent facilities if determined to meet the definition as stated in Article II of this ordinance, provided provisions of 12-7.2 (9) (B) & (C) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
  - (c) any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - (a) the danger that materials may be swept onto other lands to the injury of others;
  - (b) the danger to life and property due to flooding or erosion damage;
  - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) the importance of the services provided by the proposed facility to the

community;

- (e) the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
  - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) the compatibility of the proposed use with existing and anticipated development;
  - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) 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
  - (k) 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.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) 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 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) 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.
- (9) Conditions for Variances:

- (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (d) Variances shall only be issued prior to development permit approval.
  - (e) Variances shall only be issued upon:
    - (i) a showing of good and sufficient cause;
    - (ii) a determination that failure to grant the variance would result in exceptional hardship; and
    - (iii) 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.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
- (a) The use serves a critical need in the community.
  - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
  - (c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
  - (d) The use complies with all other applicable Federal, State and local laws.
  - (e) The Town of Jamestown has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

## **12-8 FLOOD CONTROL APPEALS**

- (A) Authority: The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of the flood control provisions of this Ordinance.

(B) Appeal and Variance Considerations: In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, 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, where applicable;
- 6) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- 7) the comparability of the proposed use with existing and anticipated development;
- 8) the relationship of the proposed use to the comprehensive plan and flood plain 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 flood waters and the effects of wave action, if applicable, expected at the site;
- 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; and
- 12) the effect that granting the appeal or variance would have on the jurisdiction's eligibility for Federal Flood Insurance.

#### 12-8.1 **DESIGNATION OF FLOODPLAIN ADMINISTRATOR**

The Town Manager, or his/her designee, hereinafter referred to as the “Floodplain Administrator” or “Enforcement Officer”, is hereby appointed to administer and implement the provisions of this ordinance.

## **12.9 ENFORCEMENT OFFICER**

### **Establishment Officer**

The Governing Body shall appoint an Enforcement Officer to administer and enforce the provisions of this Ordinance. The Enforcement officer may be provided with such agents to assist in the administration and enforcement as the governing Body directs.

### **12-9.1 ENFORCEMENT PROCEDURE**

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

#### **A. Notice of Violation.**

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

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

#### **B. Appeal.**

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

#### **C. Order of Corrective Action.**

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

#### **D. Failure to Comply with an Order.**

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

with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

#### **E. Penalties For Violation**

Violation of the provisions of this ordinance 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 ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Jamestown from taking such other lawful action as is necessary to prevent or remedy any violation.

### **12-9.2 Flood Hazard Administrator and/or Enforcement Officer Duties**

#### Flood Hazard Administrator Duties

An Enforcement Officer, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance. The Floodplain Administrator shall perform, but not be limited to, the following duties:

1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
2. 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.
3. 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).
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 12-6.1 & 12-6.2 are met.
6. 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 Section 12-4.

7. 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 Section 12-4.
8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Section 12-2.
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Sections 12-4 & 12-5 (B) (2).
10. Where interpretation is needed as to the exact location of boundaries of the Special 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.
11. When Base Flood Elevation (BFE) data has not been provided in accordance with Section 12-5(B)(2), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 12-6, in order to administer the provisions of this ordinance.
12. When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 12-6, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
13. When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, 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.
14. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
15. Make on-site 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.

16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, 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.
17. 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 in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
18. 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.
19. Follow through with corrective procedures of Section 12-8.1.
20. Review, provide input, and make recommendations for variance requests.
21. 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 12-6.2(A) (2) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

### **12-13 ADOPTION CERTIFICATION.**

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the Town Council of The Town of Jamestown, North Carolina, on the 15<sup>th</sup> day of May, 2007.

WITNESS my hand and the official seal of The Town of Jamestown, this the 15<sup>th</sup> day of May 15, 2007.

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*(signature)*

## ARTICLE XIII

### Town of Jamestown Tree Preservation & Landscape Ordinance

#### Section 1. Purpose and Intent

The regulations of this Ordinance are intended to reduce tree canopy loss and implement urban forest management improvements through requirements for tree protection, tree preservation, the planting and replanting of trees and the maintenance of existing trees within the Town of Jamestown. Additionally, this ordinance will establish minimum standards for the design of landscapes so as to improve the community aesthetically, economically and environmentally. The tree preservation requirements are intended to enhance the quality of life through sustainable urban forest practices and increase benefits trees provide, including, but not limited to the following:

- A. Absorption of Carbon Dioxide and returning Oxygen
- B. Reduction of soil erosion and increase in rainwater infiltration
- C. Provision of shade for cooling
- D. Screening of noise, dust and glare
- E. Reduction of storm-water runoff
- F. Maintenance and improvement of Town appearance and aesthetics
- G. Provision of habitat for wildlife
- H. Preservation, protection and enhancement of the natural environment

#### Section 2. Definitions

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein unless the context clearly indicates otherwise.

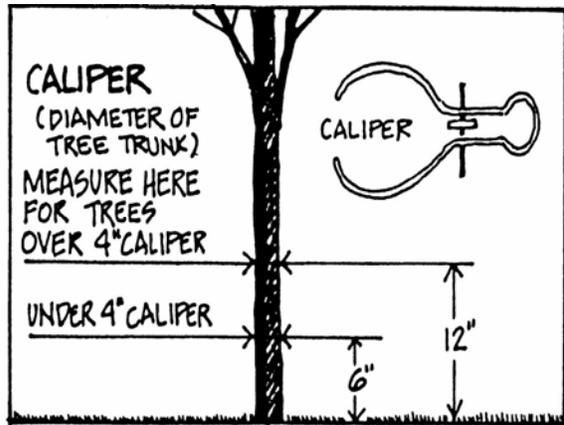
*Administrator* is the acting Planning Director as delineated herein and/or such duly appointed agents as may be authorized by the Town Manager.

*Alternative Methods of Compliance* such as alternate tree planting methods, plant materials, planting methods or reforestation may be used where unreasonable and impractical situations would result from the strict application of tree planting and preservation requirements, as set forth in this Ordinance.

*ANSI (American National Standards Institute)* is a private, non-profit organization (501-C3) that administers and coordinates the U.S. voluntary standardization and conformity assessment system.

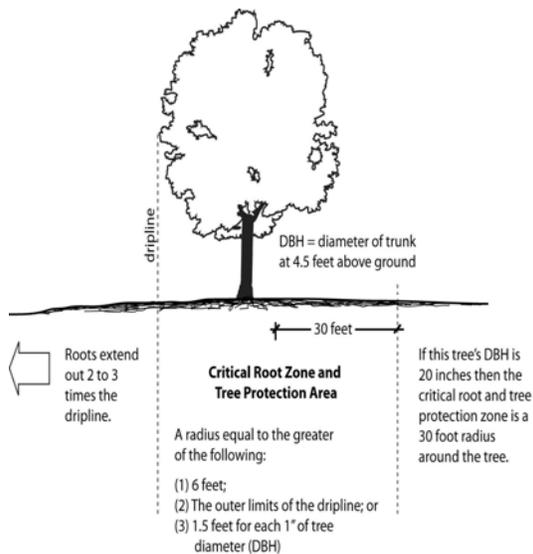
*Auguring* is a practice used to reduce the damage to and loss of individual trees where underground construction involves a tree's CRZ (Critical Root Zone).

*Caliper* is the diameter measurement of tree-trunk taken at six inches above ground level for trees up to and including four inches in caliper. For larger trees, measurement of caliper shall be taken at twelve inches above ground level.

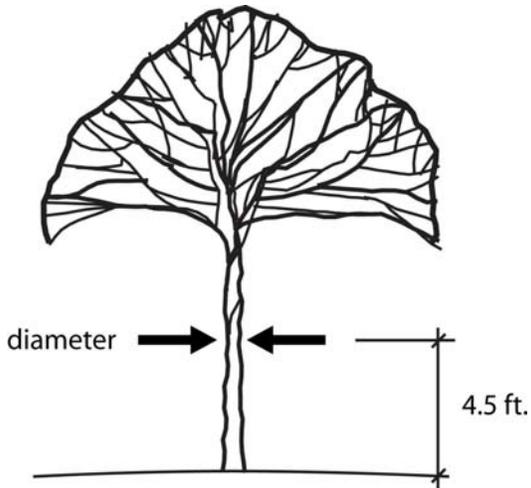


*Clear Cutting* is the felling and removal of all trees within an area. This practice is typically an indiscriminant removal of trees except in the case of silviculture harvesting where removal is followed up with a forest replanting or regeneration effort to keep the land forested.

*CRZ (Critical Root Zone)* is that area of tree roots around the tree measured to be no less than 1.5 feet in radius for every inch of trunk diameter measured four feet above the ground.

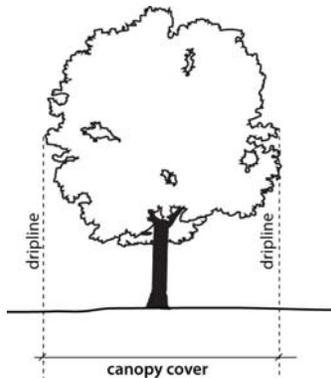


*DBH (Diameter at Breast Height)* is the diameter of a tree 4.5 feet above the average ground level.



*Deciduous* plants and trees are those that lose their leaves annually.

*Drip Line* is an imaginary vertical line extending from the outermost portion of the tree canopy to the ground.



*Evergreen* plants and trees retain their leaves throughout the year.

*Exotic/Invasive Species* are alien species that become established in natural or semi-natural ecosystems or habitats and threaten native plants. When such species spread, they threaten biological diversity. Invasive species include, but are not limited to, English Ivy – *Hedera helix*, Chinese Wisteria – *Wisteria sinensis*, Japanese Wisteria – *Wisteria floribunda*, Japanese Honeysuckle – *Lonicera japonica* and Kudzu – *Pueraria montana*.

*Heritage Tree* is any tree that is twelve inches in diameter or larger measured at 4.5 feet above the ground.

*Historic Tree* is a tree that has been specifically designated by the Town of Jamestown Council as historic.

*Large-maturing Tree* is one whose height is greater than 60 feet at maturity and meets the specification of “American Standards for Nursery Stock” published by the American

Association of Nurserymen.

*Maintenance* refers to proper cultural practices including pruning, fertilization, pest management and root system protection. The standards of maintenance are those published by the National Arborist Association.

*Medium-maturing Tree* is a tree whose height is 30-60 feet at maturity and meets the specifications of “American Standards for Nursery Stock” published by the American Association of Nurserymen.

*Monoculture* is a single, homogeneous culture without dissension or diversity.

*Planting Strip* is a ground surface located outside of any public right-of-way that is free of impervious cover and/or paved material and is reserved for landscaping purposes.

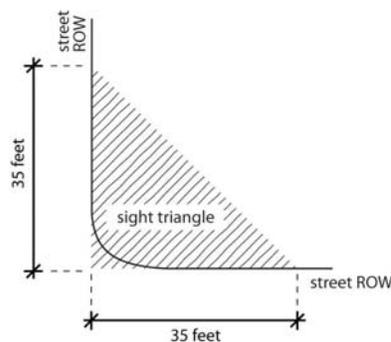
*Planting Yard* is a strip of land (of various widths) provided along the perimeter of a site for the installation of plant material in a combination of canopy trees and/or under story trees and shrubs.

*Regulated Tree* is one located on private property and whose establishment and/or maintenance is required in order to acquire a Certificate of Occupancy for a proposed use.

*Root Protection Zone (RPZ)* is generally 18 to 24 inches deep and a radius distance from the trunk of the tree equal to one foot for each one inch of trunk diameter or the outermost drip line of the tree, whichever is greater.

*Shrub* is an upright plant, which is planted for ornamental purposes.

*Sight Triangle* is the triangular area formed by a diagonal line connecting two points located on intersecting property lines (or a property line and the curb or a driveway), each point being 35 feet from the point of intersection.



*Small-maturing Tree* is one whose height is less than 30 feet at maturity and meets the specifications of “American Standards for Nursery Stock” published by the American Association of Nurserymen.

*Street Tree* is one planted within or adjacent to a public right-of-way as required by the Town.

*TCA (Tree Conservation Area)* is one (1) or more areas of a site, which includes existing trees and their critical root zones.

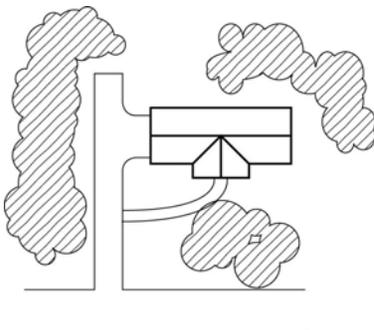
*Tree* – see *Large, Medium, and Small-maturing Tree* definitions.

*Topping* is the inappropriate removal or cutting back of major portions of a tree by any pruning practice resulting in more than 25% of the foliage and limbs being removed. This includes any pruning that leads to disfigurement of the normal shape of the tree.

*Tree Evaluation Formula* is one for determining the value of ornamental trees and shrubs as published by the International Society of Arboriculture (ISA).

*Tree Inventory* is the gathering of accurate information on the health and diversity of the community forest on a development site or within the Town.

*Tree Save Area* is one or more areas of a site which includes existing trees and their tree protection zone. The purpose of the tree save area is to encourage the preservation of healthy clusters of trees or heritage trees.



*Unsafe Tree* is a tree in which at least one of the following criteria applies:

- (1) A combination of a structural defect and a target
  - a. A structural defect, which predisposes the tree to failure; i.e., dead tree, trunk decay, dead branches, V-crotches; and
  - b. A target such as a structure, road, walkway, campsite or other area where property exists or people reside as in urban environments where target areas are almost always in close proximity to trees; or
- (2) A tree that is otherwise structurally sound, but which interferes with routine activities of people. Such interference might include obstructions, sight distance problems for motorists, buckling of sidewalks, attracting lightning or interference with utilities.

*Vine* is a woody plant that has a spreading pattern of growth. Vines may be used on the ground, walls and trellises.

### Section 3. Creation and Establishment of a Town Tree Board

The Town Council shall establish a Tree Board, which will consist of seven (7) voting members who are residents of the Town of Jamestown. This Board will be created from the existing Parks and Recreation Board, whereas from here forth, the Board shall serve a dual purpose between the two aforementioned functions. The terms of office for the members shall be for two (2) years. Members may serve two full terms, after which they may not return for at least two (2) years.

The Town Council shall fill vacancies arising on the Committee for the balance of the unexpired term. All members shall hold office until their successors are appointed and qualified. Any member who misses more than three consecutive regular meetings loses his/her status. Members of the Board shall serve without compensation.

The Tree Board shall serve under the direction of the Town Planning Department and will be staffed by the Planning Director. Non-voting members may be added to the Board as necessary. Such members may include, but not be limited to, persons from the Town's Public Services Department, Parks and Recreation Department, local public utilities servers and the local Cooperative Extension Service. Non-voting members may be nominated by any voting member of the Tree Board and shall be installed by a simple majority vote.

### Section 4. Tree Board Duties and Responsibilities

The duties and responsibilities of the Tree Board shall include:

- (a) It shall be the responsibility of the Board to study and develop and/or update annually, specifications for the care, conservation, pruning, planting and replanting of publicly owned trees and shrubs in parks, along streets and in other public areas. Such information and plans will be presented annually to the Town Council. The Board, when requested by Council, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of work of the Board.
- (b) The Board shall select officers, establish rules and regulations, and keep a journal of proceedings (minutes). A simple majority of the members shall be a quorum for the transaction of business.
- (c) The Board shall develop and maintain arboricultural specifications for tree care and replacement.
- (d) To provide guidance for developing tree and landscaping programs and policy; evaluate and monitor current regulations for effectiveness and recommend

appropriate changes regarding the Tree Preservation & Landscape Ordinance or any other arboricultural specifications for tree care and replacement to the Town Council;

- (e) To conduct education programs with respect to tree preservation;
- (f) To review and provide recommendations regarding long term tree management and maintenance plans for the Town;
- (g) To review appeals, orders, requirements, decisions or interpretations made by Town staff charged with enforcing the Tree Preservation & Landscape Ordinance;
- (h) To make recommendations to the Board Of Adjustment with reference to variances with relation to provisions of the Tree Preservation & Landscape Ordinance;
- (i) To approve minor variations to the Tree Preservation & Landscape Ordinance that provide equal or better compliance;
- (j) Or any other duty or responsibility assigned to it by the Town Council with relation to arboricultural or landscaping matters

Any changes to the Parks & Recreation Advisory Committee Policy shall take precedence over the text listed above.

#### Section 5. Administration

- (a) *Town Manager.* The Town Manager or his/her designee shall facilitate all functions of the Tree Board. This shall include, but not be limited to, setting meeting times and place, establishing an agenda, functioning as a liaison to the Town Council and serving as the Tree Board representative at public forums.
- (b) *Public Services Director.* For the purpose of carrying out the provisions of this chapter, the Public Services Director shall have responsibility and control over all trees and shrubbery planted or growing upon Town property.
- (c) *Enforcement Officer.* The Enforcement Officer (or Planning Director) is the designee who shall be given the authority to enforce the Ordinance against the Town's citizens in the event of compliance failure. This designee shall also have responsibility and control over all regulated, unsafe and diseased trees located on public and private property.

#### Section 6. Applicability

The provisions of this Ordinance shall apply to the following:

- A. All new subdivisions and non-residential and multi-family developments
- B. Changes in use, expansions, and new buildings for already existing non-residential or mixed-purpose land uses as per the following:
  1. Changes in use from residential to non-residential, such as a change from residential to commercial, or residential to industrial. The requirements of this section shall be applicable to the entire zone lot.
  2. Vehicle Accommodation Areas – This Ordinance shall apply to any new parking lot. Only expanded portions of existing parking lots shall be held to the requirements that appear in the section *Parking Lot Tree Planting Requirements* of this Ordinance.
  3. Non-Residential Expansions – All non-residential expansions of buildings, parking areas, or open uses of land, except the first three thousand (3,000) square feet of expansions to buildings, parking areas, or open uses of land existing on October 1, 1993. The requirements of this section shall be applicable only to the expansion.
- C. Tree Disturbance – All other activities for which a Tree Disturbance Permit is required. (See *Tree Disturbance Permit Section*).

**Exemptions:** The provisions of this Ordinance shall **not** apply to the uses and activities listed below. Any applicable requirements of Article X (Watershed) relating to the Water Supply Watershed or Soil Erosion and Sedimentation Control still apply:

- A. Trees, vegetation and land-disturbing activity normally associated with the landscaping, construction, modification or occupancy of any existing or proposed single-family or two-family dwelling on an existing residentially zoned individual lot smaller than five acres, unless the property owner voluntarily registers a rare or specimen tree;
- B. Land in the Town’s Public/Institutional (PI) zoning district, provided however, that the section on *Town Owned Land* of this Article shall apply to all public lands within the Town and its extraterritorial jurisdiction;
- C. Multifamily developments containing eight (8) or fewer dwelling units on a single zone (building) lot;
- D. Properties within or surrounded by the Town Core zoning overlay district, however, any new parking lots or parking lot expansions in this district **shall not** be exempted from the regulations set forth in the *Parking Lot Tree Planting Requirements* of this Ordinance;

- E.** Property lines abutting utility easements in excess of sixty (60) feet in width and all railroad rights-of-way;
- F.** Property lines abutting dedicated street rights-of-way, which have remained unopened for a period of at least fifteen (15) years;
- G.** Tree removal on three thousand (3,000) square feet or less, after the Town Enforcement Officer or Town Arborist has determined that such a removal is not associated with a forthcoming development proposal and will not be inconsistent with any plan previously approved by the Town or the County, however, watershed and/or soil erosion requirements may still apply;
- H.** Property covered by an active forestry management plan written by a North Carolina Registered Forester, provided that documentation has been furnished to the Town Enforcement Officer or Town Arborist

#### Section 7. Public Trees – Maintenance and Protection

Except as hereinafter provided, no person except a public utility shall cut, prune, injure or remove any living tree on or in a public highway, right-of-way, public park, public place, triangle, sidewalk, or other public property; or cut or disturb or interfere in any way with the roots of any tree on public property; or spray with any chemicals, pesticides or oils, or whitewash any tree on public property; or place any wire, rope, sign, poster, barricade or other fixture on a tree or tree guard on public property; or injure, misuse or remove any device placed to protect any such tree.

- (a) No person shall pile building or other material, around any tree, plant or shrub in a public right-of-way in any manner that will in any way injure such tree, plant or shrub.
- (b) No person shall pave or place gravel, soil or other such material within twelve (12) feet of any tree on public property, unless approved by the Enforcement Officer.
- (c) No person shall dump, pour or spill any oil, pesticide or other deleterious matter upon any tree or tree space in any public rights-of-way, or keep or maintain upon any public rights-of-way, any receptacle from which any oil, pesticide or other deleterious matter leaks or drips onto any soil, parking area or concrete gutter so as to injure any tree on any public property.
- (d) No person shall use parks, sidewalks, utility easements or other public places to dump grass clippings, tree trimmings, rocks or other organic refuse. This shall not apply to properly placed yard waste that is intended for pickup by Town of Jamestown Public Services or Solid Waste crews.
- (e) No person shall decorate a tree or shrub in any public right-of-way, neutral

ground, park, triangle or sidewalk, either with or without lights, or place advertising material, posters or political placards on trees in public properties.

#### Section 8. Regulation of Tree Care Professionals on Town Owned Lands

- (a) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees or trees within Town owned public rights-of-way without first applying for and procuring a Tree Disturbance Permit. Such a permit will only be granted to individuals, businesses or companies who employ a Certified Arborist to perform or supervise all tree work.
- (b) In order to receive a Tree Disturbance Permit, applicants must first sign an affidavit agreeing to abide by ANSI 300 Standards for tree care. Specifically, the “topping” of trees shall be prohibited except in cases where the top of the tree has been injured beyond repair by a storm or related incident.
- (c) Before any permit shall be issued, each applicant must first file evidence of possession of liability insurance and workman’s compensation insurance in the minimum amounts as required by the Town of Jamestown indemnifying the Town or any person injured or damage resulting from the pursuit of such endeavors as herein described.
- (d) The Enforcement Officer is authorized to suspend or revoke the right of any person or business to perform work for the Town of Jamestown that engages in work practices which do not comply with tree care standards as specified in this Ordinance and the related ANSI Standards.

#### Section 9. Regulation of Tree Care Professionals on Private Lands

- (a) Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not significantly obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) feet above the street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased or unsafe trees, or broken or decayed limbs that constitute a nuisance to the safety of the public. The Town shall have the right to prune any tree or shrub on private or public property when it constitutes a public safety hazard, interferes with pedestrian traffic or the visibility of any traffic control device, sign or sight.
- (b) No part of this section is intended to prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with planting specifications of the Ordinance and that any such planting conducted under utility lines shall be limited to planting material taken from the first class (small) of the list of recommended trees in this Ordinance.
- (c) The Town of Jamestown shall not directly regulate private companies providing

tree care services on private property. However, the Town Enforcement Officer or Town Arborist may direct property owners to the International Society of Arboriculture (ISA) website or other resources to assist in the location of Certified Arborists, which have specific training in tree care.

#### Section 10. Hazard Trees

- (a) The Town Manager or her designee may cause or order to be removed any tree or part thereof on private or public property, which is unsafe or injurious to sewers or other public improvements.
- (b) The Public Services Director or his designee may enter upon public or private property in the Town to spray, or otherwise treat or cause or order to be sprayed or otherwise treated, any tree infected or infested by any parasite, insect or other pest when it shall be necessary to do so to prevent the breeding or scattering of any parasite or animal pest and to prevent danger to persons or property or to trees planted on Town property.
- (c) Whenever, in the opinion of the Town Manager or her designee, the removal of a tree or shrub, or portion of a tree or shrub on private property shall be necessary under the provisions of this section, the Manager shall have the power to remove such, or portion of such, tree or shrub, or cause or order the same to be done upon notice with an opportunity to be heard to the property owner.
- (d) Prior to exercising the authority conferred by this section, the Town Manager or her designee shall give the owner notice and an opportunity to correct the condition by requesting that corrective action be taken. The request shall be in writing and sent via Certified Mail, Return Receipt requested, to the owner of the property in question and shall be acted upon within twelve (12) days (or a lesser period of time if an imminent threat to life or property exists) from the date of the receipt of the request. If, after twelve (12) days, the owner has not corrected the condition or undertaken action that would lead to a timely correction of the condition, the Town Manager or her designee may enter upon the property, perform the work necessary to correct the condition and bill the owner for the actual costs incurred. If the property owner fails to pay the bill for such work within thirty (30) days of such notice, the amount of the bill and any collection costs incurred shall become a lien against the subject property and shall be collected in the same manner provided for the collection of delinquent taxes. In situations involving an immediate threat to public health, safety or welfare, the Town may act without prior notification to the property owner.

#### Section 11. Maintenance of Regulated Planting Spaces

Regulated spaces are those physical areas in which trees and landscape materials are required by the Tree Ordinance, Subdivision Ordinance, Floodplain Ordinance, Zoning

Ordinance or other statutes of the Town of Jamestown.

- (A) The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris.
- (B) Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall (where such fence or wall is considered a required portion of the landscape as outlined by this Ordinance) shall constitute a violation of this Ordinance and shall be subject to the provisions in the section on *Penalties* if not replaced within 30 days of notification.
- (C) In the occurrence of a natural event which destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material must be in compliance with the minimum size, spacing and quantity standards of this Ordinance.

#### Section 12. Tree Conservation Plan Procedures

- (A) *Tree Disturbance Permit*: A tree disturbance permit is an official authorization, which shall be issued by the Town simultaneous to the issuance of a grading permit and prior to any tree disturbing activities. Tree disturbing activities include cutting and/or damage to the CRZ of live trees four (4) inches DBH or greater on sites not accompanied by a development plan, except as stated in *Exemptions*.
  - (1) *Requirements for a Tree Disturbance Permit*:
    - a. Identify the Tree Conservation Area (TCA).
    - b. The TCA as required for a site based on lot size, as determined in Section 14 (A), must be met.
    - c. Submit a Tree Protection Plan as specified in Section 12 (A) 2.
  - (2) *Tree Protection Plan Approval*: Approval of a Tree Protection Plan is required for all projects, except those listed in *Exemptions*, and shall be submitted along with all other necessary drawings to the Technical Review Committee. Tree protection items shall be included on all grading plans, erosion control plans and tree disturbance permit plans.
  - (3) Drawings shall identify the following items:
    - a. Boundaries of the required TCA
    - b. Required planting yards
    - c. Protected trees within the TCA including tree size and species
    - d. CRZ of each proposed protected tree or group of trees
    - e. Limits of clearing
    - f. Grading
    - g. Trenching

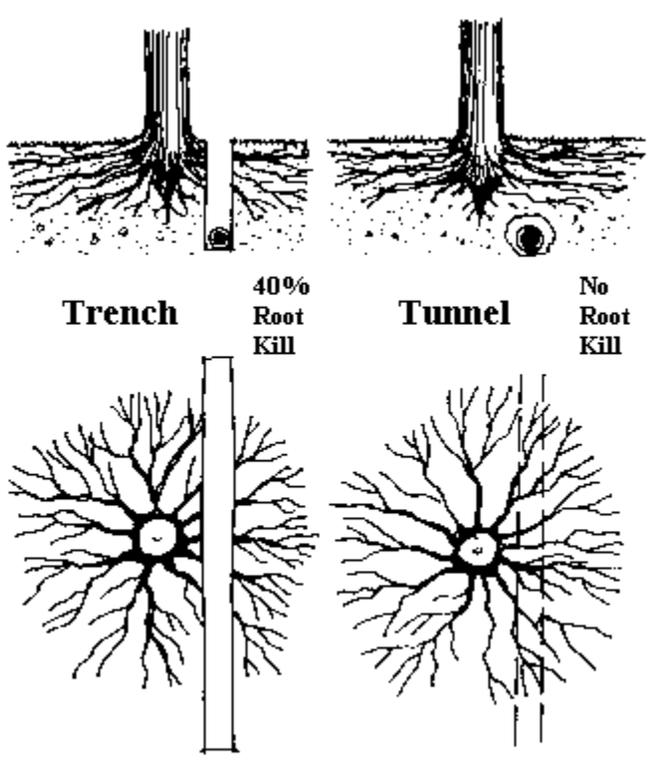
- h. Required tree protection measures including protective fencing and signage
  - i. Overhead and underground utilities, rights-of-way and easements
  - j. Areas of reforestation, if any
  - k. Stream buffers, if any
  - l. A complete survey of all trees on the *site* (outside the labeled TCA) that exceed 18 inches DBH, including tree size and species
- (4) The following required notes shall be indicated on tree preservation plans, erosion control plans, grading plans and Tree Disturbance Permit plans in **CAPITAL LETTERS**:
- a. Contact the Planning Department to set up a pre-construction meeting
  - b. All tree protection devices must be installed prior to inspection by the Planning Director or Enforcement Officer and prior to any tree disturbance activities.
  - c. Removal or damage of trees in the conservation area will be subject to the penalties established in the *Penalties* section of this Ordinance.
- (5) The aforementioned plans shall be reviewed by the Planning Director or Enforcement Officer for conformance with applicable provisions of this section and for tree and vegetation viability. The plans will either be approved or returned for revisions. Reasons for return shall be noted on the proposed plan.
- (6) All tree protection measures shall be installed prior to inspection by the Planning Director or Enforcement Officer and prior to tree disturbance.
- (7) The Planning Director or Enforcement Officer will conduct follow-up site inspections for enforcement of the tree protection requirements.

(B) *Provisions for Preservation of Existing Trees:*

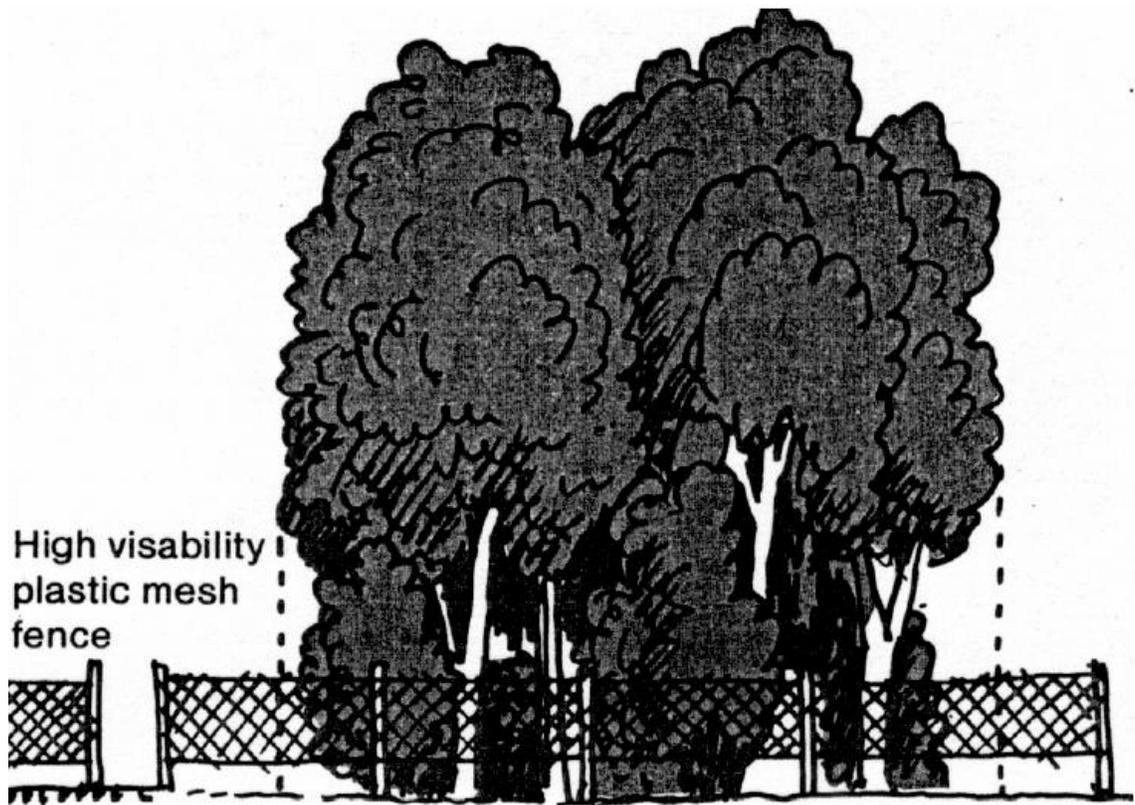
- (1) *General:* Any existing tree or group of trees which stands within or near a required planting area and meets or exceeds the standards of this Ordinance may be used to satisfy the tree requirements of the planting area. The protection of tree *stands*, rather than individual trees, is strongly encouraged.
- (2) *Protection of Existing Trees:* To receive credit, trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following standards shall apply:
- a. The TCA shall include land within the CRZ as provided in this section.
  - b. Construction site activities such as parking, material storage, dirt stockpiling, concrete washout and other similar activities shall not be permitted within the TCA.
  - c. Changes that significantly raise the grade of soil adjacent to the TCA

shall be avoided.

- d. Utility line trenches and similar uses shall avoid the TCA. Due to certain site conditions, where disturbance within the TCA is unavoidable, underground tunneling or directional boring of utilities is preferred. Trenching shall be used only as the last alternative and root-pruning equipment specifically designed for that purpose shall be used. The Enforcement Officer shall be notified **prior** to this type of activity and an on-site meeting shall be performed to ensure compliance.



- e. Protective fencing shall be installed around the TCA prior to any tree disturbing activities. Such fences shall be at least four (4) feet high and shall consist of orange polyethylene safety fencing. Fencing shall remain in place until construction is complete and other landscaping has been installed, and the Planning Director or Enforcement Officer has approved its removal.



- f. The TCA should be designated as such with "Tree Conservation Area" signs (in both English and Spanish) posted visibly on the outside of the fenced-in area. Signs may not be posted on the trees.

(C) *Evaluation of Specimen Trees and Stands of Trees:* Existing specimen trees and stands of trees must meet the following conditions to be considered for the TCA:

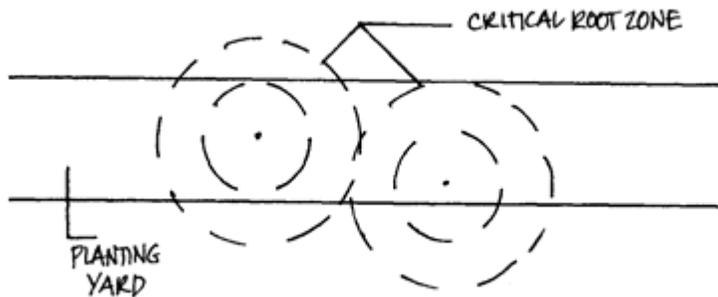
- (1) A life expectancy of greater than ten (10) years
- (2) A relatively sound and solid trunk with no extensive decay
- (2) No major insect or pathological problems

(D) *Dead or Unhealthy Trees:*

- (1) No credit will be allowed for any dead tree, any tree in poor health, or any tree subjected to grade alterations.
- (2) Except for storm damage, the death of any tree used for preservation credit within five (5) years of site development shall require the landowner to plant new trees equal to the number of credited trees. After five (5) years any trees that were used for preservation credit that die shall be replaced.
- (3) The Planning Director may require trees left standing outside of the TCA to be removed if improperly protected or determined to be hazardous.

Section 13. Tree Conservation

(A) *Tree Conservation Area:* As previously defined in this Ordinance, a tree conservation area (TCA) is one (1) or more areas of a site, which includes existing trees and their critical root zones. The purpose of the TCA is to encourage the preservation of healthy trees that are four (4) inches or greater in diameter at breast height (DBH).

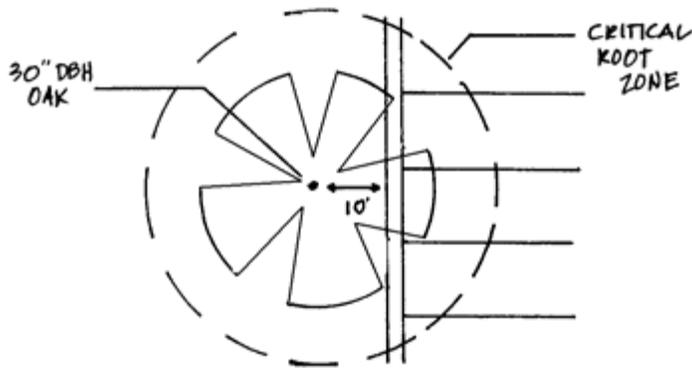


(B) *Critical Root Zone:* To preserve existing trees within the designated TCA, the critical root zone (CRZ) of the trees shall be preserved. The CRZ will include a radius around the tree equal to one and one half (1.5) feet for every one (1) inch of DBH from the tree trunk as measured at the ground level from the root flare. It is recommended to save the entire CRZ of each preserved tree. If the entire CRZ cannot be preserved, tree roots must be cut prior to grading of the site. Should the CRZ have to be disturbed, the disturbed area shall extend no closer to the protected tree's trunk than the distance specified below:

Table Inset:

Diameter of Tree (DBH) in Inches	Minimum Distance From Tree in Feet
4 – 7.9	1 foot for every 1 inch DBH
8 – 22.9	10
23 – 29.9	15
30+	20

(C) Disturbance within the CRZ will be allowed only on one side of the tree(s) to be saved and only with prior approval by the Planning Director.



Section 14. Tree Conservation Area Determination

(A) *Extent of the TCA:* The TCA shall be provided in accordance with the chart below. If trees of four (4) inches or greater DBH exist within or partially within these areas, such trees must be saved to the extent possible. The area will be designated a TCA and shall not be disturbed except as allowed herein.

Table Inset:

Size of Parcel	TCA Required to Include
0 – 55,000 sq. ft.	One percent (1%) of lot area, and be located within the required planting yard
55,000 sq. ft. – 5 acres	One and one-half percent (1.5%) of lot area; All trees four (4) inches or greater DBH, which are located within the required planting yards
5.01 – 10 acres	Three percent (3%) of lot area; All trees four (4) inches or greater DBH which are located within the required planting yard or within fifteen (15) feet of the side and rear property lines, whichever is greater
Greater than 10 acres	Six percent (6%) of lot area; All trees four (4) inches or greater DBH which are located within the required planting yard or within twenty-five (25) feet of the side and rear property lines, whichever is greater

(B) No development shall be required to have the TCA exceed fifteen (15) percent of the total developable site area.

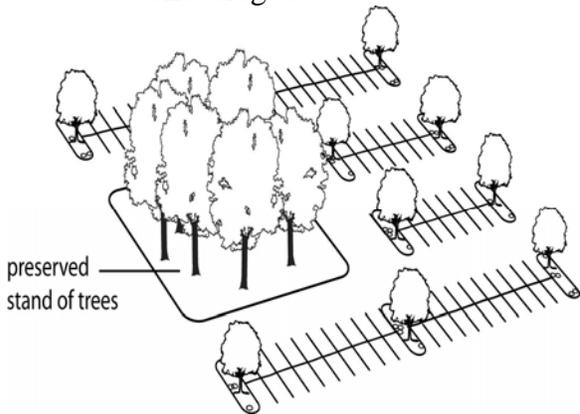
(C) If there are trees that meet the TCA requirements on other areas of the site (riparian buffers, stream corridors, floodplains, etc) the landowner may request that the required TCA be designated around such trees instead of the usual locations.

(D) *Other Provisions:* The requirements of this section may be modified to permit the establishment of the TCA (See Tree Conservation Flexibility Standards).

(E) *Smaller Trees:* Trees less than four (4) inches DBH within the TCA may be preserved at the landowner's option and counted toward planting yard requirements as provided herein.

(F) *TCA Selection:* In selecting which existing tree stands are to be designated as TCA, the landowner shall give due consideration to building, parking lot, driveway, street and utility location as they relate to the practicality of preservation and shall use the following tree preservation priority list:

- (1) Existing stands of mature hardwoods as highest priority, then
- (2) Existing stands of younger hardwoods, then
- (3) Existing specimen trees (as determined by the Planning Director or Enforcement Officer), then
- (4) Existing stands of hardwoods and Pine mix, and lastly
- (5) Existing stands of Pine trees. Preservation of a single Pine tree is not typically encouraged.



(G) If it is necessary to pick among two or more stands of trees within a category listed above, the following priority list shall be used:

- (1) Type A planting yards, as a first priority, then
- (2) Type B planting yards, then
- (3) Type C planting yards, then
- (4) Type D planting yards, and lastly
- (5) Street planting yards

(H) The following are permitted in the required TCA provided there is no disturbance to the CRZ of the preserved trees

- (1) Landscaping features including planting boxes, sculpture, arbors, trellises and birdbaths
- (2) Outdoor furniture, ornamental entry columns and gates, flagpoles, lampposts, address posts, mailboxes, public utility wires and poles, fences, retaining walls, or similar structures
- (3) Cornices, steps, canopies, overhanging eaves and gutters, windowsills, bay

windows or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies, and fire towers which project not more than two and one-half (2 1/2) feet into any required TCA.

- (4) Handicap ramps except for porches and landings
- (5) Steps not connected to any above-grade structure

(I) *Tree Removal Inside the TCA:* Trees less than four (4) inches DBH not being preserved, undergrowth and plant material in poor condition may be removed from the TCA. No roots shall be removed from the TCA. Stumps may be removed only by grinding. All requests for tree removal within the TCA must have prior approval by the Planning Director or Enforcement Officer pursuant to the provisions of this chapter. However, in an emergency situation due to storm damage; to alleviate an immediate hazard to the health, safety and welfare of the citizens; or to repair property damage, prior approval for tree removal in previously approved designated areas is not required.

(J) All removal of said material shall be done or supervised by an experienced Urban Forester, Landscape Architect or ISA Certified Arborist, who will certify that the tree and root removal or pruning was done in accordance with standard arboricultural practices.

(K) Any tree within the TCA including the CRZ, which the landowner chooses to remove or that must be removed due to poor health or impractical means of preservation shall be removed in a manner that is in accordance with standard arboricultural practice (See ANSI Standards) so as to cause as little disturbance or harm to those trees intended to be saved as practical.



(L) *Relationship of the TCA and Planting Yards:*

- (1) All trees of appropriate size and type preserved in the TCA that are within the planting yard shall be credited toward meeting all or part of the planting yard requirements, except for the street planting yard where there shall be at least one (1) canopy tree, existing or planted, within every fifty (50) linear feet of street planting yards, and the minimum eight (8) foot width shall not be reduced. Credits are to be given for required trees in the same planting yard as the tree(s) preserved in accordance with the chart below.

Table Inset:

DBH of Existing Tree(s) in Inches	Number of Trees Credited
4 – 7.9	1
8 – 22.9	2
23 – 29.9	3
30+	4

- (2) Any area in a TCA shall count as a portion of a planting yard or parking lot planting area. (See Section 15 - D).
- (3) No new landscaping is required within a TCA unless it is contiguous to existing single-family development and it is needed to shield abutting parking lots, access drives, loading areas and outside storage.

Section 15. Tree Conservation Flexibility Standards

- (A) *Stream Buffer Credits:* Properties falling under the Stormwater Management Control Requirements, which are required to maintain an undisturbed stream buffer, may use some or the entire buffer to satisfy the required TCA, provided that the undisturbed stream buffer contains trees that are a minimum of four (4) inches in DBH.
- (B) *Land Dedication:* Land that is dedicated to the Town that is contiguous to the property being developed may be used towards the tree preservation requirement, if the dedicated land contains trees that are a minimum of four (4) inches in DBH.
- (C) *Reforestation Credits:* In situations where TCA requirements cannot be met based on site conditions and when approved by the Planning Director, reforestation efforts on the property can be used to satisfy up to fifty (50) percent of the required TCA.
- (D) *Tree Preservation Adjacent to or Within the Parking Lot and Parking Lot Plantings:* For new, expanded, or rebuilt parking lots where trees are being preserved adjacent to the parking lot in order to meet the parking lot planting requirements, trees preserved in a TCA and within eight (8) feet of the parking lot may be used to satisfy up to fifty (50) percent of the required number of parking lot trees. A TCA that is

"notched into" corners or edges of a parking lot is deemed to be within the parking lot, not adjacent to it. Trees in the TCA counted toward planting yard requirements may not count for required parking lot trees. Extra trees in such locations do count. It is the landowner's option to save trees within the parking lot. In order to do so, the CRZ must be preserved. Credits for preserving parking lot trees are determined by the CRZ preserved for the tree being saved. One (1) tree for every two hundred (200) square feet of CRZ preserved may be used to satisfy up to fifty (50) percent of the required number of parking lot trees.

(E) *Reduction in Parking Requirements:* To allow an existing development to retrofit parking to conform to the landscaping regulations, or to allow an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced by the Planning Director or Enforcement Officer by up to ten (10) percent.

(F) *Reduction in the Amount of TCA Required for Specimen Tree Preservation Within the Lot:* To allow developers the flexibility to manipulate the location of required Tree Conservation Areas, and to encourage the preservation of certain specimen trees or tree stands **within** developed lots rather than just at the periphery, the Planning Director or Enforcement Officer may, at his or her discretion, allow the developer the right to reduce the total amount of required TCA using the following table:

Table Inset:

DBH of Existing Specimen Tree(s) in Inches	Allowable Reduction in TCA
8 – 12	5 % reduction
13 – 20	10% reduction
21 – 30	25% reduction
31+	40% reduction

(G) *Waivers:* The Planning Director or Enforcement Officer shall have the authority to allow reduced planting yards or to waive the planting yard requirements to allow for a greater TCA in another area or make other exceptions, which meet the cause and intent of this section. Additionally, if the Planning Director or Enforcement Officer concludes that due to existing unusual or unique site characteristics, preserving some or all required trees in the TCA(s) would create an undue or unreasonable hardship, then the protection of some or all of required trees in the TCA(s) may be waived.

The procedure for such a waiver requires the applicant to submit their claim in writing, along with any necessary site plans to demonstrate the hardship. If the claim is submitted at least twelve (12) days prior to the regularly scheduled Tree Board meeting, the Board at their next regularly scheduled meeting will hear it. The findings of the Tree Board shall be final and binding to all parties. Appeals may be

made to the Board of Adjustment, following the procedure outlined in the Town of Jamestown Development Ordinance.

#### Section 16. Landscape Plan Procedures

(A) *Landscape Plan Approval:* An applicant must receive approval of a landscape plan from the Planning Director or Enforcement Officer prior to grading or before other site work may begin.

(B) *Installation of Plant Materials:*

(1) Installation of plant material shall occur prior to the issuance of a certificate of compliance (or occupancy).

(2) If at the time of a request for a certificate of compliance, the required planting areas are not complete and it can be determined that:

- a. Plant materials are unavailable,
- b. Completion of the planting areas would jeopardize the health of the plant materials, or
- c. Weather conditions prohibit completion of the planting areas, then the installation of plant materials may be deferred by the Enforcement Officer. The landowner shall submit a copy of a signed contract for installation of the required planting areas and may be required to post a surety equal to the amount of the contract. In no instance shall the surety be for a period greater than one hundred and eighty (180) days. The Enforcement Officer may issue a temporary certificate of compliance but shall not issue a certificate of compliance until the planting areas have been completed and approved.

#### Section 17. Planting Areas

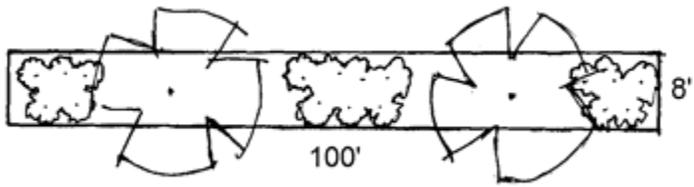
(A) *Required Planting Areas*

The following areas are required to be landscaped:

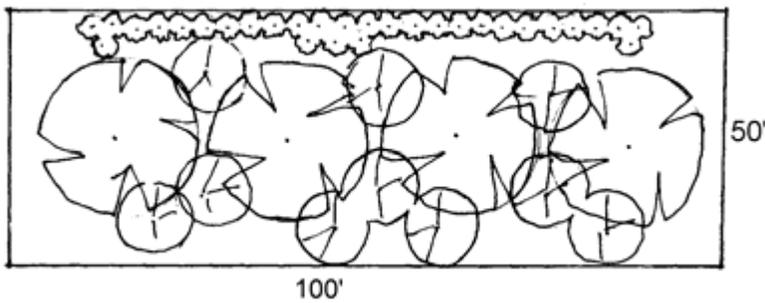
1. Planting yards
2. Parking lots
3. Areas with slopes greater (steeper) than 3:1

(B) *Planting Yard Descriptions*

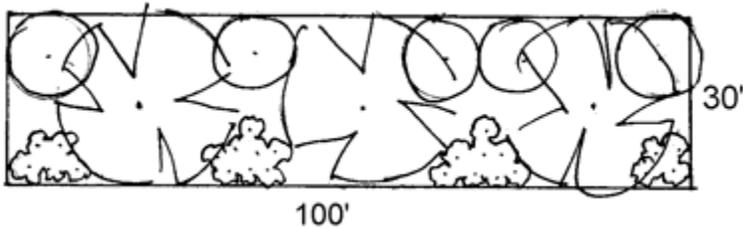
(1) *Street-planting Yard:* A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and a pleasing view from the road. No more than fifteen (15%) of the street-planting yard may be used for walkways or signs. Parking, merchandise display and off-street loading are prohibited in the street-planting yard.



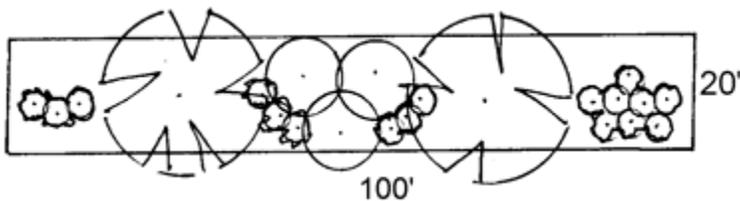
- (2) Type A Planting Yard: A high-density screen intended to block substantially visual contact between adjacent uses and create a spatial separation. A Type A planting yard reduces lighting and noise, which would otherwise intrude upon adjacent uses.



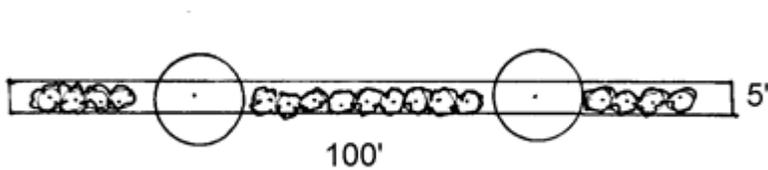
- (3) Type B Planting Yard: A medium-density screen intended to partially block visual contact between uses and create spatial separation



- (4) Type C Planting Yard: A low-density screen intended to partially block visual contact between uses and create spatial separation

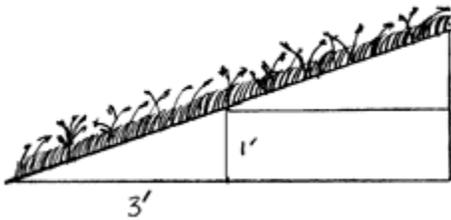


- (5) Type D Planting Yard: A peripheral planting strip intended to separate uses, provide vegetation in densely developed areas, and to enhance the appearance of individual properties



- (6) Parking Lot Plantings: Planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement

(C) *Reforestation of Slopes Steeper than 3:1*



- (1) Areas having slopes steeper than 3:1 must be reforested to provide tree cover over the entire area. The following standards apply:

- a. Reforestation shall include a minimum of one (1) tree per two hundred (200) square feet of surface area and shall be made up of a mixture of deciduous hardwood and evergreen trees that are a minimum of twelve (12) inches high at planting and approved by the Enforcement Officer or Urban Forester.
- b. The trunk of any required tree shall be no closer than ten (10) feet from any other existing tree.

(D) *Planting Yard Determination*

To determine the planting yards required by this Ordinance, the following steps shall be taken:

- (1) Identify the classification of the proposed or expanded land use and of each existing adjacent land use(s) by using the Permitted Use Schedule. A proposed land use is considered existing on an adjacent property when a building permit is issued. If a zone lot contains uses with different land use classifications, select the higher numbered classification. If the development qualifies as an integrated multiple use development, the entire development shall be treated as a single zone lot for planting yard and TCA purposes and its land use classification (LUC) shall be that classification applicable to the highest number of uses in the development (for example, an integrated shopping

center containing seven (7) establishments with LUC's of "3" and three (3) establishments with LUC's of "4" shall be classified as a "3").

- (2) Use the Planting Yard Chart to determine the appropriate letter designation for each planting yard.
- (3) Match the letter designation obtained from the Planting Yard Chart with the Planting Yard and Parking Lot Rate Chart to determine the types and numbers of shrubs and trees required.

(E) *Calculation of Street Planting Yards*

Street planting yard rate and width calculations shall exclude access drives.

(F) *Planting Yard Flexibility Standards*

- (1) Walls, a minimum of five (5) feet in height constructed of masonry, stone or pressure treated lumber, or an opaque fence, a minimum of five (5) feet in height, may be used to reduce the widths of the planting yards by ten (10) feet providing such reductions do not disturb the CRZ of existing trees.
- (2) Understory trees shall be substituted for canopy trees at the rate of two (2) understory trees for every canopy tree planted within fifteen (15) feet of an overhead power line.
- (3) Canopy trees may be substituted for shrubs at the rate of one (1) canopy tree for eight (8) shrubs and understory trees may be substituted for shrubs at the rate of one (1) understory tree for five (5) shrubs if approved by the Town Arborist or Enforcement Officer.

TABLE INSET:

PLANTING YARD CHART							
EXISTING ADJACENT USE (S)							
	Land Use Classification	Least Intensive				Most Intensive	
Proposed Use	→	1	2	3	4	5	Undeveloped
Least Intensive	1	*	*	*	*	*	*
↓	2	C	D	D	D	D	D
	3	B	B	D	D	D	D
↓	4	A	A	C	D	D	D
Most Intensive	5	A	A	B	C	D	D
* <i>No Planting Yard Requirement</i>							

TABLE INSET:

PLANTING YARD AND PARKING LOT RATE CHART						
PLANTING RATES						
Type	Average Width (ft.)	Minimum Width (ft.)	Maximum Width (ft.)	Canopy Tree Rate	Understory Tree Rate	Shrubs Rate
Street Yard	8	8	25	2/100 lf	NA	17/100 lf
Type A Yard	50	40	75	4/100 lf (a)	10/100 lf (b)	33/100 lf (c)
Type B Yard	30	25	50	3/100 lf	5/100 lf	25/100 lf
Type C Yard	20	15	40	2/100 lf	3/100 lf	17/100 lf
Type D Yard	5	5	10		2/100 lf	18/100 lf
Parking Lot	NA	NA	NA	1/12 parking spaces	NA	NA
a) Twenty-five (25) feet on center.						
b) Ten (10) feet on center.						
c) Three (3) feet on center.						

*(G) Planting Yard Design and Maintenance Standards*

- (1) *Plant Species:* Species used in required planting yards and parking lots shall be of a locally adapted nature. Refer to the recommended plant species list, which includes water wise species, in the Appendix. Other species may be approved by the Town Arborist or Enforcement Officer.
- (2) *Plant Size:* Specific plant sizes are listed below:
  - (a) *Canopy Tree Size:* When mature, a canopy tree should be forty (40) feet high and have a minimum crown width of thirty (30) feet. Canopy trees must be a minimum of three (3) inches in caliper, measured six (6) inches above grade, when planted.
  - (b) *Understory Tree Size:* When mature, an understory tree should be twenty-five (25) to forty (40) feet high. Understory trees must be a minimum of two (2) inches in caliper measured six (6) inches above grade at the time of installation.

(c) *Shrub Size and Type:* All approved shrubs, using required planting techniques planted parallel to the edge of parking lots, access drives, loading and unloading areas and outside storage shall be evergreen and installed at a minimum size of eighteen (18) inches, spread or height, and reach a minimum height of thirty-six (36) inches and a minimum spread of thirty (30) inches. Required shrubs in other locations, outside of the areas listed above may be evergreen or deciduous, shall be three (3) gallon in size as per ANSI standards at the time of installation.

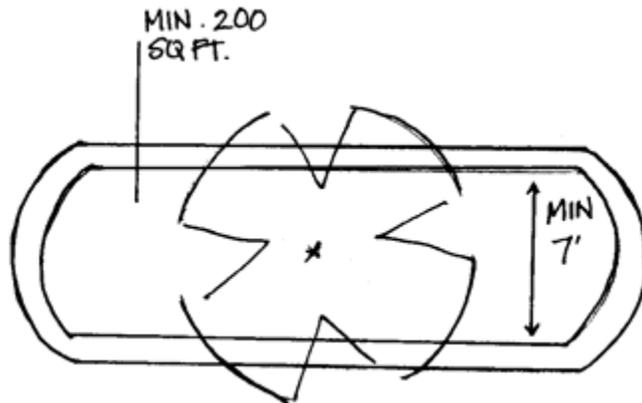


(H) *Parking Lot Planting Areas*

For new parking lots, in order to meet the parking lot planting requirements, required canopy tree areas shall be located within the parking lots and adjacent to parking spaces as planting areas between rows of parking spaces, inside medians, at the end of parking bays, or in tree islands. The landowner may provide required planters using one (1) or more of the planter sizes below. Each parking space must be entirely within the designated distance of a parking lot planter as specified below: Each parking lot planting area shall have a minimum inside dimension of seven (7) feet and shall have a minimum area of two hundred (200) square feet. Grouping of parking lot trees within the same island is strongly encouraged, even if this would decrease the number of islands otherwise built within the parking lot. The Town Arborist or Enforcement Officer may approve a smaller island based on the mature height of that tree species.

TABLE INSET:

Size of Parking Lot Planter	Number of Trees in Planter	Distance
200 – 499 sq. ft.	1	100 ft.
500 – 899 sq. ft.	3	130 ft.
900+ sq. ft.	5	150 ft.



(I) *Grouping*

Shrubs and trees may be grouped or clustered in the required planting yards, except for the perimeter landscaping adjacent to parking lots, outside storage, access drives and loading and unloading areas. The remainder of the materials shall be distributed throughout the planting yard. There shall be at least one (1) row of evergreen shrubs or evergreen understory trees in all Type A planting yards.

(J) *Berm Size*

Any berm shall have a minimum height of three (3) feet, a minimum crown width of three (3) feet and a side slope no greater than 3:1 (3 horizontal to 1 vertical).

(K) *Wall Planters*

Wall planters shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact (AWPB LP-22 1980 or equivalent). The minimum height of the wall planter shall be thirty (30) inches. The minimum height of shrubs in the wall planter shall be six (6) inches. The effective planting area of the wall planter shall be four (4) feet in width. If the wall planter is to contain trees, the effective planting width shall be seven (7) feet.

(L) *Encroachments Permitted in Required Planting Yards and the TCA*

The following are permitted in required planting yards provided the landscaping requirements are met and there is no interference with any sight area:

- (1) Landscaping features, including but not limited to, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths
- (2) Pet shelters, at-grade patios, play equipment, outdoor furniture, ornamental entry columns and gates, flagpoles, lampposts, address posts, HVAC equipment, mailboxes, outdoor fireplaces, public utility wires and poles, pumps, wells, fences, retaining walls, or similar structures
- (3) Cornices, steps, canopies, overhanging eaves and gutters, windowsills, bay windows or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half (2 1/2) feet into any required planting yard, but in no case shall be

- closer than three (3) feet to any property line
- (4) Handicap ramps except for porches and landings
- (5) Steps not connected to any above-grade structure

(M) *Setback Less Than Planting Yard*

If the required building setback is less than the required planting yard width or TCA, the building setback shall reduce the required planting yard width only alongside the building. The planting rate of the required planting yard shall still apply.

(N) *Location of Planting Material Outside Shade of Building*

Where a building is located less than ten (10) feet from a property line, and the planting yard would be heavily shaded by buildings on both sides of the property line, the required trees and shrubs may be planted outside the shaded area to improve survivability.

(O) *Obstructions*

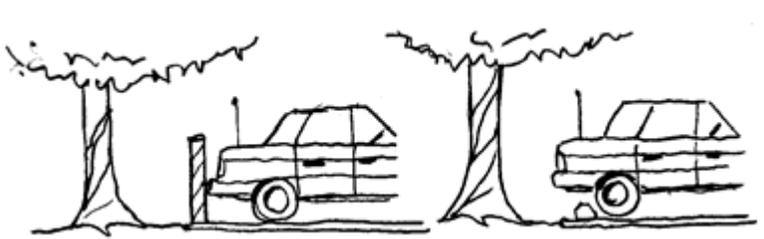
Landscaping shall not obstruct the view of motorists using any street, driveway, or parking aisle.

(P) *Location*

Required trees and shrubs shall not be installed in street rights-of-way. Required trees and shrubs may be placed in water quality conservation easements. Required trees and shrubs may be planted in electric utility easements below overhead lines and in drainage maintenance and utility easements by approval of the Technical Review Committee.

(Q) *Plant Protection*

Whenever planting areas are adjacent to parking lots or drives, such areas shall be protected from damage by vehicles, lubricants, or fuels.



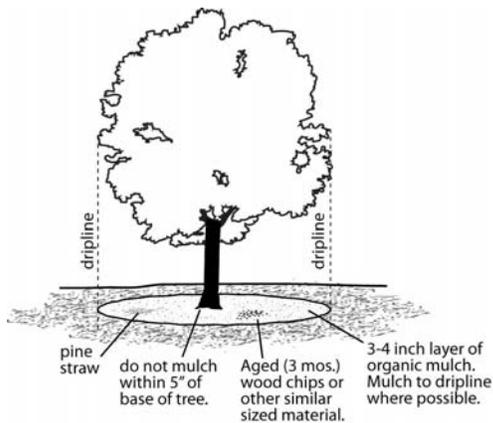
(R) *Maintenance*

The landowner is responsible for maintaining all required plant materials and planting areas in good health and appearance. Any dead, unhealthy, or missing plants (preserved or planted) shall be replaced with new plant material equal to the number of credited trees planted or preserved, subject to the provisions of this Ordinance. This plant material shall be sized according to the requirements this Ordinance and shall be replanted within one hundred eighty (180) days with vegetation which conforms to the initial planting rates and standards.

(S) *Planting Techniques*

The following soil preparation techniques shall be used for all required landscape areas.

- (1) Soil preparation for the entire landscape yard includes the addition of organic amendments tilled to a depth of eight (8) to twelve (12) inches.
- (2) All plantings in the landscape yards shall be mulched, including interior parking lot islands less than five hundred (500) square feet to a depth of three to four (4) inches. The mulch shall be free of trash and maintained weed free thereafter.



- (3) Earthen basins are to be constructed around the installed plants.
- (4) Plants, as permitted by this Ordinance, are to be grouped together where possible.
- (5) For establishment and survival, plants shall be watered by the landowner or contractor for the first year after planting.

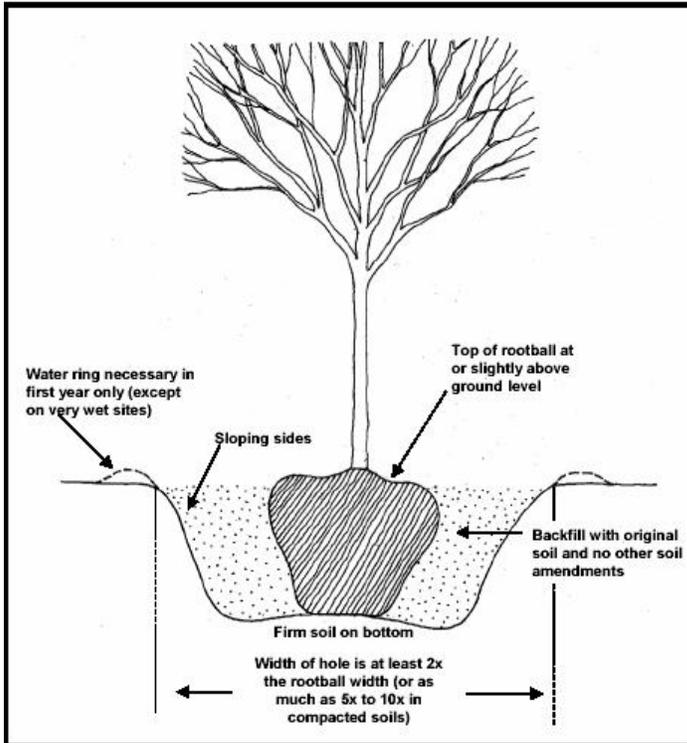


Figure 2. Recommended Tree Planting Method

(T) *Irrigation*

It is suggested that drip irrigation, which includes drip misters, be used for required landscaping planting beds during the required establishment period. After establishment, supplemental watering can be reduced and used on an as needed basis. Traditional spray irrigation is prohibited except for turf areas.

(U) *Pruning*

All required trees shall be allowed to reach their mature size and shall be maintained at their mature size. Trimming and pruning shall be done in strict accordance with the American National Standards Institute (ANSI) standards. Topping is not an acceptable pruning practice. Topping is the reduction of a tree's size using heading cuts that shorten limbs or branches back to a predetermined crown limit. The Town Arborist or Enforcement Officer may require the removal and replacement of any tree(s) located in required planting yards or TCA's that have been topped or excessively trimmed.



**Before Pruning**

Mature trees often need pruning due to crowded foliage, broken and dead branches, and asymmetrical shape.



**After Proper Pruning**

After pruning, trees should retain a symmetrical appearance and tree-like form. A minimum canopy spread of 20 feet must be maintained.



**After Excessive Pruning**

Pruning in excess of one fourth (25%) of the required canopy spread is prohibited. Tree-topping (hatracking) is prohibited.

(V) *Screening*

Required screening shall be of an acceptable opaque material, with specific structure, plant material, physical feature, or combination thereof as described in subsection (2) below and approved by the Enforcement Officer.

(1) **Dumpsters:** All dumpsters or other similarly large trash receptacles, including compactors and grease receptors, shall be screened from view from the right-of-way of any public or private street, and from any adjacent residentially zoned property as seen from any point on the property line at a height of six (6) feet.

(2) Dumpsters may be screened by using a single opaque material wall or fence, or by using a combination of opaque materials, berming, and/or evergreen landscaping that provides the required screening effect. The wall(s) of a principal or accessory structure may also screen dumpsters. Chain-link fencing with woven slats of opaque material is *not* acceptable for screening dumpsters.

(3) Screening of a dumpster shall not be required in the Heavy Industrial District, unless the dumpster is located within one hundred (100) feet of an existing residential land use.

Section 18. Removal of Regulated Trees

No regulated tree shall be removed without first acquiring a permit from the Enforcement Officer. Failure to do so shall constitute a violation of this chapter and shall be subject to the penalty provisions in the *Penalties* section of this Ordinance.

Section 19. Tree Disturbance Permit and Display Requirements

(A) *Activities Requiring a Permit*

Except as otherwise specifically exempted herein, it shall be unlawful to:

- (1) Remove, prune, apply chemicals that are harmful to or disturb any tree or the soil within the CRZ of any tree; or
- (2) Clear vegetation from a site; or
- (3) Begin any excavation, remove soil or place fill on a site within Jamestown and

its extraterritorial jurisdiction until the Town Manager or her designee has issued a permit certifying that such activity complies with the applicable provisions of this Ordinance.

(B) *Applicability*

The provisions of this article shall apply to any development except:

- (1) Land in the Town's office/institutional zoning districts
- (2) Routine maintenance of existing vegetation outside the public rights-of-way, such as pruning, watering and fertilizing
- (3) The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, with the burden of proof being placed on the remover
- (4) The removal of soil or vegetation from undeveloped land to allow for non-commercial open space no greater than one-quarter (1/4) acre, providing this activity does not take place within the CRZ of any rare or specimen tree
- (5) Land disturbing activity normally associated with the occupancy of an existing single family or two-family dwelling
- (6) Any new construction or expansion of a single family or two-family dwelling requiring a building permit and involving land disturbance less than five thousand (5000) square feet, unless the land disturbance is cumulatively over five thousand (5000) square feet

(C) *Permit Display*

All permits issued hereunder shall be so displayed as to be clearly visible from a public right-of-way. Annual permits shall be kept in all vehicles at the work site.

(D) *Emergency Waiver*

The provisions of this section are waived if compliance would hamper the rescue of life or property from immediate danger or the repair of utilities in the event of emergencies such as wind storms, ice storms, or other disasters. Any emergency work shall follow the Town's Landscape Standards and Specifications as closely as possible.

(E) *Enforcement*

Upon a determination that work does not conform with provisions of this section, the Town Manager or her designee shall issue a stop work order which shall remain in effect until all corrections are made in conformance with this Ordinance.

(F) *Pre-construction Conference*

Prior to the commencement of any activities requiring a permit, a pre-construction conference shall take place to review procedures for protection and management of all protected landscape elements identified on the landscape protection plan and to designate one or more persons as landscape protection supervisor(s). This meeting shall include the Town Arborist or Enforcement Officer.

## Section 20. Developing Land

### *(A) Protective Fencing*

- (1) Vegetation that is to be protected on developing land, as indicated on a landscape protection plan, shall be protected by fences or other equally effective measures during construction activity. Such fencing shall be located and erected according to Town standards and be located as shown on the landscape protection and site grading plans. All land disturbing activity, storage of equipment, building material, soil and other debris shall be kept within the area of development activity and outside of the protective fencing.
- (2) Vegetation that is to be retained during rights-of-way clearing of single family or two-family residential subdivisions, as indicated on a landscape protection plan, shall be delineated by high visibility flagging during construction activity. Such flagging shall be located and installed according to Town standards and be located as shown on the landscape protection and site grading plans. The use of flagging shall be limited to those specific applications where no rare or specimen trees will be affected by development activity and the Town Manager or her designee determines it to be as effective as protective fencing.
- (3) Landscaping activities taking place after the removal of protective fencing shall be accomplished with light machinery or hand labor and in accordance with the Town's landscaping standards and specifications.

### *(B) Treatment of Trees During Construction*

- (1) No nails, ropes, cables, signs or fencing shall be attached to any part of any tree that is to remain.
- (2) Trees that are damaged during construction shall be treated so as to promote their continued health.

## Section 21. Rare and Specimen Tree Provisions

### *(A) Specimen Tree Defined*

A specimen tree is any healthy living tree that:

- (1) Has a trunk diameter at breast height (DBH) of eighteen (18) inches or more;  
or
- (2) A trunk DBH of twelve (12) inches or more in the case of the following species:
  - Karpinus (Hornbeam)
  - Ilex spp. (Holly)
  - Magnolia spp.
  - Ostrya (Hophornbeam)

Tsuga spp. (Hemlock)

(B) Rare Tree Defined

A rare tree is any healthy living tree that:

- (1) Has a trunk diameter at breast height (DBH) of 36 inches or more; or
- (2) A trunk DBH of 18 inches or more in the case of the following species:
  - Karpinus (Hornbeam)
  - Ilex spp. (Holly)
  - Magnolia spp.
  - Ostrya (Hophornbeam)
  - Tsuga spp. (Hemlock)
- (3) Is listed as a state or national champion by the North Carolina Forest Service or the American Forestry Association; or
- (4) Provides unique habitat for any endangered or threatened wildlife species protected by federal law; or
- (5) Has been cited by the Town Council as being historically significant; or
- (6) Represents an uncommon species, such as Long Leaf Pine, Live Oak or Sequoia Redwood, that the Town Manager or her designee considers to be desirable and not to pose a threat to the local ecological balance

(C) Rare and Specimen Trees on Developing Land

- (1) Rare and specimen trees shall be shown on all preliminary landscape protection plans if such trees are within one hundred (100) feet of areas where soil disturbance or construction activity is proposed. In addition, these trees shall be identified and located by survey on the approved landscape protection plan if such trees are located on the development site or adjacent public property. The Town Manager may visit the site to determine the accuracy of identification.
- (2) Proposed development shall be designed to preserve rare and specimen trees. Where rare and specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities shall be pursued in order to save them.
- (3) No soil disturbance from construction, trenching, grading, paving or storage of equipment or materials shall take place within the critical root zone of any rare or specimen tree to be preserved unless the Town Manager or her designee determines there is no reasonable way the property can be developed without such disturbance or unless the proposed work will be carried out in accordance with the specifications for such work in the Town's landscaping standards and specifications.
- (4) No rare tree shall be removed from developing land unless the Town Manager or her designee determines there is no reasonable way the property can be

otherwise developed, improved or properly maintained and the tree saved.

(D) Voluntary Protection of Rare and Specimen Trees on Private Land

- (1) Rare and specimen trees that are located on individual lots with single and two-family homes shall be protected if voluntarily registered by the property owner.
- (2) Registration of such trees shall survive transfer of ownership if language is contained in the document transferring ownership and shall extend the coverage hereof.
- (3) The owner shall be entitled to consultation with the Town Arborist or Enforcement Officer concerning proper care of the tree.
- (4) Once so registered, trees may be removed from the register at a later date at the request of the property owner.

Section 22. Enforcement

(A) Notice and Appeal

- (1) *Notice of violation.* The Planning Director or his designee shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and the notice shall set forth the nature of the violation, the measures required to comply with this chapter, if compliance is at all practicable, and a reasonable time period (not less than 30 days and not to exceed 180 days) within which compliance must be met.
- (2) If any aggrieved party disagrees with a decision of the Enforcement Officer, such party may request a hearing within twelve (12) working days of receipt of the violation. The request must be in writing and directed to the Tree Board's secretary (or Town Clerk). The secretary shall immediately assemble an Appeals Board from among the membership of the Tree Board. The hearing will be conducted at the next regularly scheduled meeting of the Tree Board. The chairperson of the Town of Jamestown Tree Board shall always serve on the appeals board as the chairperson and shall not vote except to cast the deciding vote in case of a tie.

The aggrieved party shall have the right to be represented by Counsel, examine and cross-examine witnesses at the said hearing. The Town Attorney shall serve as the Appeals Board's legal advisor during the said hearing. The Appeals Board shall render a written decision within 30 days after the hearing.

- (3) The Appeals Board may modify, amend or revise the decision appealed. The decision of the Appeals Board shall be served upon the appealing party by registered or certified mail, return receipt requested, or by hand delivery.

(4) If any aggrieved party is dissatisfied with the decision of this Board, an appeal may be filed with the Guilford County Superior Court. Notice of the appeal must be filed within thirty (30) days of receipt of the Appeals Board’s decision. Any appeals to the Superior Court shall be in the nature of certiorari.

(5) Any aggrieved party may request an injunction to preserve the status quo during the pending of any appeal in accordance with applicable North Carolina law.

(B) Penalties

(1) *Tree Disturbance Prior to Permit Approval:* The penalty for the removal of or damage to trees, prior to the issuance of a tree disturbance permit or TRC approval shall be a civil penalty of ten thousand dollars (\$10,000.00) per acre or fraction thereof. (I.e., the civil penalty for a site of 0.35 acres that is cleared prior to TRC approval or prior to the issuance of a tree disturbance permit is three thousand five hundred dollars (\$3,500.00). Additionally, the Town of Jamestown, under G.S. 160A-458.5, may deny a building permit to any landowner that clears land in anticipation of development in violation of this Ordinance for up to three (3) years after completion of the timber harvest. If it is determined that the timber harvest was a “willful violation” of this Ordinance, then the Town of Jamestown reserves the right to deny development approvals for a period of five (5) years following the timber harvest.

(2) *Removal or Damage to Individual Trees after Permit Approval:* The penalty for removal of or damage to the CRZ of protected trees after the issuance of a tree disturbance permit, or TRC approval, within an approved TCA without approval by the Town Manager or her designee shall result in a civil penalty as determined by the Town Manager or her designee, up to the amount shown in the chart below, in addition to the replacement of those trees with quality specimens native to the Piedmont region of North Carolina.

TABLE INSET:

DBH of Tree(s) Removed or Damaged	Maximum Civil Penalty	Reforestation (4 inch DBH minimum)
4 – 11.9 inches	\$800	1 tree
12 – 20.9 inches	\$1,600	2 trees
21 – 28.9 inches	\$2,400	3 trees
29 – 35.9 inches	\$3,200	4 trees

36+ inches	\$4,000	5 trees
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- (3) *Removal of an Area of Trees after Permit Approval:* The penalty for removal of or damage to an area of protected trees that have not been surveyed after the issuance of a tree disturbance permit or TRC approval, within an approved TCA without approval of the Town Manager or her designee, shall result in a civil penalty of ten thousand dollars (\$10,000.00) per acre or fraction thereof but not less than one thousand dollars (\$1,000.00). Such areas shall be reforested at a rate one (1), two-inch caliper canopy tree per two hundred (200) square feet.
- (4) *Failure to Install or Maintain Tree Protection Devices:* There shall be a civil penalty of five hundred dollars (\$500.00) per day for failure to install or maintain approved tree protection measures sufficient to protect the TCA beginning with the date the citation is issued and ending when the site is in compliance. The property owner may be subject to any penalties for damage under section (2) above.
- (5) *Failure to Comply with the Landscape Provisions:* There shall be a penalty of five hundred dollars (\$500.00) per day for failure to install required landscape material or to replace dead landscape material beginning with the date the citation is issued and ending when the site is in compliance.
- (6) *Civil Penalties Considered Restorative:* Civil penalties assessed under this section are considered restorative; intended to provide compensation to the Town for costs associated with the Town’s program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the Town for its costs. The decision of the Planning Director to assess a civil penalty may be delivered by personal service, by registered mail or certified mail returned receipt requested or by any means authorized under G.S. 1A-1, Rule 4. Each day of a continuing violation shall constitute a separate violation.
- (7) *Appeal to Superior Court:* Every decision of the Planning Director or the Appeals Board to assess a civil penalty shall be subject to review by the Guilford County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the Planning Director or Appeals Board to assess a civil penalty.
- (8) *Failure to Appeal and/or Pay:* Any civil penalty which is assessed a person who violates the provisions of this Ordinance shall be recovered by the Town in a civil action in the nature of a debt (placement of liens against properties, etc.), to be brought in the Guilford County Superior Court if the violator fails to give notice of timely appeal and fails to pay the penalty within the

prescribed period of time (generally 30 days after receipt of penalty) after he or she has been cited for the violation.

- (9) *Violations Not Criminal:* A violation of this Ordinance shall not be considered a misdemeanor under N.C. General Statute 14-4.

### Section 23. Provisions for Discrepancies

Should there be any discrepancies in the language of this Ordinance or with other portions of the Town of Jamestown Development Ordinance, the Town of Jamestown Planning Director or his designee shall be responsible for making a determination or interpretation of the intent of the Ordinance. In general, the stricter of the standards in questions shall prevail. The Planning Director shall make such a determination or interpretation so as to further protect the general safety, health and welfare of the Town's citizens, while maintaining the spirit and general purpose of this Ordinance. Any appeals to the decision of the Planning Director or his designee may be directed to the Tree Board through the procedure listed in Section 22.

## Section 24. Appendices

### Appendix 1. Canopy Trees

Canopy Trees							
Scientific Name	Common Name	Water Wise	E/D	TYPE	Ht (Feet)	Exposure	
<i>Abies firma</i>	Japanese fir	No	E	C	40 to 70	Sun	
<i>Acer platanoides</i>	Norway maple	Yes	D	C	40 to 50	Sun	
<i>Acer pseudo-platanus</i>	Sycamore maple	Yes	D	C	40 to 60	Sun	
<i>Acer rubrum</i>	Red maple	Yes	D	C	40 to 60	Sun, partial shade	
<i>Acer saccharum</i>	Sugar maple	No	D	C	50 to 75	Sun, partial shade	
<i>Acer x freemanii</i>	Freeman maple	Yes	D	C	50 to 65	Sun	
<i>Aesculus flava</i>	Yellow buckeye	No	D	C	50 to 70	Sun, partial shade	
<i>Aesculus hippocastanum</i>	Common horse chestnut	No	D	C	50 to 75	Sun, partial shade	
<i>Alnus glutinosa</i>	Common alder	Yes	D	C	40 to 60	Sun, partial shade	
<i>Betula jacquemontii</i>	Jacquemontii birch; Whitebarked himalayan birch	No	D	C	30 to 50	Sun	
<i>Betula lenta</i>	Sweet birch	Yes	D	C	40 to 55	Sun, partial shade	
<i>Betula nigra</i>	River birch	No	D	C	40 to 70	Sun, partial shade	
<i>Calocedrus decurrens</i>	Incense cedar	Yes	E	C	30 to 70	Sun, light shade	
<i>Carpinus betulus</i>	European hornbeam	Yes	D	C	40 to 60	Sun, partial shade	
<i>Carpinus betulus 'fastigiata'</i>	Upright European hornbeam	Yes	D	C	40 to 60	Sun, partial shade	
<i>Carpinus caroliniana</i>	American hornbeam, Ironwood	Yes	D	C	20 to 30	Sun, partial shade	
<i>Carya illinoensis</i>	Pecan	Yes	D	C	70 to 100	Sun, light shade	
<i>Castanea sativa</i>	Spanish chestnut	Yes	D	C	80 to 100	Sun	
<i>Catalpa speciosa</i>	Northern catalpa	Yes	D	C	40 to 70	Sun, partial shade	
<i>Cedrus atlantica 'Glauca'</i>	Blue atlas cedar	Yes	E	C	60 to 100	Sun, partial shade	
<i>Cedrus deodara</i>	Deodar cedar	Yes	E	C	40 to 70	Sun, light shade	
<i>Cedrus libani</i>	Cedar of Lebanon	Yes	E	C	40 to 60	Sun	
<i>Celtis laevigata</i>	Hackberry	Yes	D	C	60 to 80	Sun	
<i>Celtis occidentalis</i>	Hackberry	Yes	D	C	40 to 60	Sun	
<i>Cercidiphyllum japonicum</i>	Katsuratree	No	D	C	40 to 60	Sun	
<i>Chamaecyparis obtusa</i>	Hinoki falsecypress	No	E	C	50 to 75	Sun, light shade	
<i>Chamaecyparis pisifera</i>	Japanese falsecypress	No	E	C	50 to 70	Sun	
<i>Cunninghamia lanceolata</i>	China fir	No	E	C	30 to 75	Sun, partial shade	
<i>Eucommia ulmoides</i>	Hardy rubber tree	Yes	D	C	40 to 60	Sun	
<i>Fagus grandifolia</i>	American beech	No	D	C	50 to 80	Sun, partial shade	

### Canopy Trees

Scientific Name	Common Name	Water Wise	E/D	TYPE	Ht (Feet)	Exposure
<i>Fraxinus americana</i>	White ash	Yes	D	C	60 to 80	Sun
<i>Fraxinus pennsylvanica</i>	Green ash	Yes	D	C	50 to 60	Sun
<i>Ginkgo biloba (male)</i>	Ginkgo	Yes	D	C	40 to 70	Sun
<i>Gleditsia triacanthos</i>	Honeylocust	Yes	D	C	30 to 70	Sun
<i>Gleditsia triacanthos inermis</i>	Thornless honeylocust	Yes	D	C	30 to 70	Sun
<i>Gordonia lasianthus</i>	Loblolly bay	No	E	C	30 to 50	Sun, partial shade
<i>Gymnocladus dioica</i>	Kentucky coffeetree	Yes	D	C	60 to 75	Sun
<i>Ilex opaca</i>	American holly	Yes	E	C	30 to 60	Sun, partial shade
<i>Juniperus virginiana</i>	Eastern redcedar	Yes	E	C	30 to 40	Sun
<i>Kalopanax pictus</i>	Castor-aralia	Yes	D	C	40 to 60	Sun
<i>Larix keampferi</i>	Japanese larch	No	D	C	50 to 70	Sun
<i>Liquidambar styraciflua</i>	Sweetgum	Yes	D	C	60 to 100	Sun, partial shade
<i>Liriodendron tulipifera</i>	Tuliptree, Yellow poplar	No	D	C	40 to 100	Sun
<i>Magnolia acuminata</i>	Cucumbertree magnolia	No	D	C	50 to 80	Sun, partial shade
<i>Magnolia grandiflora</i>	Southern magnolia	Yes	E	C	40 to 80	Sun, partial shade
<i>Metasequoia glyptostroboides</i>	Dawn redwood	Yes	D	C	50 to 90	Sun
<i>Nyssa sylvatica</i>	Black gum	No	D	C	40 to 60	Sun, partial shade
<i>Picea abies</i>	Norway spruce	No	E	C	40 to 60	Sun
<i>Picea glauca</i>	Alberta spruce	Yes	E	C	40 to 60	Sun, light shade
<i>Picea pungens</i>	Colorado blue spruce	Yes	E	C	30 to 90	Sun
<i>Pinus echinata</i>	Shortleaf pine	Yes	E	C	80 to 100	Sun
<i>Pinus elliotii</i>	Slash pine	Yes	E	C	60 to 80	Sun
<i>Pinus flexilis</i>	Limber pine	Yes	E	C	30 to 60	Sun, partial shade
<i>Pinus heldreichii</i>	Bosnian pine	Yes	E	C	70 to 90	Sun
<i>Pinus nigra</i>	Austrian pine	Yes	E	C	30 to 60	Sun
<i>Pinus rigida</i>	Pitch pine	Yes	E	C	40 to 60	Sun
<i>Pinus strobus</i>	White Pine	Yes	E	C	Varies	Sun
<i>Pinus sylvestris</i>	Scotch pine	Yes	E	C	30 to 70	Sun
<i>Pinus taeda</i>	Loblolly pine	Yes	E	C	30 to 40	Sun, partial shade
<i>Pinus thunbergiana</i>	Japanese black pine	Yes	E	C	50 to 70	Sun

### Canopy Trees

Scientific Name	Common Name	Water Wise	E/D	TYPE	Ht (Feet)	Exposure
<i>Pinus virginiana</i>	Virginia pine	Yes	E	C	15 to 40	Sun
<i>Platanus acerifolia</i>	London plane tree	Yes	D	C	60 to 80	Sun
<i>Platanus occidentalis</i>	Sycamore	No	D	C	70 to 100	Sun, partial shade
<i>Quercus acutissima</i>	Sawtooth oak	Yes	D	C	30 to 45	Sun, light shade
<i>Quercus alba</i>	White oak	Yes	D	C	60 to 100	Sun
<i>Quercus bicolor</i>	Swamp white oak	Yes	D	C	50 to 60	Sun, partial shade
<i>Quercus coccinea</i>	Scarlet oak	Yes	D	C	50 to 80	Sun
<i>Quercus falcata</i>	Southern red oak	Yes	D	C	70 to 90	Sun
<i>Quercus hemisphaerica</i>	Darlington oak	Yes	D	C	40 to 60	Sun, partial shade
<i>Quercus imbricaria</i>	Shingle oak	Yes	D	C	50 to 60	Sun
<i>Quercus laurifolia</i>	Laurel oak	Yes	D	C	40 to 60	Sun
<i>Quercus lyrata</i>	Overcup oak	Yes	D	C	35 to 45	Sun
<i>Quercus macrocarpa</i>	Bur oak	Yes	D	C	70 to 80	Sun
<i>Quercus nigra</i>	Water oak	Yes	D	C	50 to 75	Sun, partial shade
<i>Quercus nuttallii</i>	Nuttall oak	Yes	D	C	40 to 60	Sun
<i>Quercus palustris</i>	Pin oak	Yes	D	C	60 to 80	Sun
<i>Quercus phellos</i>	Willow oak	Yes	D	C	60 to 80	Sun
<i>Quercus prinus</i>	Chestnut oak	Yes	D	C	60 to 70	Sun
<i>Quercus rubra</i>	Red oak	Yes	D	C	60 to 75	Sun
<i>Quercus shumardii</i>	Shumard oak	Yes	D	C	40 to 60	Sun
<i>Quercus stellata</i>	Post oak	Yes	D	C	40 to 50	Sun
<i>Quercus virginiana</i>	Live oak	Yes	E	C	30 to 50	Sun
<i>Salix matsudana</i>	Scarlet Curls, Tortuosa	No	D	C	40 to 50	Sun
<i>Sassafras albidum</i>	Sassafras	Yes	D	C	30 to 60	Sun, partial shade
<i>Taxodium ascendens</i>	Pond cypress	Yes	D	C	70 to 80	Sun
<i>Taxodium distichum</i>	Baldcypress	Yes	D	C	50 to 100	Sun
<i>Tilia americana</i>	American linden	Yes	D	C	60 to 100	Sun
<i>Tilia cordata</i>	Littleleaf linden	Yes	D	C	30 to 50	Sun
<i>Tilia tomentosa</i>	Silver linden	Yes	D	C	40 to 70	Sun
<i>Tsuga canadensis</i>	Canadian hemlock	No	E	C	30 to 80	Sun, partial shade

### Canopy Trees

Scientific Name	Common Name	Water Wise	E/D	TYPE	Ht (Feet)	Exposure
<i>Tsuga caroliniana</i>	Carolina hemlock	No	E	C	30 to 70	Sun, partial shade
<i>Ulmus americana</i>	Liberty Elm, Valley Forge Elm	Yes	D	C	75 to 125	Sun, partial shade
<i>Ulmus parvifolia</i>	Lacebark elm, Chinese elm	Yes	D	C	40 to 50	Sun
<i>Zelkova serrata</i>	Zelkova	Yes	D	C	50 to 80	Sun, partial shade

Appendix 2. Understory Trees

**Understory Trees**

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Abies koreana</i>	Korean fir	No	E	U	15 to 30	Sun
<i>Acer barbatum (A. saccharum ssp. floridanum)</i>	Southern sugar maple	Yes	D	U	20 to 25	Sun

**Understory Trees**

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Cercis canadensis ssp. texensis</i>	Texas redbud	Yes	D	U	15 to 20	Sun, partial shade
<i>Cercis chinensis</i>	Chinese redbud	Yes	D	U	8 to 12	Sun
<i>Chionanthus retusus</i>	Chinese fringe tree	Yes	D	U	15 to 25	Sun, partial shade
<i>Chionanthus virginicus</i>	Fringe tree	No	D	U	12 to 20	Sun, partial shade
<i>Ciadrastis kentuckea</i>	Yellowwood	Yes	D	U	30 to 45	Sun
<i>Cornus florida</i>	Flowering dogwood	No	D	U	15 to 20	Partial shade
<i>Cornus kousa</i>	Kousa dogwood	No	D	U	20 to 30	Sun, partial shade
<i>Cornus mas</i>	Cornelain cherry dogwood	Yes	D	U	20 to 25	Sun, partial shade
<i>Cornus Stellar hybrids</i>	Stellar dogwood	No	D	U	15 to 30	Sun, partial shade
<i>Corylus avellana 'Contorta'</i>	Lauders walking stick	No	D	U	12 to 20	Sun
<i>Cotinus coggygria</i>	Smoketree	Yes	D	U	10 to 15	Sun
<i>Cotinus hybrids</i>	Smoketree cvs: Grace	Yes	D	U	10 to 15	Sun
<i>Cotinus obovatus</i>	American smoke tree	Yes	D	U	10 to 15	Sun
<i>Crataegus crus-galli</i>	Cockspur hawthorn	Yes	D	U	20 to 30	Sun
<i>Crataegus laevigata</i>	Scarlet hawthorn, English hawthorn	Yes	D	U	20 to 25	Sun
<i>Crataegus phaenopyrum</i>	Washington hawthorn	Yes	D	U	25 to 30	Sun
<i>Crataegus x lavalleyi</i>	Lavalle hawthorn	Yes	D	U	15 to 30	Sun
<i>Crataegus viridis</i>	Green hawthorn	Yes	D	U	15 to 20	Sun, light shade
<i>Cryptomeria japonica</i>	Cryptomeria	Yes	E	U	50 to 60	Sun, light shade
<i>Cryptomeria japonica</i>	Cryptomeria cvs: Sekkan-Sugi, etc.	No	E	U	15 to 30	Sun, light shade
<i>Cupressocyparis leylandii</i>	Leyland cypress	Yes	E	U	40 to 50	Sun
<i>Cupressus arizonica</i>	Arizona cypress	Yes	E	U	30 to 40	Sun
<i>Cupressus sempervirens</i>	Italian cypress	Yes	E	U	20 to 30	Sun
<i>Cydonia sinensis</i>	Chinese quince	No	D	U	10 to 20	Sun, partial shade
<i>Euscaphis japonica</i>	Korean sweetheart tree	Yes	D	U	20	Sun, partial shade
<i>Firmiana simplex</i>	Chinese parasol tree	No	D	U	30 to 45	Sun
<i>Halesia carolina, H. tetraptera</i>	Carolina silverbell	No	D	U	20 to 40	Sun, partial shade
<i>Halesia diptera</i>	Two-winged silverbell	No	D	U	15 to 30	Sun, partial shade
<i>Heptacodium miconiodes</i>	Seven-son flower	Yes	D	U	10 to 20	Sun, partial shade
<i>Hovenia dulcis</i>	Japanese raisin tree	No	D	U	30	Sun, light shade

### Understory Trees

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Ilex cassine</i>	Dahoon holly	No	E	U	20 to 30	Sun, partial shade
<i>Ilex decidua</i>	Possumhaw	Yes	D	U	20 to 30	Sun, partial shade
<i>Ilex pedunculosa</i>	Long stalk holly	No	E	U	20 to 30	Sun, partial shade
<i>Ilex vomitoria 'Pendula'</i>	Weeping yaupon holly	Yes	E	U	20 to 25	Sun, partial shade
<i>Ilex x 'Nellie R. Stevens'</i>	Nellie R. Stevens holly	Yes	E	U	20 to 40	Sun, partial shade
<i>Ilex x 'Carolina Sentinal'</i>	Carolina Sentinal holly	No	E	U	20 to 25	Sun, partial shade
<i>Ilex x attenuata</i>	Ilex cvs: Savannah, Foster, Sunny Foster, East Palatka, etc.	Yes	E	U	20 to 30	Sun, partial shade
<i>Juniperous saliciola</i>	Southern red cedar	Yes	E	U	30 to 40	Sun
<i>Juniperous scopulorum</i>	Rocky Mountain juniper cvs: Blue Haven, Skyrocket, Wichita Blue	Yes	E	U	15 to 40	Sun
<i>Koelreuteria bipinnata</i>	Southern Goldenraintree	Yes	D	U	20 to 30	Sun
<i>Koelreuteria paniculata</i>	Goldenraintree	Yes	D	U	20 to 40	Sun
<i>Lagerstroemia fauriei</i>	Japanese crapemyrtle	Yes	D	U	20 to 30	Sun
<i>Lagerstromia indica</i>	Crapemyrtle	Yes	D	U	15 to 30	Sun
<i>Lagerstromia indica x fauriei</i>	Crapemyrtle cvs: Choctaw, Muskogee, Natchez, Tuscarora, etc.	Yes	D	U	15 to 30	Sun
<i>Lithocarpus henryi</i>	Henry tanbark oak	Yes	E	U	25 to 30	Sun, partial shade
<i>Maackia amurensis</i>	Amur maackia	Yes	D	U	20 to 30	Sun
<i>Maclura pomifera</i>	Osage-orange	Yes	D	U	20 to 40	Sun
<i>Magnolia grandiflora 'Little Gem'</i>	Little Gem magnolia	Yes	E	U	15 to 20	Sun
<i>Magnolia hybrids</i>	Magnolia cvs: Ann, Betty, Judy, Mary Nell, Galaxy, etc	No	D	U	10 to 30	Sun
<i>Magnolia liliiflora</i>	Lily magnolia	No	D	U	12 to 15	Sun
<i>Magnolia macrophylla</i>	Bigleaf magnolia	No	D	U	30 to 40	Sun, partial shade
<i>Magnolia sieboldii</i>	Oyama magnolia	No	D	U	10 to 20	Partial shade
<i>Magnolia stellata</i>	Star magnolia	No	D	U	10 to 20	Sun
<i>Magnolia virginiana</i>	Sweetbay magnolia	No	E	U	10 to 60	Sun, partial shade
<i>Magnolia x soulangiana</i>	Saucer magnolia	No	D	U	15 to 25	Sun, partial shade
<i>Malus spp.</i>	Crabapple	Yes	D	U	15 to 25	Sun
<i>Morus australis 'Unryo'</i>	Contorted mulberry	No	D	U	20 to 30	Sun
<i>Nyssa ogeche</i>	Ogeche gum	No	D	U	30 to 50	Sun, partial shade
<i>Ostrya virginiana</i>	American hophornbeam or Ironwood	Yes	D	U	25 to 40	Sun, partial shade
<i>Oxydendrum arboreum</i>	Sourwood	Yes	D	U	20 to 30	Sun, partial shade

### Understory Trees

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Parrotia persica</i>	Persian ironwood	No	D	U	20 to 40	Sun, light shade
<i>Persea borbonia</i>	Redbay	Yes	E	U	15 to 40	Sun, partial shade
<i>Phellodendron amurense</i>	Amur cork tree	Yes	D	U	30 to 45	Sun
<i>Photinia serrulata</i>	Chinese photinia	Yes	E	U	20 to 30	Sun
<i>Picea glauca</i> (dwarf cultivars)	Spruce cvs: Conica, etc	Yes	E	U	10 to 20	Sun, light shade
<i>Pinus bungeana</i>	Lacebark pine	Yes	E	U	30 to 50	Sun
<i>Pinus cembra</i>	Swiss stone pine	Yes	E	U	30 to 40	Sun
<i>Pinus korariensis</i>	Korean pine	Yes	E	U	30 to 40	Sun, partial shade
<i>Pinus mugo</i>	Mugo pine	Yes	E	U	15 to 20	Sun, partial shade
<i>Pinus wallichiana</i>	Himalayan pine	Yes	E	U	30 to 50	Sun, partial shade
<i>Pistacia chinensis</i>	Chinese pistache	Yes	D	U	25 to 40	Sun
<i>Poncirus trifoliata</i>	Hardy orange	Yes	D	U	8 to 20	Sun
<i>Prunus</i> 'Snow Goose'	Snow Goose cherry	No	D	U	20	Sun
<i>Prunus campanulata</i>	Taiwan cherry	No	D	U	20 to 30	Sun, partial shade
<i>Prunus caroliniana</i>	Carolina laurelcherry	No	E	U	20 to 40	Sun, partial shade
<i>Prunus cerasifera</i>	Purple leaf plum	No	D	U	15 to 25	Sun
<i>Prunus mume</i>	Japanese apricot	No	D	U	10 to 20	Sun, partial shade
<i>Prunus persica</i> (Corinthian hybrids)	Corinthian peach	No	D	U	20 to 25	Sun
<i>Prunus sargentii</i>	Sargent cherry	No	D	U	20 to 40	Sun
<i>Prunus serrulata</i>	Japanese cherry	No	D	U	15 to 25	Sun, partial shade
<i>Prunus subhirtella</i>	Higan cherry	No	D	U	20 to 40	Sun
<i>Prunus</i> x 'Okame'	Okame cherry	No	D	U	15 to 30	Sun
<i>Prunus x blireana</i>	Blireana cherry	No	D	U	15 to 20	Sun
<i>Prunus x cistena</i>	Purple leaf plum	No	D	U	7 to 14	Sun
<i>Prunus x yedoensis</i>	Yoshino cherry	No	D	U	30 to 40	Sun, light shade
<i>Pseudolarix amabilis</i>	Golden-larch	No	D	U	20 to 40	Sun
<i>Ptelea trifolia</i>	Hop tree	Yes	D	U	15 to 20	Sun, partial shade
<i>Pyrus calleryana</i>	Pear cvs: Cleveland, Aristocrat, Capital, Redspire, 'Holmford'	Yes	D	U	30 to 40	Sun
<i>Rhamnus caroliniana</i>	Carolina buckthorn	Yes	D	U	15 to 30	Sun
<i>Rhus typhina</i>	Staghorn sumac	Yes	D	U	15 to 25	Sun

### Understory Trees

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Robinia pseudoacacia</i>	Black locust	Yes	D	U	30 to 50	Sun
<i>Salix babylonica</i>	Weeping willow	No	D	U	30 to 50	Sun
<i>Sinojackia rehderiana</i>	Jacktree	No	D	U	15 to 20	Sun, partial shade
<i>Stewartia rostrata</i>	Upright stewartia	No	D	U	15	Sun, partial shade
<i>Stewartia koreana</i>	Korean stewartia	No	D	U	20 to 30	Sun, partial shade
<i>Stewartia ovata</i>	Mountain stewartia	No	D	U	10 to 15	Sun, light shade
<i>Stewartia pseudocamellia</i>	Japanese stewartia	No	D	U	20 to 40	Sun, partial shade
<i>Styrax japonica</i>	Japanese snowbell	No	D	U	20 to 30	Sun, partial shade
<i>Styrax malacodendron</i>	Silky stewartia	No	D	U	10 to 15	Partial shade
<i>Styrax obassia</i>	Fragrant snowball	No	D	U	20 to 30	Sun, partial shade
<i>Syringa reticulata</i>	Japanese tree lilac	No	D	U	20 to 30	Sun
<i>Thuja occidentalis</i>	Eastern arborvitae	No	E	U	10 to 30	Sun
<i>Thuja occidentalis</i>	American arborvitae	No	E	U	40 to 60	Sun
<i>Thuja orientalis</i>	Oriental arborvitae	No	E	U	18 to 25	Sun
<i>Thuja plicata</i>	Giant arborvitae	No	E	U	50 to 80	Sun, partial shade
<i>Thuja x 'Green Giant'</i>	Green Giant arbor	No	E	U	40 to 60	Sun
<i>Trachycarpus fortunei</i>	Windmill palm	Yes	E	U	15 to 35	Sun, partial shade
<i>Trochodendron aralioides</i>	Wheel tree	No	D	U	10 to 20	Partial shade
<i>Ulmus alata</i>	Winged elm	Yes	D	U	30 to 40	Sun
<i>Vitex agnus-castus</i>	Vitex chastetree	Yes	D	U	15 to 20	Sun
<i>Ziziphus jujuba</i>	Common jujuba	Yes	D	U	15 to 20	Sun

Appendix 3. Shrubs

Shrubs						
Shrubs						
Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Euonymus japonicus</i>	Japanese euonymus	Yes	E	S	5 to 10	Sun, partial shade
<i>Euonymus kiautschovicus</i>	Spreading euonymus	Yes	E	S	8 to 10	Sun, partial shade
<i>Fontanesia fortunei</i>	Fortune's fontanesia	Yes	D	S	10 to 15	Sun, partial shade
<i>Forsythia x hybrids</i>	Forsythia cvs: Beatrix Farrand, Lynwood Gold, Golden Times, Spring Glory, etc.	Yes	D	S	Varies	Sun, partial shade
<i>Forsythia x intermedia</i>	Border forsythia	Yes	D	S	8 to 10	Sun, partial shade
<i>Fothergilla gardenii</i>	Dwarf fothergilla	Yes	D	S	2 to 3	Sun, partial shade
<i>Fothergilla major</i>	Large fothergilla	Yes	D	S	6 to 12	Partial shade
<i>Gardenia augusta (G. jasminoides)</i>	Gardenia	Yes	E	S	4 to 6	Sun, partial shade
<i>Genista pilosa</i>	Silky-leaf woadwaxen	Yes	D	S	1 to 3	Sun
<i>Hamamelis mollis</i>	Chinese witchhazel	Yes	D	S	10 to 15	Partial shade to shade
<i>Hamamelis vernalis</i>	Vernal witchhazel	Yes	D	S	6 to 10	Sun, partial shade
<i>Hydrangea quercifolia</i>	Oakleaf hydrangea	Yes	D	S	4 to 6	Sun, partial shade
<i>Ilex 'China Boy', 'China Girl'</i>	China holly	Yes	E	S	8 to 10	Sun, partial shade
<i>Ilex cornuta</i>	Holly cvs: Carissa, Burford, Rotunda, Needlepoint, etc.	Yes	E	S	2 to 15	Sun
<i>Ilex cornuta cvs.</i>	Holly cvs: Burfordii, D'Or, O' Spring	Yes	E	S	10 to 25	Sun, partial shade
<i>Ilex crenata cvs.</i>	Holly cvs: Hetz, Helli, etc.	Yes	E	S	4 to 10	Sun, partial shade
<i>Ilex decidua</i>	Possomhaw holly	Yes	D	S	7 to 15	Sun, partial shade
<i>Ilex glabra</i>	Inkberry holly	Yes	E	S	6 to 8	Sun, partial shade
<i>Ilex latifolia</i>	Lusterleaf holly	Yes	E	S	20 to 25	Sun, partial shade
<i>Ilex vomitoria</i>	Yaupon holly	Yes	E	S	15 to 20	Sun, partial shade
<i>Ilex vomitoria cvs.</i>	Holly cvs: Nana, Schillings, Katherine, etc.	Yes	E	S	Varies	Sun, partial shade
<i>Ilex x 'Nellie R. Stevens'</i>	Nellie Stevens holly	Yes	E	S	15 to 25	Sun, partial shade
<i>Ilex x 'Emily Bruner'</i>	Emily Bruner holly	Yes	E	S	15 to 20	Sun, partial shade
<i>Ilex x 'Mary Nell'</i>	Mary Nell holly	Yes	E	S	10 to 20	Sun, partial shade
<i>Ilex x koehneana</i>	Koehne holly	Yes	E	S	Varies	Sun, partial shade
<i>Indigofera amblyantha</i>	Indigofera	Yes	D	S	4 to 6	Sun
<i>Indigofera heterantha</i>	Himalayan indigo	Yes	D	S	4 to 6	Sun
<i>Itea virginica</i>	Virginia sweetspire	Yes	D	S	3 to 5	Sun, partial shade
<i>Jasminum floridum</i>	Showy jasmine	Yes	E	S	3 to 5	Sun, partial shade
<i>Jasminum humile</i>	Italian yellow jasmine	Yes	E	S	5 to 7	Partial shade

### Shrubs

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Jasminum nudiflorum</i>	Winter jasmine	Yes	D	S	3 to 4	Sun, partial shade
<i>Juniperus chinensis</i>	Chinese juniper cvs: Wintergreen, Spartan, Hooks, etc.	Yes	E	S	12 to 50	Sun
<i>Juniperus chinensis (dwarf cultivars)</i>	Chinese juniper cvs: Procumbens Nana, Berkshire, Sargenti, Hetzi	Yes	E	S	3 to 12	Sun
<i>Juniperus communis</i>	Common juniper	Yes	E	S	5 to 10	Sun
<i>Juniperus conferta</i> cvs.	Juniper cvs: Blue Lagoon, Blue Pacific, Boulevard, etc.	Yes	E	S	1 to 2	Sun
<i>Juniperus davurica</i> cvs.	Parsons juniper	Yes	E	S	2 to 3	Sun
<i>Juniperus horizontalis</i>	Juniper cvs: Blue Vase, Blue Chip, Wiltonii, etc.	Yes	E	S	1 to 2	Sun
<i>Juniperus hybrids</i>	Juniper cvs: Saybrook Gold, etc.	Yes	E	S	Varies	Sun
<i>Juniperus procumbens</i>	Japanese garden juniper	Yes	E	S	.5 to 1.5	Sun
<i>Juniperus rigida</i>	Needle juniper	Yes	E	S	15 to 20	Sun
<i>Juniperus sabina</i>	Savin juniper	Yes	E	S	4 to 6	Sun
<i>Juniperus scopulorum (dwarf cultivars)</i>	Juniper cvs: Blue Creeper, Skyrocket, etc.	Yes	E	S	Varies	Sun
<i>Juniperus squamata</i> cvs.	Juniper cvs: Holger, Blue Elf, Calgary Carpet, Blue Satr, etc.	Yes	E	S	Varies	Sun
<i>Juniperus virginiana</i> cvs.	Juniper cvs: Blue Mountain, Blue Cloud, Grey Owl, etc.	Yes	E	S	Varies	Sun
<i>Juniperus x media</i>	Juniper cvs: Seagreen, Old Gold, etc.	Yes	E	S	Varies	Sun
<i>Kalmia latifolia</i>	Mountain laurel	Yes	E	S	4 to 8	Sun, partial shade
<i>Kolkwitzia amabilis</i>	Beautybush	Yes	D	S	6 to 10	Sun
<i>Lagerstroemia indica and hybrids</i>	Crape myrtle cvs: New Orleans, Centennial, Chica, Tonto, Acoma	Yes	D	S	5 to 15	Sun
<i>Lantana camara</i>	Lantana	Yes	D	S	1 to 5	Sun
<i>Lavandula angustifolia</i>	Common lavender	Yes	E	S	1 to 2	Sun
<i>Lavandula x intermedia</i>	Hybrid lavender	Yes	E	S	1 to 2	Sun
<i>Lespedeza thunbergii</i>	Thunberg lespedeza	Yes	D	S	3 to 6	Sun
<i>Lespedeza bicolor</i>	Shrub bushclover	Yes	D	S	6 to 10	Sun
<i>Ligustrum japonicum</i>	Japanese privet	Yes	E	S	6 to 12	Sun, partial shade
<i>Ligustrum lucidum</i>	Waxleaf privet	Yes	E	S	20 to 25	Sun, partial shade
<i>Ligustrum sinense</i>	Chinese privet	Yes	E	S	10 to 15	Sun, partial shade
<i>Ligustrum x vicaryi</i>	Vicary golden privet	Yes	E	S	10 to 12	Sun
<i>Lindera benzoin</i>	Spice bush	Yes	D	S	6 to 12	Sun, partial shade
<i>Lonicera fragrantissima</i>	Winter honeysuckle	Yes	D	S	6 to 10	Sun, partial shade
<i>Lonicera nitida</i>	Boxleaf honeysuckle	Yes	E	S	6 to 8	Sun, partial shade

### Shrubs

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Lonicera pileata</i>	Privet honeysuckle	Yes	E	S	2 to 3	Sun, partial shade
<i>Loropetalum chinensis</i>	Loropetalum	Yes	E	S	6 to 12	Sun, partial shade
<i>Loropetalum hybrids</i>	Loropetalum cvs: Plum Delight, Ruby, Fire Dance, etc.	Yes	E	S	4 to 10	Sun, partial shade
<i>Mahonia aquifolium</i>	Oregon grape holly	Yes	E	S	3 to 6	Partial shade
<i>Mahonia bealei</i>	Leatherleaf mahonia	Yes	E	S	6 to 7	Partial shade
<i>Mahonia fortunei</i>	Chinese mahonia	Yes	E	S	5 to 6	Partial shade
<i>Mahonia x media</i>	Mahonia cvs: Buckland, Charity, Faith, etc.	Yes	E	S	8 to 15	Partial shade
<i>Mitelia figo</i>	Banana shrub	Yes	E	S	6 to 10	Sun, Partial shade
<i>Myrica cerifera</i>	Southern waxmyrtle	Yes	E	S	10 to 15	Sun, partial shade
<i>Myrica pensylvanica</i>	Northern bayberry	Yes	E	S	5 to 12	Sun, partial shade
<i>Nandina domestica</i>	Nandina	Yes	E	S	6 to 8	Sun, partial shade
<i>Perovskia atriplicifolia</i>	Russian sage	Yes	E	S	3 to 5	Sun
<i>Photinia serrulata</i>	Chinese photinia	Yes	E	S	20 to 25	Sun, partial shade
<i>Physocarpus opulifolius</i>	Ninebark	Yes	D	S	5 to 10	Sun, partial shade
<i>Picea abies (dwarf cultivars)</i>	Spruce cvs: Little Gem, Pendula, etc.	Yes	E	S	Varies	Sun
<i>Picea glauca (dwarf cultivars)</i>	Spruce cvs: Conica, etc.	Yes	E	S	Varies	Sun
<i>Picea pungens (dwarf cultivars)</i>	Spruce cvs: Globosa, Montgomery, Bakeri, Fat Albert, Foxtail, etc.	Yes	E	S	Varies	Sun
<i>Pinus mugo</i>	Mugo pine	Yes	E	S	15 to 20	Sun, partial shade
<i>Pinus mugo (dwarf cultivars)</i>	Pine cvs: Pumilio, Mughus	Yes	E	S	Varies	Sun
<i>Pinus nigra cvs.</i>	Pine cvs: Arnold Sentinel, Monstrosa, ec.	Yes	E	S	3 to 5	Sun
<i>Pinus rigida</i>	Pine cvs: Sherman Eddy, etc	Yes	E	S	15 to 20	Sun
<i>Pinus sylvestris (dwarf cultivars)</i>	Pine cvs: Nana, Hillside Creeper, etc.	Yes	E	S	Varies	Sun
<i>Pinus thunbergii (dwarf cultivars)</i>	Pine cvs: Nana, Thunderhead	Yes	E	S	Varies	Sun
<i>Pittosporum tobira</i>	Japanese pittosporum	Yes	E	S	10 to 12	Sun, partial shade
<i>Podocarpus macrophyllus var. maki</i>	Shrubby podocarpus	Yes	E	S	20 to 35	Sun, partial shade
<i>Potentilla fruticosa</i>	Shrubby potentilla	Yes	D	S	1 to 4	Sun, partial shade
<i>Prunus glandulosa</i>	Flowering almond	Yes	D	S	4 to 5	Sun, partial shade
<i>Prunus laurocerasus</i>	English laurel	Yes	E	S	10 to 18	Sun, partial shade
<i>Punica granatum</i>	Pomegranate	Yes	D	S	12 to 15	Sun, partial shade
<i>Pyracantha coccinea</i>	Scarlet firethorne	Yes	E	S	6 to 18	Sun

### Shrubs

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Pyracantha hybrids</i>	Pyracantha cvs: Mohave, Mojave, Red Elf, Tiny Tim, etc.	Yes	E	S	Varies	Sun
<i>Pyracantha koidzumii</i>	Formosa pyracantha	Yes	E	S	8 to 12	Sun
<i>Raphiolepis hybrids</i>	Hawthorn cvs: Gulfgreen, Cuppertone	Yes	D	S	3 to 6	Sun
<i>Rhamnus fragula</i>	Alder buckthorn	Yes	D	S	10 to 12	Sun, partial shade
<i>Rhaphiolepis x delacourii</i>	Indian hawthorn, Yeddo hawthorn	Yes	E	S	3 to 4	Sun, partial shade
<i>Rhapidophyllum hystrix</i>	Needle palm	Yes	E	S	6 to 8	Sun, partial shade
<i>Rhododendron austrinum</i>	Florida azalea	Yes	D	S	8 to 10	Partial shade
<i>Rhododendron calendulaceum</i>	Flame azalea	Yes	D	S	4 to 8	Partial shade
<i>Rhodotypos scandens</i>	Black jetbead	Yes	D	S	3 to 6	Sun, partial shade
<i>Rhus aromatica</i>	Sumac	Yes	D	S	2 to 6	Sun, partial shade
<i>Rhus glabra</i>	Smooth sumac	Yes	D	S	10 to 15	Sun
<i>Rhus michauxii</i>	Michaux's sumac	Yes	D	S	2 to 3	Sun
<i>Rhus typhina</i>	Staghorn sumac	Yes	D	S	15 to 25	Sun
<i>Rosa chinensis</i>	China rose	Yes	D	S	6 to 8	Sun
<i>Rosa rugosa</i>	Rugosa rose	Yes	D	S	4 to 6	Sun
<i>Rosmarinus officinalis</i>	Rosemary	Yes	E	S	2 to 4	Sun
<i>Ruscus aculeatus</i>	Butcher's broom	Yes	E	S	1.5 to 3	Partial shade
<i>Sabal minor</i>	Dwarf palmeto	Yes	E	S	3 to 5	Sun
<i>Santolina chamaecyparissus</i>	Santolina, Lavender cotton	Yes	E	S	1 to 2	Sun
<i>Sarcococca confusa</i>	Sweet Box	Yes	E	S	3 to 5	Partial shade
<i>Sarcococca hookeriana</i>	Himalayan sarcococca	Yes	E	S	4 to 6	Partial shade
<i>Sarcococca orientalis</i>	Oriental sweetbox	Yes	E	S	2 to 3	Partial shade
<i>Sarcococca ruscifolia</i>	Fragrant sarcococca	Yes	E	S	2 to 3	Partial shade
<i>Sinojackia rehderiana</i>	Jacktree	Yes	D	S	15 to 20	Sun, partial shade
<i>Spiraea cantoniensis</i>	Double Reeves spirea	Yes	D	S	4 to 6	Sun, partial shade
<i>Spiraea japonica</i>	Japanese spirea	Yes	D	S	4 to 5	Sun, partial shade
<i>Spiraea nipponica 'Snowmound'</i>	Snowmound spirea	Yes	D	S	3 to 5	Sun, partial shade
<i>Spiraea prunifolia</i>	Bridalwreath spirea	Yes	D	S	4 to 9	Sun, partial shade
<i>Spiraea thunbergii</i>	Thunberg spirea	Yes	D	S	3 to 5	Sun, partial shade
<i>Spiraea x humalda</i>	Bumalda spirea	Yes	D	S	2 to 3	Sun, partial shade

### Shrubs

Scientific Name	Common Name	Water Wise	E/D	Type	Ht (Feet)	Exposure
<i>Spiraea x vanhouttei</i>	Vanhoutte spirea	Yes	D	S	6 to 8	Sun, partial shade
<i>Syringa pekinensis</i>	Peking lilac	Yes	D	S	15	Sun
<i>Taxus chinensis</i>	Chinese yew	Yes	E	S	5 to 10	Sun, partial shade
<i>Teucrium chamaedrys</i>	Wall germander	Yes	E	S	1 to 1.5	Sun
<i>Ulmus galbra 'Horizontalis'</i>	Tabletop scotch elm	Yes	D	S	15	Sun
<i>Viburnum acerifolium</i>	Maple-leaf viburnum	Yes	D	S	4 to 6	Partial shade
<i>Viburnum awabuki</i>	Chindo Viburnum	Yes	E	S	10 to 15	Sun, partial shade
<i>Viburnum pilcatum var tomentosum</i>	Doublefile viburnum	Yes	E	S	8 to 10	Sun, partial shade
<i>Viburnum tinus</i>	Laurustinus	Yes	E	S	6 to 12	Sun, partial shade
<i>Viburnum x pragense</i>	Pragense viburnum	Yes	E	S	8 to 10	Sun, partial shade
<i>Vitex agnus castus</i>	Chastetree	Yes	D	S	15 to 20	Sun
<i>Vitex negundo</i>	Chastetree	Yes	D	S	10 to 20	Sun
<i>Xanthorhiza simplicissima</i>	Yellowroot	Yes	D	S	2 to 3	Sun, partial shade
<i>Yucca filamentosa</i>	Adam's needle yucca	Yes	E	S	2 to 4	Sun
<i>Yucca flaccida</i>	Weakleak yucca	Yes	E	S	1 to 2	Sun
<i>Yucca gloriosa</i>	Soanish dagger yucca	Yes	E	S	6 to 8	Sun

#### Appendix 4. Trees to Plant Near or Under Power Lines

### TREES TO PLANT NEAR OR UNDER POWER LINES

The following plants are some excellent selections for city and rural landscaping under power lines. These small trees do not grow taller than 25 feet. (Please note that this list is for normal distribution power lines. There are different requirements for high transmission power lines.)

COMMON NAME	SCIENTIFIC NAME	COMMON NAME	SCIENTIFIC NAME
American fringe tree	<i>Chionanthus virginicus</i>	Japanese apricot	<i>Prunus mume</i>
Amur maple	<i>Acer ginnala</i>	Japanese dogwood	<i>Cornus kousa</i>
Blackhaw viburnum	<i>Viburnum prunifolium</i>	Japanese flowering cherry	<i>Prunus serrulata</i> 'Accolate', 'Okame'
Buckeye	<i>Aesculus pavia</i>	Japanese maple	<i>Acer palmatum</i>
Cherry laurel	<i>Prunus caroliniana</i>	Japanese snowbell	<i>Syrax japonicus</i> 'Pink Chimes'
Cherry plum	<i>Prunus cerasifera atropurpurea</i>	Japanese snowbell	<i>Syrax japonicus</i> 'Carillion'
Chinese fringetree	<i>Chionanthus retusus</i>	Little Gem magnolia	<i>Magnolia grandiflora</i> 'Little Gem'
Crabapple	<i>Malus spp.</i>	Nellie R. Stevens holly	<i>Ilex</i> 'Nellie R. Stevens'
Crape myrtle	<i>Lagerstroemia indica</i> 'Cherokee'	Northern bayberry	<i>Myrica pennsylvanica</i>
Crape myrtle	<i>Lagerstroemia indica</i> 'Dallas Red'	Osmanthus	<i>Osmanthus fortunei</i>
Crape myrtle	<i>Lagerstroemia indica</i> 'Natchez'	Redbud	<i>Cercis canadensis</i>
Crape myrtle	<i>Lagerstroemia indica</i> 'Powhatan'	Saucer magnolia	<i>Magnolia soulangiana</i>
Crape myrtle	<i>Lagerstroemia indica</i> 'Tuscarora'	Serviceberry	<i>Amelanchier spp.</i>
Dahoon	<i>Ilex cassine</i>	Smoketree	<i>Cotinus coggygria</i>
Dogwood	<i>Cornus florida</i>	Star magnolia	<i>Magnolia stellata</i>
Doublefile viburnum	<i>Viburnum plicatum var.</i> <i>tomentosum</i>	Sweetbay magnolia	<i>Magnolia virginiana</i>
Dr. Kassab holly	<i>Ilex</i> 'Dr. Kassab'	Trident maple	<i>Acer buerferanum</i>
Foster #2 holly	<i>Ilex</i> 'Foster #2'	Witchhazel	<i>Hamamelis x intermedia</i>
		Yaupon	<i>Ilex vomitoria</i>

Appendix  
5.  
Trees  
Not

## Recommended

### TREES NOT RECOMMENDED

The following species are not recommended because they are poor or marginal performers.

COMMON NAME	SCIENTIFIC NAME	PROBLEM
Box elder	<u><i>Acer negundo</i></u>	Aggressive, shallow roots, weak wood
Bradford Pear	<u><i>Pyrus calleryana 'Bradford'</i></u>	Genetic flaw, splits apart
Catalpa	<u><i>Catalpa bignonioides</i></u>	Weak wooded
Green ash	<u><i>Fraxinus pennsylvanica</i></u>	Anthraxnose
Honeylocust	<u><i>Gleditsia spp.</i></u>	Our region is too hot for this species
Mulberry	<u><i>Morus spp.</i></u>	Messy fruit, shallow roots
Norway maple	<u><i>Acer platanoides</i></u>	Our region is too hot for this species
Princess tree	<u><i>Paulownia tomentosa</i></u>	Weedy tree, messy, weak wooded
Russian olive	<u><i>Elaeagnus angustifolia</i></u>	Poor form, disease
Siberian elm	<u><i>Ulmus pumila</i></u>	Weak wood, slime flux
Silver maple	<u><i>Acer saccharinum</i></u>	Aggressive, shallow roots, weak wood
Tree-of-heaven	<u><i>Ailanthus altissima</i></u>	Weedy trees, seeds, weak wood
White pine	<u><i>Pinus strobus</i></u>	Many disease and insect problems

Appendices 1 - 5 courtesy of City of Greensboro Planning Dept.

Appendix 6: Standard Plan Detail

INTERNATIONAL SOCIETY  
OF ARBORICULTURE

INTERNATIONAL SOCIETY OF ARBORICULTURE  
1400 WEST ANTHONY DRIVE  
CHAMPAIGN, IL 61821  
(217) 355-9411  
(217) 355-9516 FAX

DO NOT HEAVILY PRUNE THE TREE AT PLANTING. PRUNE ONLY CROSSOVER LIMBS, CO-DOMINANT LEADERS, AND BROKEN OR DEAD BRANCHES. SOME INTERIOR TWIGS AND LATERAL BRANCHES MAY BE PRUNED; HOWEVER, DO NOT REMOVE THE TERMINAL BUDS OF BRANCHES THAT EXTEND TO THE EDGE OF THE CROWN.

STAKE TREES ONLY UPON THE APPROVAL OF THE LANDSCAPE ARCHITECT. SEE STAKING DETAIL.

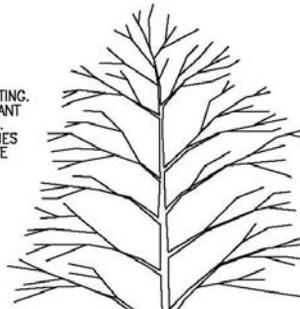
WRAP TREE TRUNKS ONLY UPON THE APPROVAL OF THE LANDSCAPE ARCHITECT. SEE WRAPPING DETAIL.

MARK THE NORTH SIDE OF THE TREE IN THE NURSERY, AND ROTATE TREE TO FACE NORTH AT THE SITE WHEN EVER POSSIBLE.

SET TOP OF ROOT BALL FLUSH TO GRADE OR 25-50 MM (1-2 IN.) HIGHER IN SLOWLY DRAINING SOILS.

50 MM (2 IN.) MULCH. DO NOT PLACE MULCH IN CONTACT WITH TREE TRUNK. MAINTAIN THE MULCH WEED-FREE FOR A MINIMUM OF THREE YEARS AFTER PLANTING.

NOTE: FOR DIMENSIONS OF PLANTING AREAS, TYPES OF SOIL AMENDMENTS, OR SOIL REPLACEMENT, SEE "SOIL IMPROVEMENT DETAILS."



EACH TREE MUST BE PLANTED SUCH THAT THE TRUNK FLARE IS VISIBLE AT THE TOP OF THE ROOT BALL. TREES WHERE THE TRUNK FLARE IS NOT VISIBLE SHALL BE REJECTED. DO NOT COVER THE TOP OF THE ROOT BALL WITH SOIL.

MULCH RING  
1800 MM (6 FT.) DIAM. MIN.  
2400 MM (8 FT.) DIAM. PREFERRED

200 MM (8 IN.)

100 MM (4 IN.) HIGH EARTH SAUCER BEYOND EDGE OF ROOT BALL.

REMOVE ALL TWINE, ROPE AND WIRE, AND BURLAP FROM TOP HALF OF ROOT BALL.

IF PLANT IS SHIPPED WITH A WIRE BASKET AROUND THE ROOT BALL, CUT THE WIRE BASKET IN FOUR PLACES AND FOLD DOWN 200 MM (8 IN.) INTO PLANTING HOLE.

PLACE ROOT BALL ON UNEXCAVATED OR TAMPED SOIL.

TAMP SOIL AROUND ROOT BALL BASE FIRMLY WITH FOOT PRESSURE SO THAT ROOT BALL DOES NOT SHIFT.

NOTES

1. PLEASE REFER TO INTRODUCTION AND USE CRITERIA PRIOR TO USING THIS DETAIL.



TREE PLANTING DETAIL - B&B TREES IN ALL SOIL TYPES

NOTE: THIS DETAIL ASSUMES THAT THE PLANTING SPACE IS LARGER THAN 2400 MM (8 FT.) SQUARE, OPEN TO THE SKY, AND NOT COVERED BY ANY PAVING OR GRATING.

**INTERNATIONAL SOCIETY  
OF ARBORICULTURE**

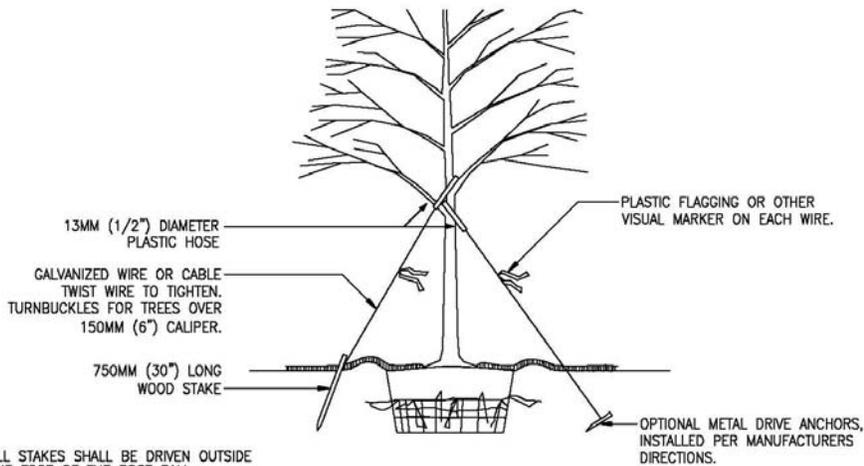
INTERNATIONAL SOCIETY OF ARBORICULTURE  
1400 WEST ANTHONY DRIVE  
CHAMPAIGN, IL 61821  
(217) 355-9411  
(217) 355-9516 FAX

WIRE OR CABLE SIZES SHALL BE AS FOLLOWS:  
TREES UP TO 65 MM (2.5 IN.) CALIPER - 14 GAUGE  
TREES 65 MM (2.5 IN.) TO 75 MM (3 IN.) CALIPER - 12 GAUGE

TIGHTEN WIRE OR CABLE ONLY ENOUGH TO KEEP FROM SLIPPING. ALLOW FOR SOME TRUNK MOVEMENT. PLASTIC HOSE SHALL BE LONG ENOUGH TO ACCOMMODATE 35MM (1.5 IN.) OF GROWTH AND BUFFER ALL BRANCHES FROM THE WIRE.

TUCK ANY LOOSE ENDS OF THE WIRE OR CABLE INTO THE WIRE WRAP SO THAT NO SHARP WIRE ENDS ARE EXPOSED.

INSTALL THREE GUY WIRES PER TREE, SPACED EVENLY AROUND THE TRUNK.



ALL STAKES SHALL BE DRIVEN OUTSIDE THE EDGE OF THE ROOT BALL.

ASSURE THAT THE BEARING SURFACE OF THE PROTECTIVE COVERING OF THE WIRE OR CABLE AGAINST THE TREE TRUNK IS A MINIMUM OF 12 MM (0.5 IN.).

REMOVE ALL STAKING AS SOON AS THE TREE HAS GROWN SUFFICIENT ROOTS TO OVERCOME THE PROBLEM THAT REQUIRED THE TREE TO BE STAKED. STAKES SHALL BE REMOVED NO LATER THE END OF THE FIRST GROWING SEASON AFTER PLANTING.

TREES NORMALLY DO NOT NEED TO BE STAKED AND STAKING CAN BE HARMFUL TO THE TREE. STAKING SHOULD BE DONE ONLY WITH THE APPROVAL OF THE LANDSCAPE ARCHITECT IF IT IS EXPECTED THAT THE TREE WILL NOT BE ABLE TO SUPPORT ITSELF. THE FOLLOWING ARE REASONS WHY TREES DO NOT REMAIN STRAIGHT.

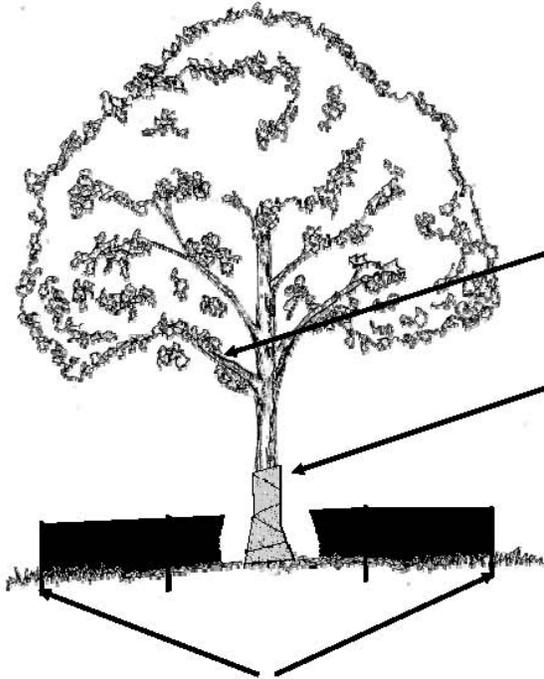
- o TREES WITH POOR-QUALITY ROOT BALLS OR ROOT BALLS THAT HAVE BEEN CRACKED OR DAMAGED. REJECT RATHER THAN STAKE.
- o TREES THAT HAVE GROWN TOO CLOSE TOGETHER IN THE NURSERY, RESULTING IN WEAK TRUNKS. REJECT RATHER THAN STAKE.
- o PLANTING PROCEDURES THAT DO NOT ADEQUATELY TAMP SOILS AROUND THE ROOT BALL. CORRECT THE PLANTING PROCEDURE.
- o ROOT BALLS PLACED ON SOFT SOIL. TAMP SOILS UNDER ROOT BALL PRIOR TO PLANTING.
- o ROOT BALLS WITH VERY SANDY SOIL OR VERY WET CLAY SOIL. STAKING ADVISABLE.
- o TREES LOCATED IN A PLACE OF EXTREMELY WINDY CONDITIONS. STAKING ADVISABLE.

**NOTES:**

1. PLEASE REFER TO INTRODUCTION AND USE CRITERIA PRIOR TO USING THIS DETAIL.



**TREE STAKING DETAIL - TREES 75MM (3 IN.) CALIPER OR LARGER**



**TREE PROTECTION AREA**

The area inside a perimeter established at the Critical Root Zone (CRZ). The CRZ is equal to the dripline (furthest extent of tree canopy) or is equal to one foot radially from the tree for every one inch of trunk diameter at breast height (DBH), whichever is greater.

**ZONE 2  
LOWER CANOPY PROTECTION.**

Contact City Forester if any pruning is needed prior to work if potential for damage exists.

**ZONE 3  
TRUNK PROTECTION.**

Required if construction equipment involved within ten feet or less (permitted inside the CRZ only if equipment is operated exclusively on existing hardscape and no soil compaction takes place).

**ZONE 1  
ROOT PROTECTION.**

Extends through entire tree protection area.

Any digging, excavating, trenching, changing of grade, or other actions that may potentially impact the rooting environment must be authorized by the City Forester prior to work commencement. Work within the CRZ must take place in accordance with the conditions established by the City Forester.

**NOTES**

Fencing Height must be at least 48.”

Attach “Tree Protection Area” Signs (template available from City Forester) to Fencing every 50 feet.

The Tree Protection Area shall not be modified or removed prior to consent of the City Forester.

Materials, debris, equipment, and site amenities shall not be stored within the Tree Protection Area.

Entrance to the Tree Protection Area is not permitted without consent of the City Forester.

**Tree Protection Detail – Individual Tree**

NOT TO SCALE

**Appendix 7: Tree Disturbance Permit**



**TREE DISTURBANCE PERMIT  
APPLICATION**

Tree Disturbance Permit is an official authorization which shall be issued by the Town simultaneous to the issuance of a Development Clearance Certificate and prior to any tree disturbing activities. Tree disturbing activities include cutting and/or damage to the Critical Root Zone of live trees four (4) inches DBH or greater on sites not accompanied by a development plan, except as stated in Section 19 (B) (Exemptions) of this Ordinance.

Today's Date: \_\_\_\_\_

Site Location: \_\_\_\_\_

***Applicant Information:***

Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

***Owner Information:***

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Size of property: \_\_\_\_\_

\*Exemptions: Single family detached dwellings, two-family dwellings on their own lot, multifamily developments containing 8 or fewer dwelling units on a single zone lot, properties within or surrounding the Town Core District, property lines abutting dedicated street ROW which has remained unopened for at least 15 years, property lines abutting railroad R-O-W, tree removal on 3,000 square feet or less, property covered by an active forest management plan written by a North Carolina Registered Forester and with documentation provided to the Enforcement Officer.



**Appendix 8: Landscape Installation Waiver**



**TOWN OF JAMESTOWN LANDSCAPE INSTALLATION WAIVER**

The Town of Jamestown does hereby grant a temporary waiver, not to exceed six (6) months from the date of signing, for the purposes of landscape installation. This waiver may be renewable up to a maximum of 1 year from the date of signing, at the Town's discretion. The owner of the property located at: \_\_\_\_\_ has requested a temporary waiver from the requirements to install landscaping as described below (or as shown on attached plans) for the following reasons:

- Weather related issues (ie- drought, freezing weather, etc.) could jeopardize plant health.
- Installation of plant materials and completion of the planting areas would jeopardize plant health, due to continuing construction activities.
- Required plant materials temporarily unavailable

The owner/developer shall submit a copy of a signed contract for installation of the required planting areas and be required to post a surety equal to the amount of the contract. The Town Planner shall issue a Temporary Certificate of Compliance (where required), but shall not issue a Certificate of Compliance until the planting areas have been completed and approved.

This waiver is hereby executed on: \_\_\_\_\_, 20\_\_\_\_.

Please attach the following:

1. Description of planting areas and copies landscape plans which show the planting areas to which this waiver shall apply;
2. A copy of a signed contract for installation;
3. Surety (letter of credit from bank preferred) equal to amount of the contract; to expire 1 year from date of issuance.

Signed: \_\_\_\_\_  
(Owner/Agent)

Received: \_\_\_\_\_  
(Town Planner) (Date)

**Appendix 9: Rare & Specimen Tree Registration Form**



## TOWN OF JAMESTOWN RARE & SPECIMEN TREE REGISTRATION FORM

Per Section 21 of the Tree Preservation & Landscape Ordinance, individuals may voluntarily register "Rare and Specimen Trees". These trees are defined by that section of the Ordinance.

On developing lands, Rare & Specimen Trees are afforded more significant protection standards as outlined in the Tree Preservation & Landscape Ordinance.

By voluntarily registering a Rare and/or Specimen tree, you are ensuring that the above standards are to be met should the property be developed. The landowner is responsible for ensuring that this language is contained in the document transferring ownership (typically, the Deed) to extend the coverage. Once protected, the owner is entitled to consultation with the Town Arborist or Enforcement Officer concerning proper tree care. ***A tree may be removed from the register at a later date at the request of the property owner.***

This Rare & Specimen Tree is hereby executed on: \_\_\_\_\_, 20\_\_\_\_\_.

For the following trees (list Latin name of species, DBH, and approximate height) located at \_\_\_\_\_, in Jamestown, NC.  
(Property address)

- 1.
- 2.
- 3.

Please attach the following:

4. Description of planting areas and copies of any applicable landscape plans which show the size, species, and locations of the trees to which this form shall apply;
5. Photographs (minimum of 3 photos from different angles) of subject trees;

Signed: \_\_\_\_\_ (Owner/Agent) \_\_\_\_\_ (Date)

Received: \_\_\_\_\_ (Town Arborist/Planner/Enforcement Officer) \_\_\_\_\_ (Date)

## ARTICLE XIV

### PLANNING BOARD AND BOARD OF ADJUSTMENT

#### Section 14-1 Planning Board

##### 14-1.1 Authority

There is hereby created a planning agency, pursuant to NCGS 160A-361 to be known as the Planning Board.

##### 14-1.2 Membership

The Planning Board shall consist of seven members and may have alternates. Five members who reside within the Town limits are appointed by the Town Council, and two members who reside in Jamestown's extraterritorial area are appointed by the Guilford County Board of Commissioners. The extraterritorial representatives shall deliberate and vote on those matters affecting policy and land in the extraterritorial jurisdiction.

##### 14-1.3 Terms

- (A) Length of Terms - Members and alternate members, if any, of the Planning Board shall serve a term of five years, provided that upon initial appointment the terms of office may be staggered. The terms of all Board members shall not expire at the same time.
- (B) Filling of Vacancies - A new member or an alternate member may be appointed to fill the unexpired term of a member whose term is vacated. Members filling vacancies shall serve for the remainder of the unexpired term.

##### 14-1.4 Powers and Duties

The Planning Board shall have the following powers and duties:

- (A) to provide recommendations to the Town Council with regard to rezonings, text amendments, watershed waivers, and other matters on which the Council seeks advice;
- (B) to develop a comprehensive plan for the territory under its Jurisdiction, subject to specific direction from the Town Council;
- (C) to approve subdivisions prepared in accordance with the Subdivision Ordinance;

and

- (C) to make such other studies and plans and review such other related matters as directed by the Town Council.

## **Section 14-2 Board of Adjustment**

### 14-2.1 Authority

A Board of Adjustment is hereby established pursuant to NCGS 160A-388.

### 14-2.2 Membership

(A) Number of Members: The Board of Adjustment shall consist of seven members, five appointed by the Town Council and two, who are residents of Jamestown's extraterritorial area, appointed by the Guilford County Board Commissioners. The extraterritorial representatives shall deliberate and vote on those matters affecting policy and land in the extraterritorial jurisdiction.

(B) Alternates. – The Town Council may, in its discretion, appoint and provide compensation for alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. (G.S. 160A-388(a))

### 14-2.3 Terms

(A) Length of Terms - Members and alternate members, if any, of the Board shall serve a term of three years, provided that upon initial appointment the terms of office may be staggered. The terms of all Board members shall not expire at the same time.

(B) Filling of Vacancies - A new member or an alternate member may be appointed to fill the unexpired term of a member whose term is vacated. Members filling vacancies shall serve for the remainder of the unexpired term.

### 14-2.4 Powers and Duties

The Board of Adjustment shall have the following powers and duties:

- 1) to hear and decide appeals from an order, denial of a permit or other decision made by an administrative official charged with enforcing this Ordinance;

- 2) to hear and decide any exceptions which are specifically delegated to it by this Ordinance;
- 3) to hear and decide requests for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation result in a loss of privileges shared by other properties within the same zoning district;
- 4) to interpret zoning maps and pass upon disputed questions of district boundary lines and similar questions that may occur in the administration of the Ordinance;
- 5) to act as the Watershed Review Board in hearing and deciding appeals from any decision or determination made by the Enforcement Officer in the enforcement of the Watershed Protection Ordinance as outlined in Article X of this Ordinance
- 6) to hear and decide appeals and requests for variances from the requirements of the flood control provisions of this Ordinance, Article XII;
- 7) to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance

#### 14-2.5 Voting

A four-fifths vote of the members shall be required to affirm, reverse or modify any order, decision, or interpretation of the Enforcement Officer charged with enforcing this Ordinance; to decide in favor of the applicant on a matter upon which the Board is required to pass; or to grant a variance from the provisions of the Ordinance. Vacant positions on the Board of Adjustment and members who are disqualified from voting on a matter before the Board of Adjustment shall not be considered members of the board for calculation of the requisite four-fifths majority if there are no qualified alternates available to take the place of such members.

A member of the Board of Adjustment or any other body exercising the functions of a board of adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not rescue himself or herself, the remaining members shall by majority vote rule on the objection. (G. S. 160A-388 (e))

#### 14-2.6 Proceedings

All meetings of the Board shall be open to the public. The Board shall keep minutes showing the vote of each member on each question and the absence or failure of any member to vote.

The final disposition of each matter decided by the Board shall be by recorded resolution indicating the reasons for the decision, based on findings of fact and conclusions of law which shall be public record.

On all appeals, applications and other matters brought before the Board of Adjustment, the Board shall inform in writing all the parties involved of its decision and the reasons for that decision.

#### 14-2.7 Oaths

The Chairman of the Board or any member temporarily acting as Chairman, shall administer oaths to witnesses in any matter coming before the Board.

#### 14-2.8 Appeals from Decisions of the Enforcement Officer

- (A) Appeal Eligibility - Appeals to the Board of Adjustment may be taken by any person aggrieved by a decision by an officer charged with enforcement of this ordinance. Such appeal shall be taken within 30 days, as provided by the rules of the Board by filing with the Town Manager a written notice of appeal specifying the grounds. The Town Manager shall immediately transmit to the Board all papers constituting the record upon which the action appealed was taken.
- (B) Effect of Appeal: An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board that because of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property or would seriously interfere with enforcement of this ordinance.
- (C) Notice of Hearing: The Board shall fix a reasonable time for hearing the appeal. At least 10 days before the date of the hearing the Town shall mail written notice of the hearing to all parties in interest and to adjoining property owners. A suitable notice shall also be published in the local paper.
- (D) Action of Board: The Board may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination or interpretation appealed from, and shall make any order, requirement, decision, determination, or interpretation that in the Board's opinion ought to be made under the circumstances.

#### 14-2.9 Variances

- (A) Application - An application for a variance shall be submitted in writing to the Board by filling a copy of the application with the Town Manager.
- (B) Procedure - The Board shall fix a reasonable time for holding a public hearing on the variance request. At least 10 days before the date of the hearing the Town shall mail written notice of the hearing to all parties in interest and to adjoining property owners. A suitable notice shall also be published in the local paper.
- (C) Grounds for Variance - In considering a variance, before making any findings of fact, the Board shall determine that the variance will not permit a use or density not otherwise permitted in the zoning district involved. Nor will nonconforming use of lands, buildings or structures in the same zoning district, nor shall the permitted use of lands, buildings or structures in other zoning districts be considered as grounds for the issuance of a variance.
- (D) Granting of Variance: A variance may be granted by the Board if, through evidence presented by the applicant, it can find that the following conditions exist:
  - 1) There are practical difficulties or unnecessary hardships that would result from in the way of carrying out the strict letter of this Ordinance. The Board may reach this conclusion if it finds that:
    - a) If the applicant complies with the provisions of this Ordinance, he can make no reasonable use of his property.
    - b) The hardship of which the applicant complains results from unique circumstances related to the applicant's property.
    - c) The hardship relates to the applicant's property, rather than personal circumstances.
    - d) The hardship is not the result of the applicant's own actions.
  - 2) The variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.
  - 3) The granting of the variance assures the public safety and welfare and does substantial justice.
- (E) Conditions: In granting a variance, the Board may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property to which the variance applies will be compatible with surrounding properties and

will not alter the essential character of the neighborhood.

- (F) Duration: The variance may be issued for an indefinite duration only. Unless otherwise specified, construction or operation shall be commenced within twelve (12) months of the date of issuance of a variance, or the variance shall become void.

14-2.10 Appeals from Decisions of the Board of Adjustment

- (A) Appeal to Superior Court - Each decision of the Board shall be subject to Superior Court review by proceedings in the nature of certiorari.
- (B) Timing of Appeal - Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the Board is filed with the Town Manager, or after a written copy of the decision is delivered to every aggrieved party who has filed a written request for a copy with the Town Manager at the time of hearing of the case, whichever is later.

## **ARTICLE XV**

### **ENFORCEMENT**

#### **15-1 VIOLATIONS**

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

##### **15-1.1 Development without Permit**

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

##### **15-1.2 Development Inconsistent With Permit**

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

##### **15-1.3 Violation by Act or Omission**

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

##### **15-1.4 Use in Violation**

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

##### **15-1.5 Subdivide in Violation**

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

#### 15-1.6 Continuing Violations

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

### **15-2 ENFORCEMENT INTENT**

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

### **15-3 ENFORCEMENT OFFICER**

#### 15-3.1 Establishment and Authority

The Town Manager shall be the Enforcement Officer with the duty of administering and enforcing the provisions of this Ordinance. The Town Manager may designate one or more employees of the Town to assist in the administration and enforcement this Ordinance. Orders issued by the Manager's designee shall have the effect as if issued by the Enforcement Officer.

#### 15-3.2 General Duties

The Enforcement Officer shall:

- (A) establish and publish application procedures for permits, appeals, and actions pursuant to this Ordinance and forms implementing the same;
- (B) issue permits and certificates pursuant to this Ordinance;
- (C) review and approve all development plans and permits to assure that the permit requirements of this Ordinance have been satisfied;
- (D) interpret the applicability of the provisions of this Ordinance in matters where the text does not clearly provide guidance;
- (E) maintain all records pertaining to the provisions of this Ordinance in his office(s) and make said records open for public inspection;
- (F) periodically inspect properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of this Ordinance;

- (G) cause to be investigated violations of this Ordinance;
- (H) enforce the provisions of this Ordinance;
- (I) issue notice of corrective action(s) when required;
- (J) use the remedies provided in this Ordinance to gain compliance;
- (K) be authorized to gather evidence in support of said activities;
- (L) receive appeals and forward cases to the appropriate body; and
- (M) perform other duties as may be assigned by the Town Council.

#### **15-4 ENFORCEMENT PROCEDURE**

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

##### **15-4.1 Notice of Violation**

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

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

##### **15-4.2 Appeal**

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

#### 15-4.3 Order of Corrective Action

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

#### 15-4.4 Failure to Comply with an Order

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law and Section 15-5 (Remedies). If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

### **15-5 REMEDIES**

Anyone or all of the following procedures may be used to enforce the provisions of this Ordinance.

#### 15-5.1 Injunction

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

#### 15-5.2 Civil Penalties

Any person who violates any provisions of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 15-6 (Civil Penalties - Assessments and Procedures).

#### 15-5.3 Denial of Permit or Certificate

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

#### 15-5.4 Conditional Permit or Temporary Certificate

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

governmental authority.

#### 15-5.5 Stop Work Orders

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

#### 15-5.6 Revocation of Permits

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

#### 15-5.7 Criminal Penalties

Any violation of this Ordinance shall be a misdemeanor or infraction as provided by NCGS 14-4.

### **15-6 CIVIL PENALTIES - ASSESSMENT AND PROCEDURES**

#### 15-6.1 Penalties

Any person who violates any provisions of this Ordinance shall be subject to assessment of a civil penalty in the amount of \$100.00 for the first and each successive violation of the same provision.

#### 15-6.2 Notice

No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with Section 15-4.1 (Notice of Violation). If after receiving a notice of violation under Section 15-4.1, the owner or other violator fails to take corrective action within ten days, a civil penalty may be imposed under this Section in the form of a citation. The citation shall be served in the manner of a Notice of Violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen (15) days of the date of the notice.

### 15-6.3 Responsible Parties

The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

### 15-6.4 Continuing Violation

For each day thereafter (ten day notice and 15 days to pay penalty after notice), if the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

### 15-6.5 Demand for Payment

The Enforcement Officer shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

### 15-6.6 Nonpayment

If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided, however, if the civil penalty is not paid within the time prescribed, the Enforcement Officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

## **15-7 OTHER POWERS AND ACTIONS**

### 15-7.1 State and Common Law Remedies

In addition to other enforcement provisions contained in this Article, the Town Council may exercise any and all enforcement powers granted to it by state law or common law.

### 15-7.2 Previous Enforcement

Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

## **15-8 REMEDIES CUMULATIVE AND CONTINUOUS**

### **15-8.1 Cumulative Violations**

All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

### **15-8.2 Repeat Violations**

If an owner or occupant repeats the same violation within a five year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.

## **15-10 Action by Others**

### **15-10.1 Adjacent or Neighboring Property**

In addition to the remedies of the local government hereunder, if any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, any other appropriate authority or any adjacent, nearby or neighboring property owner who would be affected by such violation may institute injunction, mandamus or other appropriate action or proceeding to prevent the occupancy of such building, structure or land, or the continuance of any construction whatsoever in violation of this Ordinance.

### **15-10.2 Land Purchaser**

In the event that a purchaser buys land for which there is a surety to secure performance of improvements, after a period of two (2) years has passed since the date of Final Plat recordation, the purchaser may bring action to enforce completion of the improvements. In such a case, the purchaser may seek specific performance.

## **ARTICLE XVI**

### **MORATORIA**

The Town may adopt temporary moratoria on any development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the Town Council shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G. S. 160A-364. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to g. S. 160A-417 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to G. S. 160A-385.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the Town prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the Town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

- 1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the Town and why those alternative courses of action were not deemed adequate.
- 2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- 3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- 4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium. No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and

conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the Town shall have the burden of showing compliance with the procedural requirement of this subsection. (G. S. 160A-381(e))